

ORDINANCE #17-29

AN ORDINANCE AMENDING TITLE 15A OF THE REVISED ORDINANCES OF SANDY CITY (THE LAND DEVELOPMENT CODE), 2008, BY REPEALING AND REPLACING CHAPTER 11, SECTION 5, "HOME OCCUPATIONS"; ALSO PROVIDING A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a request has been made to amend Title 15A of the Revised Ordinances of Sandy City (the Land Development Code), 2008, by repealing and replacing Chapter 11, Section 5, "Home Occupations" to modify some of the regulations for Home Occupations to align our code with recent changes to the State Code; and

WHEREAS, the Planning Commission held a public hearing on October 19, 2017 which meeting was preceded by notice by publication in the Salt Lake Tribune on October 5, 2017, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov> on October 2, 2017; and

WHEREAS, following the public hearing before the Planning Commission, the Commission recommended the amendment to the City Council; and

WHEREAS, a public meeting was held by the Sandy City Council on November 14, 2017 to consider adoption of the proposed amendment, which meeting was preceded by publication in the Salt Lake Tribune, on October 31, 2017, and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, on the Sandy City Website - <http://www.sandy.utah.gov>, and the Utah Public Notice Website - <http://pmn.utah.gov>, on October 12, 2017; and

WHEREAS, the City Council has been given specific authority in Title 10, Chapter 9a, Utah Code Ann. to adopt a zoning plan, including an ordinance and map which divide the municipality into districts or zones, and within such districts to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures, and the uses of land; and

WHEREAS, the State legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the foregoing legitimate governmental objectives are achieved by reasonable means, in that any adverse impact on private property value or use has been carefully balanced against the corresponding gain to the public; and the regulations have been calculated, on recommendation of City planning staff to permit property owners to beneficially use their properties for the practical purposes to which the property is reasonably adaptable; and procedures have been established by the Land Development Code and Utah Code Ann. whereby appeals can be heard and decided if it is alleged that there is legislative or administrative error, or where a special exception or variance to the ordinance is required.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City, State of Utah, as follows:

Section 1. Amendment. Title 15A is amended as shown on **Exhibit "A"**, which is attached hereto and by this reference made a part hereof.

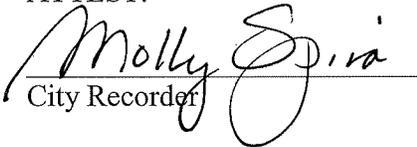
Section 2. Severable. If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined in its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. Effective. This ordinance shall become effective upon publication of a summary thereof.

PASSED AND APPROVED this 21st day of November, 2017.

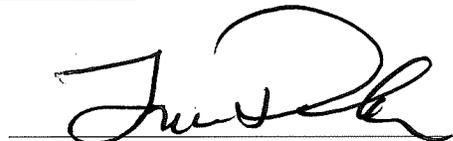

Chris McCandless, Chairman
Sandy City Council

ATTEST:

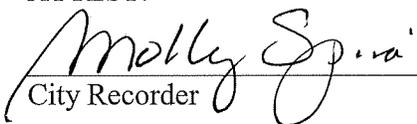

City Recorder

PRESENTED to the Mayor of Sandy City for his approval this 27th day of November, 2017.

APPROVED this 27th day of November, 2017.


Thomas M. Dolan, Mayor

ATTEST:


City Recorder

PUBLISHED this 1st day of December, 2017.



Exhibit "A"

15A-11-05 Home Occupations

A. **Purpose.** The purposes of this section are to:

1. Provide an opportunity for home occupations as an accessory use when they are compatible with the neighborhoods in which they are located. A home occupation shall not be construed to mean an employee working in his home in the service of an employer whose principal place of business is licensed at another location.
2. Provide an opportunity for a home occupation to engage in the business of child care and other group child activities and encourage this type of home occupation to draw clients/customers from their immediate neighborhood.
3. Guide business activities which are not compatible with neighborhoods to appropriate commercial zones.
4. Safeguard peace, quiet, and domestic tranquility within all residential neighborhoods. Protect residents from the adverse effects of business uses being conducted in residential areas from noise, nuisance, traffic, fire hazards, and other possible business uses that create significant impacts on a neighborhood.
5. Provide a means to enforce and regulate the businesses that are licensable through the authority of the business license regulations of the Revised Ordinances of Sandy City (ROSC), and if necessary, terminate home occupations if violations of the ordinances regulating home occupations occur.

