



Provo City Planning Commission

Report of Action

July 11, 2018

The Community Development Department requests a Code Amendment to Chapter 14.41 of the Provo City Code to make various changes to the allowances and requirements of Home Occupations, including but not limited to the addition of certain definitions related to Home Occupations, limitations on promotional meetings, changes related to the number of customers and employees allowed with major home occupations, and the non-allowance for an accessory apartment and a major home occupation to be operated at the same time. City Wide impact. Brian Maxfield (801) 852-6429 PLOTA20180109

The following action was taken by the Planning Commission on the above described item at its regular meeting of July 11, 2018:

RECOMMENDATION to APPROVE

On a vote of 4:0, the Planning Commission recommended the Municipal Council approve the above noted application.

Motion By: Brian Smith

Second By: Andrew Howard

Votes in Favor of Motion: Brian Smith; Andrew Howard; Maria Winden; Dave Anderson

Dave Anderson was present as Chair.

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

PLANNING COMMISSION RECOMMENDED TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit "A." (The attached Exhibit "A" was handed out and presented at the meeting and is a consolidation of the exhibit in the staff report and wording changes recommended by the Municipal Council's Attorney.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- A brief background as to the purpose for the requested amendment.
- A general presentation of the proposed changes to the ordinance.

CITY DEPARTMENTAL ISSUES

No City Departmental Issues have been received regarding this item.

NEIGHBORHOOD MEETING DATE

City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Martha Rasmussen, a Maeser Neighborhood vice chair, stated her overall support of the amendment. She asked a clarifying question regarding when a Home Occupation Permit is needed? It was clarified that though a new amendment to the State Code, minor Home Occupations that are either operated occasionally by a resident under 18 years old, or else that cause no impact on a neighborhood are exempt. By City Code, this would include all minor home occupations which meet the conditions listed in the proposed amendment. Therefore, only major home occupations would need a license.
- Rachel _____, a resident of the Rock Canyon Neighborhood also stated her support as the amendment makes items more clear for both residents and those with home occupations. She asked a clarifying question regarding the definition of customer? It was clarified through a reading of the new proposed definition of customers that Customer cannot be defined as a group of people. Each person in the group would be one customer.
- Adam _____, asked a clarifying question regarding why customers are so restricted, yet day cares are not as restricted? Maria Winden of the Planning Commission clarified the State Code allows the larger number for day cares.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Planning Commission comments generally stated their belief the amendments were appropriate and would work to clarify some previous ambiguities.



Director of Community Development

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT "A"

Chapter 14.41 Home Occupations.

- 14.41.010. Purpose and Intent.
- 14.41.020. Home Occupation Permit Required.
- 14.41.030. Procedure.
- 14.41.040. Conditions.
- 14.41.050. Minor Home Occupations.
- 14.41.060. Major Home Occupations.
- 14.41.070. Noncompliance.
- 14.41.080. Appeal.
- 14.41.090. Business License Required.

14.41.010. Purpose and Intent.

To encourage the majority of business activities to be conducted in appropriate commercial zones. Business activities may be conducted within a residence on a limited basis if such activities comply with standards of this Section. All home occupations shall be secondary and incidental to the residential use. The use should be conducted so that neighbors, under normal conditions, would not be aware of its existence. Home occupations are a temporary privilege which can be revoked if disruption of the residential neighborhood occurs.

14.41.015. Definitions.

For the purposes of this Chapter, the following definitions shall apply

"Customer" means an individual or a single representative of a group or organization, who buys goods or services directly at the premises of a home occupation.

"Employee" means an individual who is either paid or volunteers for work performed in association with a home occupation business.

"Major Home Occupation" means a home occupation that may exceed specific impacts found with a minor home occupation, but where such impacts can be adequately mitigated through adherence to specific conditions included with an approved Conditional Use Permit.

"Minor Home Occupation" means a home occupation where the combined off-site impact of the home-based business and the primary residential use of the property, does not materially exceed the off-site impact of the primary use alone.

14.41.020. Home Occupation Permit Required.

To assure compliance with provisions of this Title and to protect the character of residential neighborhoods in the City of Provo, a Home Occupation Permit ~~shall be obtained from the Community Development Department before a dwelling unit in a residential zone may be used for business purposes.~~ **is required as follows:**

(1) A Home Occupation Permit is not required for those home occupations that fully comply with the conditions listed in Section 14.41.040. Provo City Code; qualify as a minor home occupation, or are else otherwise exempted by State Code.

