

Planning Commission Staff Report

June 28, 2023



Project Name:

Ordinance Text Amendments
to Chapter 13.34, relating to
Home Occupations

Applicants:

Staff Initiated

Location:

City Wide

Current Zone:

All Zones allowing single-
family residential dwellings.

REQUEST

Staff is requesting a recommendation of approval from the planning commission for the proposed changes to Chapter 13.34 of the Payson City Code, relating to Home Occupations. This proposal pertains to the allowing home occupation operations to extend to accessory structures.

BACKGROUND AND PROJECT DESCRIPTION

Staff has received requests to allow a home occupation to operate within an accessory structure of a single-family dwelling. Staff has explored the options of allowing this and has recommended amendments to Chapter 13.34 of the Payson City Code (PCC) which would allow for limited use of an accessory structure for home occupation use.

Staff presented the attached amendments in a work session with the Planning Commission on June 14, 2023.

The planning commission may recommend approval of all the proposed amendments. The commission may also modify the request to accept some changes and reject others or reject the proposal entirely.

APPROVAL PROCESS

Staff seeks a recommendation of approval to amend the PCC to allow home occupations to extend to an accessory structure on the property, with specific limitations. The proposed amendments will allow Payson residents additional options for their home businesses and dwellings, while maintaining the appearance and functionality of a residential neighborhood.

Staff feels the proposed amendments can help to improve the economic stability residents depend on while also expanding the availability of services near residents. Staff feels the proposed amendments will not negatively impact surrounding property owners because a home occupation will still need to remain secondary to the primary use of the property as a dwelling.

ANALYSIS

The proposed amendments to Chapter 13.34 would be applicable city-wide in all zones that allow home occupations. In making a recommendation, the planning commission will want to consider whether or not these changes are appropriate city-wide.

Requested changes to 13.34 are as follows (see attached documents for more detail):

- The area used for the home occupation shall not exceed 600 square feet.
- An accessory building can be used for the home occupation and customers are allowed into the space.

FINDINGS

- The proposed amendments are consistent with the intent of the provisions for home occupations as outlined in the Payson City Code.
- The proposed amendments will allow for greater flexibility in the establishment of a home occupation associated with a single-family dwelling.
- The proposed amendments do not allow for more intense use of the property for a home occupation and do not allow for additional impacts to the surrounding residents of an established home occupation.
- The proposed amendments will likely help to strengthen the economic viability of home occupations established by Payson residents.

RECOMMENDATION

After a thorough review of the proposed amendments to Chapter 13.34 of the PCC, relating to Home Occupations, staff recommends the Planning Commission forward a positive recommendation to the City Council for the adoption of the proposed amendments.

Following a public hearing to receive public comment, the planning commission may do the following for each land use application being considered:

1. Forward a positive recommendation that the City Council adopt the proposed amendments to Chapter 13.34 of the Payson City Code, related to Home Occupations, based upon the staff report and findings.
2. Remand the request back to staff for further review or to provide additional information. This action should be taken if it is determined that there is not enough information provided by the applicant for the planning commission to make a well-informed recommendation.
3. Recommend denial of the proposal. This action should be taken if the planning commission determines the proposed amendments are inconsistent with the intent of the Payson City Code and would have negative impacts to the surrounding properties which could not be mitigated in any way.

The recommendation of the planning commission should include findings that indicate reasonable conclusions for the recommendation.

13.34.010 Purpose And Intent

The following regulations have been established to provide minimum standards for the establishment and operation of home occupations within a residence. An applicant for a home occupation shall satisfy the requirements of this Chapter and all applicable requirements of this Title together with the regulations of PCC 3, Business License Ordinance.

Meeting these requirements does not constitute a right to a home occupation business license. The primary purpose of a residential zone is residential and any license may be denied based on impact to the neighborhood or any other reason determined by the Business License Specialist, Development Service Director or designee.

- A. The purpose and intent of this Chapter is to support business activities ~~within~~ at a residence on a limited basis, if such activities comply with the standards of this Chapter. 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 privilege that can be revoked if disruption of the residential neighborhood occurs.
- B. No home occupation shall be conducted without first obtaining a home occupation business license pursuant to this Chapter and other applicable provisions of the Payson City Code regulating businesses.
- C. The Business License Specialist may grant a home occupation business license, provided the use applied for satisfies all of the standards set forth in this Chapter.
- D. Home occupation business licenses are reviewable upon written complaint to the Business License Specialist. The Business License Specialist in reviewing such complaints shall have the authority to attach conditions to a home occupation to make it compatible with the surrounding neighborhood. If the Business License Specialist makes a finding that the home occupation is not compatible with the surrounding neighborhood they shall have the authority to take it to the City Council for further review or go through the revocation process described in PCC 3.
- E. As a matter of public policy, the City believes that commercial and industrial activities should be conducted in zones where such activities are specifically permitted. However, business activities may be conducted within residences located in any zone in the City if the business activity strictly complies with all of the following requirements.

