



TOQUERVILLE CITY

ORDINANCE 2023.05



AN ORDINANCE OF THE CITY COUNCIL OF TOQUERVILLE, UTAH, AMENDING, RESTATING AND TRANSFERRING CHAPTER 23 (HOME OCCUPATIONS) INTO A NEW CHAPTER (CHAPTER 2) OF TITLE 3 (BUSINESS AND LICENSE REGULATIONS) OF THE TOQUERVILLE CITY CODE AND MAKING THE REGULATION OF HOME OCCUPATIONS WITHIN THE CITY'S RESIDENTIAL & QUASI RESIDENTIAL ZONES BY LICENCING INSTEAD OF PERMITTING.

RECITALS

WHEREAS, Toquerville City ("City") is an incorporated municipality duly organized under the laws of the State of Utah;

WHEREAS, pursuant to Utah Code Annotated Title 10, Chapter 1, Section 203(2), the City has the delegated police power to license for the purpose of regulating any business within the limits of the municipality, may regulate that business by ordinance, and impose fees on businesses to recover the municipality's costs of regulation.

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 9a, Section 103, Subsection 30 and Title 10, Chapter 3b, Section 301, the Toquerville City Council ("City Council") is designated as the governing and legislative body of the City.

WHEREAS, after careful consideration by the City Staff and in consultation with other local municipalities, the City Council has determined that the regulation of home occupations through a licensing process administered by City Staff under Title 3 (Business and Licensing Regulations) of the Toquerville City Code rather than as a permit issued by the City under Title 10 (Land Use Regulations) is preferable and will allow the City to better monitor, regulate and enforce provisions of the Toquerville City Home Occupation Ordinance aimed at preserving the character of the neighborhood in which it is located and avoiding situations common to commercial businesses which could disrupt neighbors and detract from the general desirability and safety of the area.

ORDINANCE

NOW THEREFORE BE IT HEREBY ORDAINED by the City Council of Toquerville City, Utah, as follows:

1. AMENDMENT, RESTATEMENT AND TRANSFER OF CHAPTER 23 OF TITLE TEN TO NEW CHAPTER OF TITLE 3. Chapter 23 (Home Occupations) of Title 10 (Land Use Regulations) is hereby amended, restated and transferred in its entirety to a new chapter (Chapter 2) of Title 3 (Business and License Regulations) of the Toquerville City Code as follows:



CHAPTER 2 HOME OCCUPATIONS

SECTION:

- 3-2-1: Title And Purpose*
- 3-2-2: Applicability*
- 3-2-3: Definitions*
- 3-2-4: Licenses Required*
- 3-2-5: Application For License*
- 3-2-6: Fees*
- 3-2-7: Approval Process*
- 3-2-8: Conditions Required Prior To Issuance Of License*
- 3-2-9: Renewal Of License*
- 3-2-10: Revocation Or Denial Of License*
- 3-2-11: Appeal*
- 3-2-12: Enforcement*

3-2-1: TITLE AND PURPOSE:

This chapter shall be known and cited as the TOQUERVILLE HOME OCCUPATION ORDINANCE. The purpose and intent of this chapter is to allow persons, in compliance with the requirements of this chapter to utilize a portion of their residential premises as a place of business. Such business shall only be operated by residents in the home and shall not be of such nature or scope that the operation of the business disrupts neighbors or detracts, changes or modifies the character of the neighborhood in which it is located.

3-2-2: APPLICABILITY:

The requirements of this chapter shall apply to all home occupations within the following zoning areas inside the City:

- A. Single-Family Residential (R-1-12, R-1-15 and R-1-20);*
- B. Multiple Use District (MU-20);*
- C. Agricultural District (A);*
- D. Multiple-Family District (RM-1 and RM-2).*

3-2-3: DEFINITIONS:

All other definitions set forth in this title not specifically modified by this section are incorporated herein by this reference. The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly



appears from the context:

HOME OCCUPATION: The conducting of any business, transaction or activity for which consideration of any nature is received within any permitted zoning district. Garage or yard type sales do not constitute a home occupation provided they are held no more than four (4) times per calendar year and last no more than three (3) consecutive days on each occasion.