(2) An annual Home Occupation Permit is required for all Major Home Occupations.

48 **14.41.030. Procedure.**

49 The Community Development Department may, upon application, issue a Home Occupation Permit which shall
50 state the home occupation permitted, the conditions attached thereto, and any time limitations imposed thereon. The
51 permit shall not be issued unless the Community Development Department is satisfied that the applicant will meet
52 all of the conditions listed below and that the applicant has agreed in writing to comply with all said conditions.
53 (Ren 1993-02, Am 2016-08)

54
55 **14.41.040. Conditions.**

56 Each and every one of the following conditions must be observed at all times by the holder of a Home Occupation
57 Permit:

58
59 (1) Persons who are not bona fide residents of the premises shall not be employed on said premises.

60
61 (2) The home occupation shall be conducted wholly within the structure on the premises and shall not exceed
62 forty-nine percent (49%) of the total floor area of said structures. The home occupation shall not occupy any area
63 within the garage, unless the garage still functions for parking, and as long as two (2) parking spaces for residential
64 use are still available.

65
66 (3) Promotional meetings for the purpose of selling merchandise, taking orders, or training shall not include more
67 than 12 attendees at any one meeting, nor be held more than once per month.

68
69 (4) The home occupation may include the sale of commodities. However, it is the intent that it be limited to items
70 produced on the premises, or items that are incidental to the service provided, i.e., a beautician who also sells hair
71 care products to her clientele. Retail sales of products and services are allowed at the home with a maximum of two
72 (2) customers per hour, and only between the hours of 8:00 a.m. and 9:00 p.m. Sufficient parking area shall be
73 maintained on-site for customer parking.

74
75 (5) No sign or advertising shall be displayed on the premises except name plates as permitted by Section
76 14.38.050(9), Provo City Code.

77
78 (6) No display of any kind shall be visible from the exterior of the premises.

79
80 (7) Garage, basement, yard or other similar sales shall not be allowed more than a total of five (5) days in any
81 calendar year. Such sales do not constitute a home occupation.

82
83 (8) Only one (1) vehicle may be used in association with the home occupation and shall be garaged or stored
84 entirely within a building or structure. The vehicle used for the home occupation shall be limited to a maximum
85 gross vehicle weight rating of fourteen thousand (14,000) pounds. Nor shall a business be permitted that requires
86 receipt or delivery of merchandise, goods, or equipment by other than a passenger motor vehicle or by parcel or
87 letter carrier mail service using vehicles typically employed in residential deliveries. No deliveries by semi-
88 tractor/trailer truck are permitted.

89
90 (9) There shall be complete conformity with the Provo City Code, fire, building, plumbing, electrical, and health
91 codes and to all applicable state and city laws and ordinances.

92
93 (10) The home occupation shall not cause a demand for municipal or utility services or community facilities in
94 excess of those usually and customarily provided for residential uses.

95
96 (11) The home occupation shall not alter the residential character of the premises or unreasonably disturb the
97 peace and quiet, including radio and television reception, of the neighborhood by reason of color, design, materials,
98 construction, lighting, sounds, noises, or vibrations.

99
100 (12) Any special condition established by the Community Development Department and made of record in the
101 Home Occupation Permit, as they deem necessary to carry out the intent of this Section, shall be met.
102

103 (13) All Home Occupation Permits shall be valid for one (1) year, and may be renewed annually provided there
104 have been no reported violations, complaints, or detrimental characteristics which may, in the opinion of the
105 Community Development Department, require termination of said home occupation.
106

107 (14) Handicapped persons can obtain a waiver of one (1) or more of these conditions through the Zoning
108 Administrator to allow such persons to become self-sufficient.
109

110 **14.41.050. Minor Home Occupations.**

111 Home occupations which meet the above standards shall be defined as minor home occupations. In order to
112 minimize traffic and off-street parking, and to avoid health and sanitation risks from the disposal of medical wastes,
113 medical, dental, and other health professional offices are specifically excluded as home occupations. Permitted
114 minor home occupations include, but are not necessarily limited to the following:
115

