

**TOQUERVILLE CITY**  
**ORDINANCE #ORD2007-01 JANUARY 11, 2007**  
**HOME OCCUPATION ORDINANCE**

AN ORDINANCE SUPPLEMENTING THE TOQUERVILLE CITY LAND MANAGEMENT CODE, DEFINING AND ESTABLISHING GUIDELINES FOR THE ISSUANCE OF HOME OCCUPATION PERMITS AND BUSINESS LICENSES FOR HOME OCCUPATIONS LOCATED WITH CITY'S RESIDENTIAL, MIXED USE AND MOBILE HOME ZONING DISTRICTS AND PROVIDING FOR THE CODIFICATION OF SAID ORDINANCE.

RECITALS

WHEREAS, the City of Toquerville finds that home occupations in zoning districts dedicated primarily for residential uses generally detract from the visual aesthetics and tranquility of said districts while it increases the possibility of traffic congestion, parking congestion, noise and light nuisances as well as other nuisances and is often injurious to the health, safety and general welfare of the residents of the City.

WHEREAS, the City of Toquerville further finds that the provisioning of businesses in zoning districts that a primarily dedicated to residential uses is harmful to other businesses and economic development generally planned and located in commercial zones

WHEREAS, the City of Toquerville further finds that home occupations commonly place an undue burden upon municipal infrastructure which, when constructed in residential zoning districts are generally sized and engineered for lighter usage.

Toquerville City Council, after receiving comments and input from the Toquerville City Planning Commission, desires to adopt the following ordinance defining and establishing guidelines for the issuance of conditional use permits and business licenses for home occupations located within the City's residential, mixed use and mobile home zoning districts and for the codification of said ordinance.

ORDINANCE

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Toquerville as follows:

The Toquerville Land Management Code (eff. June 2003, as amended) ("Land Management Code") is hereby amended and supplemented to create a new sub-chapter 9.3 as follows:

## 9.3 Home Occupation Permit

### 9.3.1. Purpose/Title/Codification

This Section, along with all amendments thereto, shall be known and cited as the Toquerville Home Occupation Ordinance. The purpose and intent of this Home Occupation Ordinance is to allow, in compliance with the requirements of this Ordinance, and who are issued a conditional use permit, 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/modifies the character of the neighborhood in which it is located.

### 9.3.2 Scope

The requirements of this ordinance shall apply to all home occupations within the following zoning areas inside the City of Toquerville; Single – Family Residential (R-1-12) and (R-1-20); Multiple Use District (MU-20); Agricultural District (A); Mobile Home District (M-H) (Reserved)

### 9.3.3 Definitions

"Home Occupation" is defined as the conducting of any business, transaction or activity for which consideration of any nature is received, in any zoning district within the City classified as residential, agricultural, open space, mixed use or mobile home. Garage type sales do not constitute a home occupation.

"Home Occupation Permit" is defined as the permit issued by the Toquerville City Planning Commission following the same procedures provided for in Section 10.3

"In-Home Office" is defined as 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" is defined as 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" is defined as the parcel of land *and structures on it* that is located in the areas of the City which are, or may be, zoned residential, agricultural, open space, mixed use or mobile home.

Residential Premises does not include parcels of land located in any commercial zoning district.

Note: all other definitions, set forth in the Land Management Code, not specifically modified by the above, are incorporated herein by this reference.

#### 9.3.4. Permits Required

##### 9.3.4.1 Home Occupation Permit.

To assure compliance with the provisions of this Ordinance and to better protect the character of affected neighborhoods in the City of Toquerville, a Home Occupation Permit must be approved by the Toquerville City Planning Commission before a structure on the Residential Premises may be used for Home Occupation. Applications for the conditional use permit must be obtained from the City of Toquerville office. The procedure and criteria for obtaining a Home Occupation Permit shall be the same as that of a Conditional Use Permit set forth in Section 10.3 of the Land Management Code. In addition to meeting the requirements of Section 10.3 of the Land Management Code, an applicant must also show that they meet the conditions set forth in Section 9.3.7. below.

##### 9.3.4.2. 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 of Toquerville.

#### 9.3.5 Home Occupation Permit Application

All applications for a Home Occupation Permit shall contain the following:

- a. The name, social security number, date of birth 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 Utah State Tax Identification Number, if applicable
- f. A licensure number issued by the Utah 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.
- h. Signature of the applicant (or applicant's authorized agent) acknowledging under penalty of law that that the information provided by the applicant (or applicant's authorized agent) is true, and;

#### 9.3.6. Approval Process

The Toquerville City Planning Commission may, upon application, and upon review in a public meeting where notice to near property owners have been given pursuant to Section below, may issue a Home Occupation Permit, which shall state the Home Occupation allowed , the conditions attached thereto, if any, and any time limitations imposed thereon. The Home Occupation Permit shall not be issued unless the Toquerville City Planning Commission is satisfied that the applicant has or will meet all of the conditions set forth in Section 10.3 of the Land Management Code and those listed in Section 9.3.7, below, and that the applicant has agreed in writing to comply with all said conditions.

