



Weber County Planning Division

To: Ogden Valley and Western Weber Planning Commission
From: Charles Ewert, AICP
Date: May 18, 2015
Subject: Request to consider a land use code amendment to the Home Occupation Chapter

Summary. Mr. and Mrs. Thomassen are requesting an ordinance change to allow certain athletic instruction activities to occur on their residential property in the A-1 zone in Western Weber County. After considering their request staff concluded the best way for the code to be amended to accommodate the request whilst minimizing the potential effects of full scale recreational facilities in residential areas is to address the use as a home occupation. Through regulations of a home occupation the County can provide regulating provisions to keep the use from turning into a full scale commercial activity. The attached proposal (Exhibit A and Exhibit B) is intended to do that.

Currently, home occupations are only allowed to use 400 square feet or less of the home, and may not be conducted outside the home. This proposal, if approved, would allow yard area and accessory buildings to be used for athletic instruction activities related to a home occupation. It is a shift from current policy, but appears to be keeping with the County Commission's desire to support economic development and small business ventures.

Background. The Thomassen's own a five acre residential property in Western Weber County in the A-1 zone (on 3500 West). There is a swimming pool and a large accessory building with an indoor basketball court and indoor batting cage currently on their property. They would like the opportunity to provide athletic instruction in those facilities. They approached staff several weeks ago to discuss the idea, and then subsequently filed an application to amend the Land Use Code.

Proposal. The proposal, as written by staff, is to amend the home occupation code to allow athletic instruction to occur outside a residence in yard area or inside accessory structures. There are also other administrative and clarifying changes to the code. The changes specific to athletic instruction can be reviewed in the paragraph starting on line 72 of the attached Exhibit A, and the paragraph starting on line 97 of the attached Exhibit A.

The remaining changes show staff's proposal for other administrative and clarifying amendments to the home occupation code. The administrative and clarifications amendments should not prolong getting the applicants an answer to their request, so if any of these other proposed changes create a need for more review time than the request would otherwise merit they should be abandoned for now and addressed at another time.

Policy analysis. It is currently conceivably possible for athletic instruction to occur within a residence, provided the home owner can comply with requirements and standards of the home occupation code. These kinds of activities are limited to 400 square feet of the home (smaller if the main floor area is less than 1600 square feet) and may not be conducted outside. The policy shift in this proposal is to allow it to also



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occur outside the residence, in yard area and in accessory buildings. Under current laws, a person desiring to teach swimming lesson in their private pool, tennis lessons on their backyard tennis court, or, in the case of the applicant, basketball lessons in their accessory building, is not allowed to do so if it is done for remuneration.

If this proposal is adopted, athletic instruction will be the only home occupation that is permitted to be conducted outside the home.

The home occupation code is written to limit certain detrimental effects of uses incompatible with residential neighborhoods, whilst still permitting commercial ventures on a small enough scale so as not to cause a nuisance or deteriorate the residential character or quality of the neighborhood. By restricting home occupations to a portion of the residence the current code seeks to limit the detriments of commercial or industrial uses in areas otherwise residential. These detriments may include hours of business operation, parking and general circulation to and from the site, deliveries, noises, smells, sights, lighting, etc.

Prohibiting any home occupation activity outside the residence is certainly an effective way to minimize the effects of commercial and industrial uses in residential areas; however, it is too restrictive for small athletic instruction activities that cannot be done inside. This proposal seeks ways to create other limitations for this type of home occupations rather than restricting it to the inside of the residence.

This proposal is keeping with the general directives from the County Commission regarding economic development. The specific nature of this proposal has not yet been presented to them, but they have requested that we consider economic development opportunities in all of our considerations, when possible. Expanding the allowed home occupation uses to include outdoor athletic instruction can help foster the innovative and entrepreneurial culture that supports start up businesses. It also seems to generally support Weber County as an outdoor recreation leader.

The limitations imposed on the proposed athletic instruction uses will help keep it compatible with the residential nature of the surrounding area. As with any home occupation, if at some point the occupation gets so big that it cannot comply with the standards of the ordinance the business owner will need to seek an appropriate business site elsewhere.