- 116 (1) artists, authors, architectural services, advertising;
117
118 (2) barber and beauty shops;
119
120 (3) consulting services, craft sales;
121
122 (4) dance studio, aerobic exercise, music lessons, tutoring and general educational instruction, provided the
123 number of students is limited to two (2) at a time;
124
125 (5) direct sales distribution, desktop publishing;
126
127 (6) data processing, computer programming, and service;
128
129 (7) family day care (not more than six (6) children);
130
131 (8) home crafts;
132
133 (9) garden produce;
134
135 (10) janitorial services;
136
137 (11) insurance sales or broker, interior design;
138
139 (12) mail order;
140
141 (13) real estate sales, broker, or appraiser;
142
143 (14) sales representative; and
144
145 (15) contractors, provided there is no outside storage of equipment, and no more than one (1) company vehicle
146 stored on site.
147
148

149 **14.41.060. Major Home Occupations.**

150 "~~Major home occupation~~" means a home occupation which meets the standards listed in Section 14.41.040, Provo
151 City Code, except as specifically modified by the Community Development Department as provided herein. All
152 Major Home Occupations shall require the issuance of a Conditional Use Permit as regulated by Section 14.02.040.

153 Pursuant to approval of a conditional use permit, the Community Development Department may authorize an
154 increase in the intensity of a home occupation, as follows:
155

156 (1) ~~The number of customers coming to a dwelling unit may range up to six (6) per hour provided sufficient off-~~
157 ~~street parking is provided.~~ No more than one (1) major home occupation may be in operation at the same location,
158 and no accessory apartment may be operated concurrently with a major home occupation at the same location.
159

160 (2) A larger commercial vehicle up to a gross vehicle weight rating of seventeen thousand five hundred (17,500)
161 pounds may be used, provided it is parked ~~on private property~~ on-site and adequately screened from street view.
162

163 (3) Outside employees not residing on the premises may be allowed ~~during daytime business the hours (8:00 a.m. — 5:00~~
164 ~~p.m.)~~ subject to the following conditions of either Subsection (a) or (b):
165

166 (a) ~~No more than one (1) outside employees at one time for a dwelling unit located on a lot or parcel which is at least~~
167 ~~eight thousand (8,000) square feet in area. One (1) additional employee~~ A maximum of two (2) employees at any one time
168 may be allowed for each additional increment of thirty thousand (30,000) square feet in the area of the lot or parcel
169 properties of 38,000 square feet or greater.
170

171 (b) ~~As an alternative to Subsection (a), a home occupation that does not bring customers to the premises may have up to~~
172 ~~three (3) outside employees at one time for a dwelling unit located on a lot or parcel which is at least eight thousand (8,000)~~
173 ~~square feet in size, provided sufficient off-street parking is provided. One (1) additional employee may be allowed for each~~
174 ~~additional increment of thirty thousand (30,000) square feet in the area of the lot or parcel.~~ Outside employees may only be
175 allowed on the premises between the hours of 8:00 a.m. and 5:00 p.m., except when the home occupation does not bring
176 customers to the premises, employee hours may be extended to 9:00 p.m.
177

178 (c) Sufficient off-street parking shall be provided and maintained on the premises for employee parking.
179

180 (4) Promotional meetings for the purpose of selling merchandise, taking orders, or training may be held up to four
181 (4) times per month, but shall not include more than 12 attendees at any one meeting.
182

183 (5) ~~An applicant for a Major Home Occupation may forego the fee for a conditional use permit if all the property~~
184 ~~owners within three hundred (300) feet of the applicant's property sign a petition in support of the home occupation.~~
185

186 **14.41.070. Noncompliance.**

187 Any Home Occupation Permit shall be revoked by the Community Development Department upon violation of any
188 requirements of this Chapter, or upon failure to comply with any of the conditions or limitations of the permit,
189 unless such violation is corrected within three (3) days of receipt of written notice thereof. A permit may be revoked
190 for repeated violations of the requirements of this Chapter, notwithstanding compliance to the violation notice. (Ren
191 1993-02, Am 2016-08)
192

193 **14.41.080. Appeal.**

194 In the event of denial of any permit, or of the revocation thereof or of objection to the limitations placed thereon,
195 appeal may be made to the Board of Adjustment in accordance with the provisions of Section 14.05.050, Provo City
196 Code. (Ren 1993-02)
197

198 **14.41.090. Business License Required.**

199 A Home Occupation Permit is not a business license, and the granting of said permit shall not relieve the permittee
200 of any other license requirement of the City or of any other public agency.
201

202 END