HISTORY

Adopted by Ord. [05-18-2022-D](#) on 5/18/2022

13.34.020 Specific Use Considerations

Permitted uses for a home occupation will be determined based on the satisfaction of all general requirements found in PCC 13.34.030.

Some permitted home occupations require additional criteria to be met along with the general requirements found in PCC 13.34.030. The following information is additional criteria based on use:

- A. Barber and beauty shops provided the home occupation is limited to two service chairs that may be used only for hair or nail services, and not to include any other uses.
- B. Contractors, provided all outside storage of vehicles and equipment is contained within a building, except that one company vehicle may be parked outside of a building on premise.
- C. **Home Childcare Centers.** Any person conducting ~~child-care~~ childcare services in a residential zone is required to obtain a certificate or license from the Utah Department of Health. The number of children allowed at each location may not exceed eight (8) for a single caregiver and sixteen (16) for two caregivers. Childcare facilities with three (3) or fewer children, excluding the provider's own children, are exempt from these regulations.
 - 1. All childcare facilities must satisfy all federal, state and county requirements. These regulations shall not apply to those non-income producing childcare activities (i.e. babysitting cooperatives, babysitting exchanges).
 - 2. All childcare facilities shall be allowed to provide outdoor playtime as required by federal, state, county and/or local laws governing such business activity.
 - 3. All caregivers are required to complete a criminal background check. A business license will not be issued prior to receiving a certificate and/or report from the Bureau of Criminal Investigation and approval from the Utah Department of Health.
- D. **Instructional Studios.** Any dwelling unit in which instruction is offered for piano, gymnastics, voice, art, dance, or similar activities provided that instruction is offered for no more than eight (8) students on the premises at the same time, excluding the instructor's own participating family members.
- E. **Preschool Instruction.** All preschool establishments must obtain a license and satisfy all federal, state and county requirements. Each establishment is limited to eight (8) children, excluding the provider's own preschool aged children, on the premises at the same time. Preschool facilities with three (3) or fewer children, excluding the provider's own preschool aged children, are exempt from these regulations.
 - 1. These regulations shall not apply to non-income producing preschool activities (i.e. informal instructional activities for preschool aged children).
 - 2. All preschool facilities shall be allowed to provide outdoor playtime as required by federal, state, county and/or local laws governing such business activity.
 - 3. All preschool providers are required to complete a criminal background check. A business license will not be issued prior to receiving a certificate and/or report from the Bureau of Criminal Investigation and approval from the Payson Police Department.
 - 4. All preschool facilities shall follow Utah State Code with regards to location and proximity distances to controlled substances such as tobacco, alcohol, cannabis etc.

F. Pet Grooming Provided.

1. The home occupation is limited to two (2) large or medium tables and one (1) portable table that may be used only for grooming services, and not to include any other uses.
2. A portion of the backyard must be fenced and designated as an area to allow safe, brief outdoor time to relieve dogs.
3. Appropriate assurances must be provided that animal waste will be properly removed and will not negatively impact adjacent properties. The proposed waste disposal system must be reviewed and approved by the wastewater department.
4. Kenneling of pets is not allowed on the premises.

HISTORY

Adopted by Ord. [05-18-2022-D](#) on 5/18/2022

13.34.030 Application And Approval Required

Home occupations may be permitted in the appropriate zones and are subject to the following conditions:

A. General Requirements.

1. Each applicant for a home occupation shall submit a complete application form provided by the Business License Specialist together with a site plan indicating the portion of the home that will be used for the home occupation that includes any significant features of the request.
2. The applicant for a home occupation shall reside in the residence for which the permit is being sought.
3. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those customarily provided for residential uses.
4. The home occupation shall be registered with the City. No more than one home occupation shall be approved per residence unless the applicant can demonstrate to the Business License Specialist that the additional home occupation(s) will not impact the residential nature of the area and does not create any additional stress or impact on the neighborhood. The Business License Specialist has the discretion to approve, deny, or require the request to be taken to the City Council for consideration.
5. In the case of a primary residence and accessory apartment both requesting a home occupation license, both shall demonstrate to the Business License Specialist that the two home occupations will not impact the residential nature of the area and does not create any additional stress or impact on the neighborhood.
6. If the applicant for a home occupation is not the legal owner of the residence, the applicant shall present to the Business License Specialist, in writing, permission from the legal owner of the residence to conduct the activities proposed.