Staff reached out to other counties to see who else allows home occupation activities to occur outside the main home. All had limitations and certain processes, but it appears that Cache County, Box Elder County, Morgan County, and Summit County allow some yard area to be used for a home occupation. Davis County and Wasatch County do not. We did not hear back from Salt Lake County.

Technical analysis. The proposed changes are attached in redlined (Exhibit A) and clean (Exhibit B) copies. For the redlined copies the following is the key to interpretation:

~~Red strikeout indicates text being deleted.~~

Blue underline indicates text being added.



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~~Green strikeout indicates text moving to another location.~~

Green double underline indicates text being moved to this location.

The current code gives a list of examples of home occupations that are prohibited, and a list of examples of home occupations that are permitted. These lists of examples do not work when trying to determine whether a use that is not listed is permitted or prohibited. Typically a home occupation codes will specifically list prohibited home occupations, and leave the permitted home occupations open ended, but regulated by requirements and standards. This proposal makes this change. Some of the new standards (line 109-112 of Exhibit A) are derived from the current list of examples of permitted home occupations (line 30-41. The Planning Commission should review the list of proposed prohibited home occupations to determine whether it is sufficiently complete (line 18-27 of Exhibit A). This list was derived after review of other jurisdiction's home occupation codes.

The current code also confuses requirements with standards. The proposal separates the two into different sections. This is of minimal consequence, and mostly preferential. It helps the appearance and presentation of the code. The requirements and standards are not changing.

The extent of the home occupation (line 61 of Exhibit A) is proposed to be modified a little. It currently indicates that the home occupation can only comprise a maximum of 400 square feet or 25 percent of the ground floor area of the home (line 70-71 of Exhibit A), whichever is lesser. The proposal modifies this to indicate a maximum of 400 square feet or 25 percent of the total floor area of the home (line 63-64 of Exhibit A). This change gives a little more flexibility for those homes that have smaller (less than 1600 square feet) ground floors.

The current home occupation code has three separate locations where it regulates parking. These standards have been consolidated (line 89-100 of Exhibit A). One change to the parking standards is a little more flexibility with required spaces when the home occupation involves non driver-age persons (line 92-93 of Exhibit A). Also, staff noted that the loading and unloading requirements for large truck deliveries under the current code are missing. This new standard has been provided (line 97-100 of Exhibit A).

Group instruction is currently listed as an example of an allowed home occupation, and is limited to no more than one per month. The Planning Commission should determine whether this is sufficient.

The new standards for athletic instruction can be found starting on line 114 of Exhibit A.

- It limits the home occupation to eight persons at a time, not including employees. This limit is not scientific, but rather a reflection of limitations found elsewhere in the code (see daycare limitations). This will help cut down on vehicle traffic to and from the site, and reduce the parking needs.
- The proposal also provides a minimum area of the lot that outdoor athletic instruction can occur on. The three acre minimum limitation is also not scientific, but it does help ensure an appropriate acreage to help provide the neighborhood with a degree of separation from the use.
- The proposal prohibits events that may draw crowds.



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- The proposal requires all athletic instruction activities to remain instructional, and prohibits it from turning into a general recreation center.

Planning Commission Consideration. Please come to the meeting prepared to discuss the proposed changes. Staff and the applicant will be seeking the Planning Commission's opinion, and soliciting needed changes to make the ordinance change supportable.

Attachments:

- Exhibit A: Proposed changes [redlined] – home occupation code
- Exhibit B: Proposed changes [clean] – home occupation code

Exhibit A: Proposed Changes [Redlined] – Home Occupation Code

CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY OUTDOOR SALES; FARMER'S MARKETS

FOOTNOTE(S):

--- (1) ---

Editor's note—This chapter originally pertained solely to home occupations and was derived from Ord. of 1956, chapter 34. It was replaced in its entirety by Ord. No. 2011-17, passed 10-11-2011.

Sec. 108-13-1. - Purpose and intent.