#### 9.3.7. Conditions Precedent Issuance of a Home Occupation Permit.

In addition to the requirements set forth in Section 10.3 of the Land Management Code, each and every one of the following conditions met or agreed to be adhered to prior to the issuance of a Home Occupation Permit:

- 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 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). Any vehicles used for the Home Occupation shall be limited to a maximum size of one ton gross vehicle weight.

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 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 the zoning in which the use is located.

j. The proposed Home Occupation will place the Residence or permitted structure out of conformity with all applicable fire, building, plumbing, electrical and health codes, as well as with all Federal and State Regulations and other Ordinances of the City. The residential premises shall be subject to inspection by the City of Toquerville 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 meeting 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 10:00 pm and 6:00 am.

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

p. That 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 site of the public from of the front of the Residence.

q. The applicant to 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.

The Toquerville City Planning Commission may condition the approval of any Home Occupation Permit with reasonably calculated to mitigate or maintain any of the above mentioned conditions.

### 9.3.8 Fees

In connection with the submittal of the Home Occupation Permit Application, the applicant shall pay the requisite fee for said permit as prescribed by the current City of Toquerville Consolidated Fee Schedule.

### 9.3.9. Notice to Nearby Property Owners.

Applicants shall provide notice to all property owners within three hundred (300) feet from each of the exterior boundaries of a Residential Premises, whereby a Home Occupation Permit is being sought. Said notice shall provide a description of the proposed Home Occupation and the date time, and place of the public meeting whereby the issuance of a Home Occupation Permit will be considered. Said notice shall be accomplished by the applicant providing envelopes bearing first class postage that are addressed to all property owners, as shown on the county tax rolls as of the date of the application, within three hundred (300) feet from each of the exterior boundaries of the subject Residential Premises. The City Staff shall mail all said notices. The intent of the notice is to inform neighbors of activity within their neighborhood and should not be construed as a legal notice. Nearby property owners are welcome to attend the public meeting where the approval of the Home Occupation Permit will be considered, however the chairperson of the Toquerville City Planning Commission shall be vested with the discretion of whether to conduct a public hearing and allow public comment to be received and considered.

### 9.3.10. Utah Sales Tax License

If required by the Sate of Utah, a Utah State Sales Tax License shall be issued to the Home Occupation, with the City of Toquerville listed as a business location.

#### 9.3.11. Renewal.

All Home Occupation Permits shall be valid for a period of one year or until the January 1 following issuance of the Permit. All permits will automatically renew unless there have been reported violations, or detrimental characteristics, which may, in the opinion of Toquerville City Planning Commission, require revocation or non-renewal of the Home Occupation Permit conditional use permit

#### 9.3.12. Revocation or Denial of Home Occupation Permit:

Any Home Occupation Permit issued pursuant to the provisions of this Ordinance may be revoked and any application denied by the Planning Commission because of:

- a. The failure of the applicant to comply with the conditions requirement of this Ordinance or any ordinance of the City of Toquerville.
- b. Unlawful activities conducted or permitted on the Residential Premises where the Home Occupation is conducted.
- c. The Home Occupation Permit was obtained by fraud or deceit.
- d. The Home Occupation has been abandoned for a period of 120 days or longer.

The City shall notify the applicant of the denial or revocation of the Home Occupation Permit and the reason for such denial or revocation.

#### 9.3.13. Appeal

A Home Occupation Permit denial, revocation or non-renewal may be appealed to the Toquerville City Council by filing written notice of appeal with the City Recorder within ten (10) days of an applicant's receipt of the written the notice of denial, revocation or non-renewal. The City Council shall hear the appeal within Sixty (60) days of the notice of appeal being filed.

#### 9.3.14. Enforcement.

Any person conducting a Home Occupation without a valid Home Occupation Permit shall be subject to the enforcement and penalty provisions of Chapter 12 of the Land Management Code. In addition to the criminal sanctions set forth above, the City, at its discretion, may institute actions and proceedings, whether legal or equitable, to enjoin,

restrain or abate any violations of this Ordinance


9.3.15 Savings and Severability.

If any section, subsection, paragraph, item, provision, regulation, sentence, clause or phrase is declared by a court of competent jurisdiction to be invalid, such findings shall not affect the validity of the Ordinance as a whole or any part thereof other than the part found invalid. Likewise, if any specific provision of this Ordinance is found to contradict a general or more general provision of the Land Management Code or the other Ordinances of the City, the more specific provision shall control and all provisions shall be interpreted and construed in such a manner so as to provide meaning to as many provisions as possible.

Effective Date. This Ordinance shall become effective immediately upon adoption by the Toquerville City Council.

PASSED AND ORDERED POSTED this 11<sup>th</sup> day of January, 2007.

CITY OF TOQUERVILLE

By:   
Kenneth Powell, Mayor

ATTEST:

  
Carol Pogue, City Recorder