B. **Home Occupation License.** All home occupations shall be licensed unless specifically provided an exemption in this Section or in the business license regulations of the ROSC. Regardless of whether a license is required, all Home Occupations must adhere to the standards and qualifications listed in this section. The authority to issue a license to conduct a home occupation shall be under the jurisdiction of the Business License Office of the Community Development Department.

C. **Categories and Requirements of Home Occupation Licenses.** Home occupation businesses are classified as Category I, Permitted Home Occupation, or Category II, Conditional Use Home Occupation. A Category II Conditional Use Home Occupation requires review and approval of the Planning Commission.

D. **Home Occupation Standards.** All home occupations, licensed or not, shall comply with the following standards at all times:

1. **Bona Fide Resident.** The home occupation business shall be owned by and carried on only be a bona fide resident of the home.
2. **Satellite Office Not Allowed.** A home occupation shall not be construed to mean an employee working in his home in the service of an employer whose principal place of business is licensed at another location. Business activities shall not be conducted at the home of an employee of a company by non-resident company employees.

3. **Accessory Use on the Property.** For residential purposes, the home occupation shall be clearly secondary and incidental to the primary use of the dwelling unit.
4. **On-Site Employees.** One full-time or full-time equivalent non-resident may be employed, volunteer, or work on the premises where the home occupation business is located. No more than two persons shall comprise the equivalent full-time employee, and only one non-resident employee may work at the home at one time.
5. **Off-Site Employees.** Any home occupation may utilize employees to work off site. The off-site employee, volunteer, hiree, or any other person engaged with the home occupation shall not come to the home for purposes related to the Home Occupation Business License except for incidental vehicle stops.
6. **Off-Street Parking.** All business related vehicles which park at the location of the home occupation, including those of the applicant, employee, customers, clients, or business-related visitor vehicles, must use off-street parking. This provision excludes stops made by delivery vehicles. (Ord 10-45, Amended 12-14-2010)
7. **Vehicle Advertisement.** Vehicles, trailers, or equipment may not be used for the primary purpose of advertising the home occupation at the site of the home occupation. (Ord 10-45, Amended 12-14-2010)
8. **Designating Areas of Property to be Used.** The home occupation applicant must designate the portion of the home, accessory structure, yard, attached or detached garage as the principal location for business activities. No businesses are allowed to operate outside of an enclosed structure, unless otherwise approved by the Planning Commission for outside activities. (Ord 10-45, Amended 12-14-2010)
9. **External Appearance.** The home occupation must maintain or improve the external residential appearance of the principal structure, attached or detached garage, or accessory structure. Any structural alterations to accommodate the home occupation shall maintain the architectural aesthetics and compatibility of the neighborhood.
10. **Outdoor/Yard Space.** The home occupation shall not involve the use of any yard space for storage or display of supplies, inventory, or equipment when such use is in conjunction with the sales, service, or production of goods, unless specifically stored within trailers or accessory structures as allowed herein. Any screened area or structure used for the home occupation must be located in either the side or rear yard areas. (Ord 10-45; Amended 12-14-2010)
11. **Business Trailer.** One Trailer may be used in association with the home occupation. Trailers allowed in conjunction with a home occupation are as follows:
 - a. An open or enclosed trailer with a body length of 20 feet or less, excluding the tongue.
 - b. Materials/equipment shall not be stored outside of the trailer.
 - c. The trailer shall be placed in the side or rear yard behind a fence or garaged on private property and not within the front yard of the dwelling. If the home is located on a corner lot, the trailer shall not be stored on the street side of the house unless it is out of the required front yard setback. If the topography of the lot prohibits the parking of the trailer on the side or rear yard, the trailer must be stored off-site.