(a) The purpose and intent of this chapter is to allow persons residing in dwellings in zones in which home occupations are permitted in residential, forest, and agricultural zones, to provide a service, operate certain kinds of small businesses, or maintain a professional, or business office while not changing the character of the neighborhood.

Comment [c1]: Home occs are also allowed in the DRR-1 zone and M-X zones. Maybe re-write for any zone allowing residential uses.

(b) This chapter also addresses short term vendors, temporary outdoor sales, and farmers markets.

(Ord. No. 2011-17, § 1(34-1), 10-11-2011)

Sec. 108-13-2. - Home occupations.

(a) Use regulations. Home occupations are allowed in specified zones in accordance with the ~~regulations and restrictions~~ provisions of this ordinance.

Comment [c2]: Marked for future change: Reference land use table here.

(1) The following uses are ~~not allowed prohibited~~ as home occupations, i.e.:

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a. ~~tanning salons;~~

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b. ~~-and body art or tattoo parlors;~~

c. ~~clinics and hospital;~~

d. ~~animal and veterinary clinic;~~

e. ~~restaurant;~~

f. ~~auto, truck, and recreational vehicle repair or sales;~~

g. ~~ambulance service; or~~

h. ~~Sexually oriented businesses.~~

i. **OTHERS?**

Comment [c3]: Need list of prohibited home occ uses.

(2) Home occupations not prohibited shall be allowed provided compliance with the requirements and standards listed in this chapter.

~~(1) The following uses are examples of allowable home occupations:~~

Comment [c4]: Remove the list of examples and rely on impact standards.

~~1. Barber with not more than 2 stations on the premises.~~

~~2. Business office to include book keeping and phone calls.~~

~~3. Child day care of not more than eight children, including care giver's children under six years of age.~~

~~4. Computer information services.~~

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- 36 5. ~~Group instruction or motivational meetings as a forum for sales presentations held not more~~
 37 ~~than once every month.~~
- 38 6. ~~Massage therapy salons.~~
- 39 7. ~~Musical instruction.~~
- 40 8. ~~Nail salons.~~
- 41 ~~(2) Phone order or mail order services.~~
- 42 (b) ~~Requirements~~Required conditions. A home occupation ~~must~~shall ~~meet~~ comply with all of the
 43 following ~~conditions and~~ requirements:
- 44 (1) An application for a land use permit with a site plan depicting the site boundaries and relevant
 45 buildings or facilities onsite ~~is~~ shall be required in order to verify zoning requirements, ~~and~~
 46 ~~setbacks.~~
- 47 ~~(4)~~(2) The property owner's written authorization shall be submitted as part of the application for
 48 the home occupation.
- 49 (3) The home occupation shall obtain an annual business license.
- 50 ~~9.~~(c) Standards. A home occupation shall comply with the following standards:
- 51 ~~(2)~~(1) A home occupation ~~may~~ shall only be carried on ~~in a dwelling unit~~ by the resident(s) who
 52 ~~actually~~ reside on the premises; except that two non-resident employees may be allowed ~~having~~
 53 provided ~~complied~~ the lot size is a minimum of one acre ~~with the following standards:~~
- 54 a. ~~The minimum lot size shall be one acre.~~
- 55 b. ~~Parking standards will comply with chapter 24 the parking ordinance for residential~~
 56 ~~dwelling and in addition shall require one parking space for each non-resident employee~~
 57 ~~and one for each visiting clientele.~~
- 58 ~~(3)~~(2) The home occupation shall retain the general character and appearance of a residential
 59 dwelling and not change the general character of the neighborhood except for approved
 60 signage and vehicle parking.
- 61 (3) The extent of a Hhome occupations shall be ~~allowed~~ provided that the home occupation is
 62 limited in extent, incidental and secondary to the use of the ~~dwelling unit~~ property for residential
 63 purposes, ~~and~~ The home occupation shall not occupy more than 400 square feet or 25 percent,
 64 whichever is less, of the total floor area of the home. This does not apply to a child day care.
- 65 (4) The home occupation shall ~~does~~ not substantially increase the demand for services in excess of
 66 those usually and customarily provided for residential uses. It shall not substantially increase
 67 foot and vehicular traffic, parking, noises, lighting, vibration, smoke, or anything ~~else~~ that is
 68 uncommon to the established character of the neighborhood to such a degree as to constitute
 69 ~~an annoyance~~ a nuisance to the residents of the immediate area.
- 70 ~~(5) The home occupation shall not occupy more than 400 square feet or 25 percent, whichever is~~
 71 ~~less, of the ground floor area of the home. This does not apply for child day care.~~
- 72 ~~(6)~~(5) The home occupation shall only be carried on inside a dwelling unit. The home
 73 occupation shall not use any space in an attached or unattached garage, accessory building,
 74 yard or any space on the premises outside of the dwelling, except for child day care or athletic
 75 instruction activities. ~~Child day care may have an outdoor yard space. A child day care may~~
 76 have outdoor facilities for outdoor play. Athletic instruction may have athletic facilities outdoors
 77 or in accessory buildings.
- 78 ~~(7) The home occupation must obtain an annual business license.~~