7. Inspection during reasonable hours by City Officials may occur as necessary to assure compliance with these regulations.
8. The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.
9. The home occupation shall not require alterations to the exterior of the residence or to enclose the garage or carport area. The residence shall maintain the general character and appearance of a residential dwelling and shall not unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood by reason of color, design, materials, construction, lighting, sounds, or vibrations.
10. Interior alterations for accommodating the home occupation are prohibited if such alteration eliminates any of the following; the kitchen, dining area, bathrooms, living room or all of the bedrooms or off street parking.
11. The area used for the home occupation shall not exceed ~~twenty-five (25) percent of the dwelling or five~~ six hundred (500) (600) square feet, ~~whichever is less.~~
12. Incidental storage related to the home occupation may be located in the dwelling unit, but shall not be located in any yard space, covered patios or carports. Storage may be allowed in an attached or detached garage, or in a fully enclosed accessory building, but such storage area shall not exceed four hundred (400) square feet. Required parking must be maintained in accordance with PCC 13.10.
13. The home occupation shall not contain facilities for the display of goods. The sale of commodities shall be limited to items produced on the premises, or items that are incidental to the service provided, (i.e. a beautician selling hair care products to clientele). Direct retail sales may be allowed in a legal non-conforming residential dwelling in a commercial zone, provided the requirements of this Chapter are satisfied, including the provision of off-street parking and compliance with the delivery limitations of this Chapter.
14. Signs shall satisfy the requirements found in PCC 13.32.
15. Entrance to the home occupation from outside shall be the same entrance normally used by the residing family except when required otherwise by regulation of the State Health Department or other public agency or to satisfy the International Building Code, as may be amended, and ANSI standard 117 A.
16. The physical appearance, traffic, and other activities in connection with the home occupation are not contrary to the intent of the zone in which the home occupation is located.
17. Garage, yard or other similar sales do not constitute a home occupation and are exempt from these provisions.

B. Patrons.

1. Visitors, customers, or vehicular traffic shall not exceed that normally and reasonably occurring for a residence in the neighborhood where the home

occupation is located and shall be conducted so that the neighborhood will not be significantly impacted by its existence.

2. No visitors in conjunction with the home occupation (clients, patrons, students, pupils, etc.) shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.
3. Promotional meetings for the purpose of selling merchandise, taking orders, or training shall not be held more than once per month.

C. Employees.

1. Family members living in the dwelling for which a home occupation has been approved may be employed in such residence without constraint.
2. Recognizing that for the purposes of some home occupation activities additional employees may be necessary or practical. As a conditional use in accordance with PCC 13.28, the City Council may allow one (1) employee not residing on the premises during appropriate daytime business hours to work at the location of a home occupation.

D. Vehicles and Parking.

1. Vehicles or equipment may not be used primarily for the purposes of advertising the home occupation at the site of the home occupation.
2. Only one vehicle may be used in association with the home occupation. The vehicle used for the home occupation shall be limited to a maximum size of a one-ton vehicle. A business shall not be permitted that requires receipt or delivery of merchandise, goods, or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries. No deliveries by semi-tractor\trailer truck are permitted. There shall be no storage or parking of tractor-trailers, semi-trucks, or other heavy equipment on the premises or on the streets in the vicinity of the premises of a home occupation, except that not more than one truck of one-ton or less may be parked during off hours.

In the case of contractors, there shall be no outside storage of vehicles or equipment on or off site that is not contained within a building, except that one company vehicle may be parked outside of a building on premise.

3. All vehicles, including customer, client and employee vehicles must be provided off-street parking at the location wherein the home occupation is being conducted.

E. Accessory

Structures.

The home occupation should be conducted entirely within a dwelling; however, home occupations may be conducted in an accessory structure as noted below.

If the nature of the home occupation requires items to be produced outside of the dwelling the applicant must meet the following requirements:

1. Production must be conducted on the same lot as the dwelling.
2. The home occupation must not be a prohibited home occupation.