- d. The trailer must be well maintained and must not present negative impacts for adjacent neighbors including, but not limited to odors, dust, or parking location.
 - e. All areas utilized for the parking of trailers shall be paved with a hard surface, e.g., concrete, asphalt, brick, or other water impenetrable surface. This includes the side and rear yard of the home. It is prohibited to park upon areas that have been landscaped or are reserved for future landscaping.
 - f. A site plan shall be included with all business license applications indicating where the trailer will be stored outside of the front yard. (Ord 10-45, Amended 12-14-2010)
12. **Commercial Vehicle.** Only one such vehicle may be parked on a residential lot. A commercial vehicle parked or stored on a residential lot must be owned or apportioned by an occupant who resides at the residence. This vehicle must comply with all residential parking requirements contained within this code. (Ord 10-45, Amended 12-14-2010)
 13. **Conformity with Safety Codes.** There shall be complete conformity with fire, building, plumbing, electrical, and all other City, County, State, and Federal codes. (Ord 10-45, Amended 12-14-2010)
 14. **Health and Safety.** No process can be used which is hazardous to public health, safety, morals, or welfare. (Ord 10-45, Amended 12-14-2010)
 15. **No Excessive Utility Uses.** The home occupation shall not cause a demand for municipal, community, or utility services that are substantially in excess of those usually and customarily provided for residential uses. (Ord 10-45, Amended 12-14-2010)
 16. **Neighborhood Disruptions Not Permitted.** The home occupation shall not interfere or disrupt the peace, quiet, and domestic tranquility of the neighborhood. The home occupation shall not create or be associated with or produce odor, smoke, dust, heat, fumes, light, glare, noises or vibrations, excessive traffic, or other nuisances including interferences with radio and television reception or any other adverse effects within the neighborhood. (Ord 10-45, Amended 12-14-2010)
 17. **Renter/Owner Responsibility.** If the applicant for a home occupation license rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner at the time the application is submitted to the Business License Office. (Ord 10-45, Amended 12-14-2010)
 18. **Interior Alterations/Remodeling.** Interior alterations of the principal dwelling for the purpose of accommodating the home occupation are prohibited if such alteration eliminates the kitchen, and/or all of the dining areas, bathrooms, living areas, or all of the bedrooms. (Ord 10-45, Amended 12-14-2010)
 19. **Exempt from Business Licensure.** A business license will not be required unless the combined offsite impact of the home occupation and the primary residential use materially exceeds the impact of the primary residential use alone. If a home occupation has any of the following impacts, a business license is required:
 - a. Business related customers, client visits, or meetings on the property.
 - b. Signage or advertising of the business that is visible from the exterior of the home.
 - c. The business owner or operator desires a physical copy of a business license.
 - d. Any non-resident working on the property.
 - e. Business related deliveries are made to or from the property.

- f. Accessory or commercial vehicles are stored or parked on the property for the home occupation.
- g. The home or property requires inspections from any regulatory authority or agency including, but not limited to, the City, Salt Lake Valley Health Department, and/or the Department of Agriculture.
- h. The business generates any additional vehicular traffic or parking on the property.
- i. If the State requires a sales tax number for any reason.
- j. If the home occupation is categorized as a Category II, Conditional Use Home Occupations, as described herein.
- k. If the home requires any modification requiring a building permit to accommodate the business operations.
- l. When the business use within the home exceeds twenty-five percent (25%) of the primary dwelling.

E. **Category I Qualifications.** In addition to the standards previously set forth above, all Category I home occupation businesses must also comply with the provision of the qualifications outlined below. If a business finds that they are unable to fully comply with all of the qualifications set forth, the applicant may pursue possible approval as a Category II home occupation through the conditional use permit process before submitting the application for a home occupation business license.

1. **Hours.** No visitors in conjunction with the home occupation (clients, patrons, employees, volunteers, students, pupils, etc.) shall be permitted between the hours of 10:00 p.m. and 6:00 a.m.
2. **Traffic.** Vehicular traffic from business related visitors and customers shall not exceed that which normally and reasonably occurs for a home in the neighborhood and shall be conducted so that the neighbors will not be significantly impacted by its existence. The home occupation shall be limited to two business related visitors or customers per hour, to a maximum of eight business related visitors or customers per day. Business related deliveries or pickups shall not exceed two per day.
3. **Delivery Vehicles.** The receipt or delivery of merchandise, goods, or supplies for use in a home occupation shall be limited to vehicles with a gross vehicle weight rating (GVWR) of 23,000 pounds or less.
4. **Conducted in a Home.** When business activities are being conducted on the property that is to be licensed, the home occupation shall be primarily conducted within the principal home.
5. **Maximum Floor Space.** No more than 25 percent of the total main floor area or upper living levels of the dwelling unit, nor in the alternative more than 50 percent of the total floor area of any basement of the home unit shall be utilized for the home occupation.
6. **Signs.** The home occupation may utilize one unanimated, non-illuminated flat sign for each street upon which the home abuts. The sign must be placed either in a window or on the exterior wall of the home wherein the home occupation is being conducted and may not have an area greater than one square foot.
7. **Display of Products.** The home occupation may include the sale of tangible goods. Direct sales from display apparatus is permitted only if the goods or products are not visible from the exterior of any approved structure being used for the home occupation.