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Comment [c5]: A little different. Allows smaller homes a little more square footage for the home occ.

79 | ~~(8)~~(6) The home occupation shall not be open to the public at times earlier than 8:00 a.m. or
80 | later than 9:00 p.m. The hours of operation for child day care shall not begin any earlier than
81 | 6:00 a.m., or operate later than 10:00 p.m. seven days a week.

82 | ~~(9)~~(7) Home occupations with visiting clientele will be subject to the following standards:

83 | ~~a. Parking standards will comply with chapter 24 the parking ordinance for residential~~
84 | ~~dwellings and in addition shall require one parking space for each visiting clientele.~~

85 | ~~b.~~a. No more than one home occupation with visiting clientele shall be permitted within any
86 | single dwelling.

87 | ~~e.~~b. No home occupation with visiting clientele shall be allowed in multi-family dwelling units
88 | consisting of four units or more.

89 | (8) Home occupations shall provide adequate off-street parking for residential dwellings, as
90 | specified in Title 108, Chapter 24 of the Weber County Zoning Ordinance ~~Eight of this Land~~
91 | ~~Use Code, and in compliance with the following:~~

92 | a. One parking space shall be required for each driver-age patron or clientele, or one space
93 | per two nondriver-age patrons or clientele.

94 | b. One parking space shall be required for each non-resident employee.

95 | c. The parking area for patrons, clientele, or non-resident employees shall be substantially
96 | screened from view from the adjoining properties.

97 | d. Large truck deliveries, except for parcel delivery service at times and in intervals typical for
98 | a normal residential use, shall be limited to one delivery per week between the hours of
99 | 8:00 am and 5:00 pm. A loading and unloading area, adequately sized for the type of truck,
100 | shall be provided on the site. No loading or unload shall be permitted in the right-of-way.

101 | (9) There shall be no storage or parking on the premises or on the adjacent streets in the vicinity of
102 | the premises of tractor trailers, semi-trucks, or other heavy equipment used in an off-premise
103 | business for which the dwelling is being used as a home occupation office except that not more
104 | than one truck of one-ton capacity or less may be parked on premise during off work hours at
105 | night. A work trailer up to 22 feet in length may be parked at night as part of the home
106 | occupation business. All trucks and trailers used as part of the home occupation business shall
107 | be licensed and registered, and parked in accordance with Title 108, Chapter Eight of this Land
108 | ~~Use Code~~ chapter 24 of the Weber County Zoning Ordinance.

109 | (10) Barber or beautician services shall be limited to two stations per residence.

110 | (11) Child day care, preschool, or instructional activities, including music lessons, shall be limited to
111 | eight children or pupils at any one time.

112 | (12) Group instruction, motivational, or sales presentations shall be limited to one meeting per
113 | month.