HOME OCCUPATION LICENSE: The license issued by the Toquerville City Development staff for the purpose of granting permission to conduct a home occupation.

IN HOME OFFICE: The use of a portion of the residential premises for office use only, including, but not limited to, record storage, filing, invoicing, accounting, billing, order taking, making appointments and telephone contacts.

RESIDENCE: The building or structure on the residential premises that is the home or dwelling unit that has been designed for use as the living and sleeping place for its occupants, as distinguished from a detached garage or other accessory building.

RESIDENTIAL PREMISES: The parcel of land and structures on it that is located in the areas of the City which are, or may be, zoned to permit home occupations. Residential premises does not include parcels of land located in any Commercial Zoning District.

3-2-4: LICENSES REQUIRED:

A. Home Occupation License: To assure compliance with the provisions of this title and to better protect the character of affected neighborhoods in the City, a home occupation license must be approved by City Development staff before a structure on the residential premises may be used for a home occupation.

B. Business License: In addition to obtaining a home occupation permit, any person wishing to conduct a home occupation upon residential premises must also obtain and maintain a valid business license from the City, provided however that the City shall not charge any license fee for the business license.

C. State Sales Tax License: If required by the State, a State Sales Tax license shall be issued to the home occupation, with the City listed as a business location.

3-2-5: APPLICATION FOR LICENSES:

All applications for a home occupation permit license shall contain the following:

A. The name, contact information, and home address of the person applying for the permit;



- B. *The registered name of the business, if applicable;*
- C. *The Federal tax identification (EIN) number of the business entity, if applicable;*
- D. *A brief description of the type of business/home occupation to be engaged in;*
- E. *A State tax identification number, if applicable;*
- F. *A licensure number issued by the State Department of Professional and Occupational Licensing, if applicable;*
- G. *Proof that the home occupation is State licensed or exempt, if applicable;*
- H. *A diagram or floor plan of the residence and/or ancillary structure (drawn to rough scale) showing the location and size of the area of the residence/structure being proposed to be used for a home occupation;*
- I. *Signature of the applicant (or applicant's authorized agent) acknowledging under penalty of law that the information provided by the applicant (or applicant's authorized agent) is true.*

3-2-6: FEES:

The City shall not impose any license fee in connection with the operation of a home occupation. However, the City shall charge a one-time application fee as shown on its fee schedule to cover the costs to process and review the application for a home occupation. In addition, any fees incurred by the City for professional services associated with the review of a home occupation application, including fees for the City Planner and the City Engineer, shall also be assessed to the applicant and paid in full as a prerequisite to the issuance of any home occupation permit.

3-2-7: APPROVAL PROCESS:

The City Development staff, upon application and review may issue a home occupation license, which shall state the home occupation allowed, the conditions attached thereto, if any, and any time limitations imposed thereon. The home occupation license shall not be issued unless the City Development staff is satisfied that the applicant has or will meet all of the conditions set forth in section 10-23-8 of this chapter.

3-2-8: CONDITIONS REQUIRED PRIOR TO ISSUANCE OF LICENSE:

The following conditions shall be met or agreed to be adhered to prior to the



issuance of a home occupation license:

A. *The home occupation shall not alter the residential character of the residential premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with area radio or television reception.*

B. *No persons other than residents of the residential premises shall be employed in the home occupation. No independent contractors shall come upon the residential premises to conduct the work of the home occupation.*

C. *Outside storage of equipment and/or materials associated with the home occupation business shall not be permitted.*

D. *Only two (2) vehicles may be used in association with the home occupation and they shall be capable of being parked in the garage (or regularly parked areas normally used by the resident). The vehicles used for the home occupation shall be limited to a maximum gross vehicle weight rating of twelve thousand (12,000) pounds or six (6) tons.*

E. *The number of square feet used for conducting the home occupation, whether in the residence or other permitted structure, shall not exceed twenty five percent (25%) of the total area of the residence, plus attached garage, not to exceed five hundred (500) square feet.*