8. **Food or Beverage Preparation for Consumption Outside of the Home.** Any home occupation involving or proposing to involve food or drink preparation, storage, or catering will be permitted when it is authorized by the appropriate State or County department or agency.
9. **Category I Home Occupation Licensing Involving Child Day Care and Other Child Group Activities**
 - a. The Category I home occupation shall not exceed eight children associated with child day care or other child group activities, e.g., dance schools, preschool, music classes, etc., at any one time. A maximum of eight students/children are permitted per day. This number shall include the licensee's own children if they are under six years of age and are under the care of the licensee at the time the home occupation is conducted.
 - b. All child day care and other group child activity facilities shall provide safe, outdoor play time and spaces as required by Federal, State, County, or local laws governing such business activities.
10. **Category I Home Occupation License Involving Elderly Day Care**
 - a. This type of home occupation shall not exceed supervising more than two elderly persons 60 years of age or older. Any home occupation of this nature which exceeds two individuals or more than 12 hours of operation will be considered a Category II Home Occupation and shall be reviewed and approved by the Planning Commission.
 - b. This type of home occupation must comply with all local and state laws governing such business activity.
11. **Category I Home Occupation Licensing Involving Renting Recreational Vehicles from Personal Property in Single Family Residential Zones.**
 - a. A property owner/resident living in the home may rent one (1) recreational vehicle that is owned by the owner/resident. Where more than one recreational vehicle can fit on a recreational trailer, the owner may rent a maximum of two (2) recreational vehicles.
 - b. Any recreational vehicle must be parked according to the Residential Parking Requirements and Restrictions within the Code, except that any recreational vehicle that is being rented from the home must be parked on a hard surface (concrete, asphalt, brick, or other impenetrable surface). In addition, the maximum area of hard surface for the purpose of parking a recreational vehicle shall be complied with.
 - c. Advertising on the recreational vehicle is prohibited.
 - d. Servicing the recreational vehicle shall be limited to those activities which will comply with the Noise Ordinance and the Property Maintenance Ordinance contained within the Sandy City Code.
 - e. Any customer renting the recreational vehicle shall not leave their own car on the street, but may place their vehicle on the homeowners property in compliance with all Residential Parking Requirements during the time the recreational vehicle is being rented. (Ord 09-18, Amended 7-31-2009)

F. **Category II, Conditional Use Permit Required.** If a home occupation is able to comply with all of the standards but is unable to comply with all of the Category I qualifications established above, the proposed business activities must be reviewed by the Planning Commission and granted a conditional use permit before pursuing a Home Occupation Business License through the Business License Office.

1. **General.** In addition to any conditions established by the Planning Commission at the time of its review, all Category II home occupations must comply with the following:
 - a. All Category II home occupation uses shall only be conducted from property with a single family dwelling.
 - b. The conditional use permit and the Home Occupation Business License shall be maintained in good standing for the entire period that business is being conducted.
2. **Compliance.** Uses are appropriate as licensable home occupations only if they are determined to be compatible with residential neighborhoods after full conditional use review by the Planning Commission, compliance with Title 5 Business Licensing, all of the standards and qualifications that have not been granted an exception through the conditional use process, and additional regulations set forth hereafter.
3. **Child Day Care.** The following items indicate maximum limits that may be granted by the Planning Commission when a child day care is expected to exceed eight children at one time.
 - a. A maximum of 16 children is permitted at any one time. (Ord 12-33, Amended 9-17-2012)
 - b. A maximum of 18 children is permitted per day.
 - c. These numbers shall include the licensee's and any employees' children if they are under six years of age and are under the care of the licensee at the time the home occupation is conducted.
 - d. A maximum of 24 vehicular stops per day for child drop off or pick up is permitted.
4. **Group Child Activities.** The following provisions indicate a maximum limit that may be granted by the Planning Commission for other group child activities which are expected to generate or exceed eight children/students, e.g., dance schools, preschools, music classes, other care or instruction for children, at any one time other than child day care.
 - a. The following guidelines shall be used to determine the maximum number of students/children permitted:
 - (1) A traffic plan that has been reviewed and approved by the City Transportation Engineer which includes acceptable traffic flow, drop off, and turn around areas.
 - (2) The existing residential street is of sufficient width to accommodate additional vehicular traffic.
 - b. A maximum of 12 students/children per session and a maximum of 24 students/children per day shall be permitted.