114 | ~~(40)~~(13) Athletic instruction shall be limited to eight nonresident, nonemployee persons at any one
115 | time, including observers, with a maximum of 16 nonresident, nonemployee persons per day. It
116 | shall require a minimum lot size of three acres if conducted outdoors or in an accessory
117 | building. It shall not include recitals, competitions, performances, and shall not permit general
118 | recreational activities without the athletic instruction.

119 | ~~(44)~~(14) The home occupation approval may be revoked by the ~~planning commission~~ Planning
120 | Director if the home occupation does not remain in compliance with this chapter.

121 | ~~(42)~~(15) ~~The property owner's written authorization shall be submitted as part of the application for~~
122 | ~~home occupation.~~

123 | ~~(43)~~(16) Home occupations that require bodily contact with patrons or equipment that create a
124 | potential for contamination between residents and clients are not allowed, ~~e.g., tanning salons~~
125 | ~~and tattoo parlors.~~

Comment [c6]: New standard.

Comment [c7]: Too much? Too little?

Comment [c8]: This is where athletic instruction is being introduced.

126 | ~~(d)~~ Home occupation signs~~Signs~~. One flat sign or name plate not exceeding two square feet attached to
127 | the house or mail box may be permitted. A land use permit is required for the sign. Any modification
128 | made to the permitted sign requires a new land use permit. No freestanding or banner signs shall be
129 | permitted.

130 | ~~(e)~~ Inspections. Inspection during reasonable hours by county officials may occur as necessary to
131 | assure compliance with these regulations.

132 | (Ord. No. 2011-17, § 1(34-2), 10-11-2011)

Exhibit B: Proposed Changes [Clean] – Home Occupation Code

1 **CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY**
2 **OUTDOOR SALES; FARMER'S MARKETS**
3

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7 1956, chapter 34. It was replaced in its entirety by Ord. No. 2011-17, passed 10-11-2011.

8 **Sec. 108-13-1. - Purpose and intent.**

- 9 (a) The purpose and intent of this chapter is to allow persons residing in dwellings in zones in which
10 home occupations are permitted to provide a service, operate certain kinds of small businesses, or
11 maintain a professional, or business office while not changing the character of the neighborhood.
12 (b) This chapter also addresses short term vendors, temporary outdoor sales, and farmers markets.

13 (Ord. No. 2011-17, § 1(34-1), 10-11-2011)

14 **Sec. 108-13-2. - Home occupations.**

15 (a) Use regulations. Home occupations are allowed in **specified zones** in accordance with the provisions
16 of this ordinance.

Comment [c1]: Marked for future change:
Reference land use table here.

17 (1) The following uses are prohibited as home occupations:

- 18 a. tanning salons;
19 b. body art or tattoo parlor;
20 c. clinics and hospital;
21 d. animal and veterinary clinic;
22 e. restaurant;
23 f. auto, truck, and recreational vehicle repair or sales;
24 g. ambulance service; or
25 h. Sexually oriented businesses.

26 **i. OTHERS?**

27 (2) Home occupations not prohibited shall be allowed provided compliance with the requirements
28 and standards listed in this chapter.

29 (b) Requirements. A home occupation shall comply with the following requirements:

- 30 (1) An application for a land use permit with a site plan depicting the site boundaries and relevant
31 buildings or facilities onsite shall be required in order to verify zoning requirements.
32 (2) The property owner's written authorization shall be submitted as part of the application for the
33 home occupation.
34 (3) The home occupation shall obtain an annual business license.

35 (c) Standards. A home occupation shall comply with the following standards:

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- 36 (1) A home occupation shall only be carried on by the resident(s) who reside on the premises;
37 except that two non-resident employees may be allowed provided the lot size is a minimum of
38 one acre.
- 39 (2) The home occupation shall retain the general character and appearance of a residential
40 dwelling and not change the general character of the neighborhood except for approved
41 signage and vehicle parking;
- 42 (3) The extent of a home occupation shall be incidental and secondary to the use of the property for
43 residential purposes. The home occupation shall not occupy more than 400 square feet or 25
44 percent, whichever is less, of the total floor area of the home. This does not apply to a child day
45 care.
- 46 (4) The home occupation shall not substantially increase the demand for services in excess of
47 those usually and customarily provided for residential uses. It shall not substantially increase
48 foot and vehicular traffic, parking, noises, lighting, vibration, smoke, or anything else that is
49 uncommon to the established character of the neighborhood to such a degree as to constitute a
50 nuisance to the residents of the immediate area.
- 51 (5) The home occupation shall only be carried on inside a dwelling unit. The home occupation shall
52 not use any space in an attached or unattached garage, accessory building, yard or any space
53 on the premises outside of the dwelling, except for child day care or athletic instruction
54 activities. A child day care may have outdoor facilities for outdoor play. Athletic instruction may
55 have athletic facilities outdoors or in accessory buildings.
- 56 (6) The home occupation shall not be open to the public at times earlier than 8:00 a.m. or later than
57 9:00 p.m. The hours of operation for child day care shall not begin any earlier than 6:00 a.m., or
58 operate later than 10:00 p.m. seven days a week.
- 59 (7) Home occupations with visiting clientele will be subject to the following standards:
- 60 a. No more than one home occupation with visiting clientele shall be permitted within any
61 single dwelling.
- 62 b. No home occupation with visiting clientele shall be allowed in multi-family dwelling units
63 consisting of four units or more.
- 64 (8) Home occupations shall provide adequate off-street parking for residential dwellings, as
65 specified in Title 108, Chapter Eight of this Land Use Code, and in compliance with the
66 following:
- 67 a. One parking space shall be required for each driver-age patron or clientele, or one space
68 per two nondriver-age patrons or clientele.
- 69 b. One parking space shall be required for each non-resident employee.
- 70 c. The parking area for patrons, clientele, or non-resident employees shall be substantially
71 screened from view from the adjoining properties.
- 72 d. Large truck deliveries, except for parcel delivery service at times and in intervals typical for
73 a normal residential use, shall be limited to one delivery per week between the hours of
74 8:00 am and 5:00 pm. A loading and unloading area, adequately sized for the type of truck,
75 shall be provided on the site. No loading or unload shall be permitted in the right-of-way.
- 76 (9) There shall be no storage or parking on the premises or on the adjacent streets in the vicinity of
77 the premises of tractor trailers, semi-trucks, or other heavy equipment used in an off-premise
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79 than one truck of one-ton capacity or less may be parked on premise during off work hours at
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81 occupation business. All trucks and trailers used as part of the home occupation business shall
82 be licensed and registered, and parked in accordance with Title 108, Chapter Eight of this Land
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- 84 (10) Barber or beautician services shall be limited to two stations per residence.
- 85 (11) Child day care, preschool, or instructional activities, including music lessons, shall be limited to
- 86 eight children or pupils at any one time.
- 87 (12) Group instruction, motivational, or sales presentations shall be limited to one meeting per
- 88 month.
- 89 (13) Athletic instruction shall be limited to eight nonresident, nonemployee persons at any one time,
- 90 including observers, with a maximum of 16 nonresident, nonemployee persons per day. It shall
- 91 require a minimum lot size of three acres if conducted outdoors or in an accessory building. It
- 92 shall not include recitals, competitions, performances, and shall not permit general recreational
- 93 activities without the athletic instruction.
- 94 (14) The home occupation approval may be revoked by the Planning Director if the home occupation
- 95 does not remain in compliance with this chapter.
- 96 (15) Home occupations that require bodily contact with patrons or equipment that create a potential
- 97 for contamination between residents and clients are not allowed.
- 98 (d) Home occupation signs. One flat sign or name plate not exceeding two square feet attached to the
- 99 house or mail box may be permitted. A land use permit is required for the sign. Any modification
- 100 made to the permitted sign requires a new land use permit. No freestanding or banner signs shall be
- 101 permitted.
- 102 (e) Inspections. Inspection during reasonable hours by county officials may occur as necessary to
- 103 assure compliance with these regulations.
- 104 (Ord. No. 2011-17, § 1(34-2), 10-11-2011)

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