F. *The home occupation may be conducted in a garage or other structures on the premises, subject to the following:*

1. *The garage may not be altered in any way that prevents the parking of vehicles within.*

2. *Sufficient off-street parking must be available for the vehicles displaced by using the garage to conduct the home occupation.*

G. *No business signs are to be displayed on the residential premises in connection with the home occupation.*

H. *The home occupation shall not create noise in excess of that which is customary to the immediate neighborhood.*

I. *The home occupation shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the zoning in which the use is located.*

J. *The proposed home occupation will not place the residence or permitted structure out of conformity with any applicable Fire, Building, Plumbing,*



Electrical and Health Codes, as well as with any Federal and State regulations and other ordinances of the City. The residential premises shall be subject to inspection by the City for compliance purposes.

K. The proposed home occupation will not cause a demand for Municipal or utility services, or community facilities, in excess of those usually and customarily provided for similar residential premises in the affected zoning area.

L. Promotional meetings for the purpose of selling merchandise, taking orders or training shall not be held more than once in any calendar month.

M. No sales of goods or materials requiring regular or frequent delivery to a customer by a semi-tractor/trailer truck are permitted.

N. No hours of operation between ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. are permitted.

O. No storage, usage or disposal of hazardous or flammable materials.

P. All trash or refuse created by the home occupation is to be disposed of regularly and the storage of all trash/refuse will be kept in appropriate containers out of the sight of the public from in the front of the residence.

Q. The applicant shall maintain a valid business license issued by the City, or in the case of satellite operation, in the City where the main center of operations for the home occupation is located.

R. The City Development staff may condition the approval of any home occupation permit license with conditions reasonably calculated to mitigate or maintain any of the above-mentioned conditions.

3-2-9: RENEWAL OF LICENSE:

All home occupation licenses shall be valid for a period of one year or until the January 1 following issuance of the license. All licenses will automatically renew unless there have been reported violations, or detrimental characteristics, which may, in the opinion of the City Development staff, require revocation or nonrenewal of the home occupation license.

3-2-10: REVOCATION OR DENIAL OF LICENSE:

A. Any home occupation permit license issued pursuant to the provisions of this chapter may be revoked and any application denied by City Development staff because of:

- 1. The failure of the applicant to comply with the conditions and*



requirements of this chapter or any ordinance of the City.

2. Unlawful activities conducted on the residential premises where the home occupation is conducted.

3. The home occupation permit license was obtained by fraud or deceit.

4. The home occupation has been abandoned for a period of one hundred twenty (120) days or longer.

5. If at any time the home occupation exceeds the required conditions of the original license, the City may revoke the license.

B. The City shall notify the applicant of the denial or revocation of the home occupation permit license and the reason for such denial or revocation.

3-2-11: APPEAL:

A home occupation permit license denial, revocation or nonrenewal may be appealed to the City Council by filing written notice of appeal with the City Recorder within ten (10) days of an applicant's receipt of the written notice of denial, revocation or nonrenewal. The City Council shall hear the appeal within sixty (60) days of the notice of appeal being filed.

3-2-12: ENFORCEMENT:

Any person conducting a home occupation without a valid home occupation permit license shall be subject to the enforcement and penalty provisions of chapter 5 of this title. In addition to the criminal sanctions set forth in chapter 5 of this title, the City, at its discretion, may institute actions and proceedings, whether legal or equitable, to enjoin, restrain or abate any violations of this chapter.

2. **REPEALER.** This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.

3. **SAVINGS CLAUSE:** If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

4. **EFFECTIVE DATE.** This Ordinance shall take effect immediately upon approval by the City Council.




PASSED AND APPROVED this 15 day of March 2023.

Council Person:

Joey Campbell	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Ty Bringhurst	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Todd Sands	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
John 'Chuck' Williams	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>
Gary Chaves	AYE	<input checked="" type="checkbox"/>	NAE	<input type="checkbox"/>	ABSTAIN	<input type="checkbox"/>	ABSENT	<input type="checkbox"/>

TOQUERVILLE CITY
a Utah Municipal Corporation


Justin Sip, Mayor

5/17/23
Date

Attest:


Daisy Fuentes, City Recorder