- c. A maximum of four sessions per day may be permitted.
 - d. All sessions combined shall not generate more than 24 vehicular stops per day.
 - e. The total number of students/children shall include the licensee's and any employees' children if they are under six years of age and are under the care of the licensee at the time the home occupation is conducted.
 - f. No group child activities falling under a Category II home occupation may be established within 300 feet as measured from property line to property line of another group child activity, Category II home occupation use.
5. **Work Shops.** Repair shops including welding, carpentry, sheet metal work, furniture manufacturing, upholstery, and other similar manufacturing activities
6. **Business Not Conducted Within a Home.** Any home occupation which proposes or conducts activities within an outbuilding, accessory building, attached or detached garage. The following guidelines shall be used to determine the maximum impacts permitted:
- a. The applicant for a Home Occupation Business License shall designate the areas of the home, attached/detached garage or accessory structure that will be used for the home occupation. If approved, the home occupation may be conducted only in the designated area.
 - b. No more than a maximum of 200 square feet, or in the alternative, no more than 50 percent of the total floor space (whichever is the greater) of any accessory structure or attached or detached garage may be used for a home occupation unless there are specific exceptions granted by the Planning Commission.
 - c. Any home occupation uses in an attached or detached garage may not eliminate minimum parking requirements for the particular zone wherein the home occupation is located.
 - d. Any accessory structure used for a home occupation must maintain the architectural aesthetics or compatibility of the home and the immediate neighborhood.
 - e. The home occupation may utilize one unanimated, non-illuminated flat sign to be attached to the accessory structure where the home occupation is being conducted in lieu of a sign attached to the home or in a window. The sign may not have an area greater than one square foot.
7. **Home Occupations and Outdoor Activities.** Any home occupations proposing to conduct business utilizing any yard space or in a swimming pool.
8. **Dangerous Home Occupations.** Any home occupation using explosives, incendiary products and devices, flammable, or hazardous chemicals.
9. **Home Occupations Generating Excessive Traffic.** Any home occupation which will generate in excess of two customers or visitors per hour or eight per day. A maximum of 12 business-associated visitors per day may be allowed under a conditional use permit, except as provided for child day care and other group child activities.

10. **Large, Business Related Vehicles.** Any home occupation which utilizes vehicles more than 24 feet in length (with the exception of renting recreational vehicles). (Ord 09-18, Amended 7-31-2009)
 11. **More Than Two Home Occupation Licenses.** Any home where the applicant(s) is seeking more than two home occupation licenses.
- G. **Prohibited Home Occupations.** The following uses, by nature of the occupation, substantially impair the use and value of residentially zoned areas for residential purposes and are, therefore, prohibited:
1. Mortuary, crematorium, columbarium, mausoleum.
 2. Animal hospitals or veterinary services.
 3. Clinic, dental office, medical office, chiropractic office, or hospital.
 4. Junk yard, auto wrecking yard, or salvage yard.
 5. Stables, kennels, pet store, or any other commercial animal breeding business or similar activities are prohibited. Activities may be allowed within the scope of a hobby license as issued by the Animal Services Division of Sandy City.
 6. Storage, service, repair, sales of ambulance, tow truck, recreational vehicle, water craft, automobiles, ATV, or other motorized vehicles. (Ord 09-18, Amended 7-31-2009)
 7. Fitness or health spa facility.
 8. Boutiques, sample sale, or craft shows.
 9. Auto body repair, motor vehicle repair.
 10. Use of specified chemicals, pesticides and flammable/combustible materials, and including any other process or business where current adopted Building and Fire Codes would require an Operational Permit.
 11. Number of vehicular stops or visits that would exceed 24 per day.
 12. Massage therapy or other alternative healing and energy healing businesses, with the exception that a Home Occupation license may be issued if the applicant is the only person employed in said operation and he/she has obtained any required license(s) from the State of Utah. Limit one massage therapy or alternative healing and energy healing business per residence. All other standards and Category I qualifications must be complied with. No massage therapy or other alternative healing and energy healing businesses may be permitted if a Category II qualification is required. (Ord 15-25, Amended 7-21-2015, Ord 16-13, Amended 3-23-2016)
 13. A Bed & Breakfast facility.