3. Production nor storage shall not be conducted within view of the street.
4. The accessory building shall only be used for:
 - a. Production for home occupations that cannot be reasonably conducted in the primary dwelling. If the home occupation grows or is determined, by the Business License Specialists or City Council, to be an impact to the neighborhood or has frequent patronage, the home occupation license will be terminated and the business will need to move to an approved commercial location and obtain a commercial business license.
 - b. Storage of product for the business that were not made on-site.
 - ~~c.—Shall not be a showroom or place to conduct business.~~
 - ~~d.—Customers are not allowed into the accessory building.~~
5. Square footage of the accessory building will count towards the maximum square footage allowed for the home occupation.
6. The applicant must demonstrate to the Business License Specialist that there ~~is~~ ~~are~~ ~~not~~ ~~no~~ additional impacts to the neighborhood including, but not limited to, noise, smell, light or additional traffic from patrons, deliveries or shipments.

The Business License Specialist will determine if the applicant meets the requirements for conducting production outside of the dwelling.

Swim Lessons shall be exempt from the accessory structure limitations described in this Chapter. Swim lessons as home occupations shall obtain approval from the Utah County Health Department for the proposed activity. Documentation from the Health Department is required prior to the issuance of a swim lesson home occupation business license. The yard must be fenced.

- F. The applicant for a home occupation shall complete a home occupation application and submit it to the business license department for review and pay all applicable fees before a ~~the~~ license ~~shall~~ ~~can~~ be issued.
- G. A home occupation business license shall be valid for one (1) year from the date of issuance. The business license must be renewed prior to the expiration date of the previous business license. Prior to issuance of a renewed business license, all applicable fees shall be paid and all necessary inspections must be completed. Although Payson City will make every attempt to provide at least a two (2) week notice to each business owner of an expiring license, the ultimate responsibility to renew the business license rests with the business owner.
- H. If a license is not renewed prior to the expiration of a previous license, the applicant shall be subject to a late fee. The late fee assessed is dependent upon the lateness of the business license renewal as follows:
 1. 1-30 days past due, grace period. No late fee.
 2. 31-60 days past due, \$15.00 late fee plus an additional \$15.00 per each month thereafter late.

3. 90 days or more past due:
 - a. License becomes inactive
 - b. The business owner must reapply for a license, new application fees will apply (new expiration date will be one year from the original expiration date)
 - c. Citation for operating without a license may be issued

HISTORY

Adopted by Ord. [05-18-2022-D](#) on 5/18/2022

13.34.040 Continuing Obligation

All home occupations shall be operated in compliance with the conditions herein. Upon approval of a home occupation, a license to operate shall be obtained from the City. It shall be unlawful to operate a home occupation without first obtaining a license from the City. The license shall be refused or revoked upon failure of the owner or operator to maintain the home occupation in accordance with the standards and requirements as herein set forth at the time of approval.

HISTORY

Adopted by Ord. [05-18-2022-D](#) on 5/18/2022

13.34.050 Compliance With Federal, State And Local Laws

Home occupations shall satisfy all applicable federal, state and local laws, adopted building (including plumbing, electrical and mechanical) and fire codes, specifically including the Americans with Disabilities Act. Any home occupation that requires approval from another governing agency shall obtain approval from the agency and provide written documentation to the City.

Payson City encourages the majority of business activities to be conducted in appropriate commercial zones. The provisions of this Chapter shall not be used to avoid compliance with other regulations of this Title.

HISTORY

Adopted by Ord. [05-18-2022-D](#) on 5/18/2022

13.34.060 Prohibited Uses

Home occupations must be conducted in a manner that will not negatively affect the character, health, safety or general welfare of the zoning district. The following business activities or practices are not allowed as home occupations:

- A. Medical, dental, teeth whitening, implants, Botox and other healthcare services that generate medical waste or present sanitation risks
- B. Tattooing, microblading, scarification
- C. Tanning and hot tubs.
- D. Laser treatment of any kind to a living body
- E. Onsite massage
- F. Vehicle repair, including by not limited to, auto-body repair, engine repair, vehicle mechanics, vehicle lube & tune-up or vehicle painting.

- G. Onsite vehicle wash
- H. Wrecking yard
- I. Impound yard
- J. Stables or Kennels
- K. Onsite repair of major appliances (washers, refrigerators, ranges etc.)
- L. Storage or sale of fireworks
- M. Hazardous materials as defined by local, state and federal guidelines and substances that could have a negative impact on public utility systems.
- N. Any use determined by the Business License Specialist to jeopardize the health and safety of city residents. The decision of the Business License Specialist to deny an application may be appealed to the City Council in accordance with PCC 13.46.