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Staff Evaluation

First Review

Application: Hyrum City, Ordinance Amendment – An ordinance amending Title 17 Zoning of the Hyrum City Municipal Code to create Chapter 17.63 Home-Based Microschool And Micro-Education Entity; amend 17.04.070 Definitions to define and include “Home-Based Microschool” and “Micro-Education Entity”; and amend Use Regulations in sections 17.22.030, 17.28.010, 17.30.010, 17.32.010, 17.36.010, 17.38.010, 17.44.020, 17.45.020, 17.48.020, and 17.49.020 to include Home-Based Microschool And Micro-Education Entity as a permitted use in all zoning districts.

Application Number: 25-040
Preparation Date: October 31, 2025
Applicant Name: Hyrum City

Planning Commission: November 13, 2025
Commission Role: Recommending Body to City Council
Application Type: Amendment

Application Overview: The proposed application is initiated by Hyrum City to create a Home-Based Microschool And Micro-Education Entity ordinance as allowed by Utah Code to address business license, parking, traffic, hours of operation and applicable zoning and land use regulations that do not conflict with Utah Code 10-9a-305.

Staff Comments:

1. Support the need to regulate business license, parking, traffic, hours of operation and applicable zoning and land use regulations that do not conflict with Utah Code 10-9a-305.

Planning Commission Responsibility:

1. A public hearing must be held by the Planning Commission.

Staff Recommendation:

1. The Planning Commission should have a thorough discussion of the application, staff evaluation, and specifying conditions and requirements.

Stipulations:

1. All proposed amendments shall first be recommended by the Planning Commission for its recommendation to the City Council for its consideration.
2. Staff will submit the proposed amendments to the City Attorney for review and comment prior to submission to the City Council.

Findings of Fact:

1. The public hearing was noticed in accordance with Utah Code 10-9a-205.

Attachments:

1. “Exhibit A” – Draft Amendments
2. “Exhibit B” – Utah Code 53G-6-201
3. “Exhibit C” – Utah Code 10-9a-305

Draft Amendments

17.04.070 Definitions

Home-Based Microschool – “Home-Based Microschool” means an individual or association of individuals that: registers as a business entity in accordance with state and local laws; and for compensation, provides kindergarten through grade 12 education services or fewer students from an individual’s residential dwelling, accessory dwelling unit, or residential property. Home-based microschool does not include a daycare.

Micro-Education Entity – “Micro-Education Entity” means an individual or association of individuals that: registers as a business entity in accordance with state and local laws; and for compensation, provides kindergarten through grade 12 education services to 100 students or fewer. A micro-education entity does not include: a daycare; a home-based microschool; a private school; or a school within the public education system.

17.22.030 Use Regulations

A. Permitted uses:

9. Home-Based Microschool And Micro-Education Entity.

17.28.010 Use Regulations

A. Permitted uses:

11. Home-Based Microschool And Micro-Education Entity.

17.30.010 Use Regulations

A. Permitted uses:

12. Home-Based Microschool And Micro-Education Entity.

17.32.010 Use Regulations

A. Permitted uses:

9. Home-Based Microschool And Micro-Education Entity.

17.36.010 Use Regulations

A. Permitted uses:

9. Home-Based Microschool And Micro-Education Entity.

17.38.010 Use Regulations

A. Permitted uses:

9. Home-Based Microschool And Micro-Education Entity.

17.44.020 Use Regulations

A. Permitted uses:

18. Home-Based Microschool And Micro-Education Entity.

17.45.020 Use Regulations

A. Permitted uses:

18. Home-Based Microschool And Micro-Education Entity.

17.48.020 Use Regulations

A. Permitted uses:

13. Home-Based Microschool And Micro-Education Entity.

17.49.020 Use Regulations

A. Permitted uses:

14. Home-Based Microschool And Micro-Education Entity.

17.50.020 Use Regulations

A. Permitted uses:

5. Home-Based Microschool And Micro-Education Entity.

17.63 Home-Based Microschool And Micro-Education Entity.

A. Purpose and Intent. The purpose and intent of this section is to establish requirements, in addition to the requirements of Utah Code 10-9a-305, for home-based microschools and micro-education entities regarding:

1. Business License.
2. Parking.
3. Traffic.
4. Hours of Operation.

5. Applicable Zoning and Land Use Regulations.

B. Business License.

1. No home-based microschool or micro-education entity shall be occupied without first obtaining a business license. The provisions set forth in the code shall be controlling as to all matters relating to the requirements for and issuance and renewal of a business license.
2. A home-based microschool or micro-education entity shall meet all applicable building, fire and life safety codes, and shall obtain a fire safety inspection.
3. A local health department permit will be required if a home-based microschool or micro-education entity prepares and serves food.

C. Parking.

1. All off-street parking requirements for all zoning districts are listed in the Hyrum City code.
2. The home-based microschool or micro-education entity shall provide a parking plan.
3. In addition to the parking requirements listed in Hyrum City code, the dwelling unit or residential property used for a home-based microschool shall provide sufficient parking space and needed parking facilities for employees and customers completely and entirely on the homeowners land containing the primary dwelling or adjacent property parcel owned by the homeowner.

D. Traffic.

1. A home-based microschool or micro-education entity shall provide a traffic plan depicting the desired routes for all modes of transportation.

E. Hours of Operation.

1. The hours of operation for a home-based microschool or micro-education entity shall be between the hours of seven (7:00) a.m. and ten (10:00) p.m.

F. Applicable Zoning and Land Use Regulations.

1. The home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling.
2. The home-based microschool or micro-education entity is subject to city ordinances and regulations that do not conflict with Utah Code 10-9a-305.
3. The micro-education entity is subject to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, driveway access locations, and traffic circulations.
4. The home-based microschool or micro-education entity is subject to regulations on the location that are necessary to avoid risks to health or safety.

Effective 7/1/2025

53G-6-201 Definitions.

As used in this part:

- (1)
 - (a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.
 - (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.
- (2) "Educational neglect" means the same as that term is defined in Section 80-1-102.
- (3)
 - (a) "Home-based microschool" means an individual or association of individuals that:
 - (i) registers as a business entity in accordance with state and local laws; and
 - (ii) for compensation, provides kindergarten through grade 12 education services to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or residential property.
 - (b) "Home-based microschool" does not include a daycare.
- (4) "Instructor" means an individual who teaches a student as part of a home-based microschool or micro-education entity.
- (5)
 - (a) "Micro-education entity" means a person or association of persons that:
 - (i) registers as a business entity in accordance with state and local laws; and
 - (ii) for compensation, provides kindergarten through grade 12 education services to 100 students or fewer.
 - (b) "Micro-education entity" does not include:
 - (i) a daycare;
 - (ii) a home-based microschool;
 - (iii) a private school; or
 - (iv) a school within the public education system.
- (6) "Minor" means an individual who is under 18 years old.
- (7) "Parent" includes:
 - (a) a custodial parent of the minor;
 - (b) a legally appointed guardian of a minor; or
 - (c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (7)(a) or (b).
- (8) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.
- (9) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:
 - (a) is enrolled; or
 - (b) should be enrolled, if the school-age child is not enrolled in school.
- (10) "School-age child" means a minor who:
 - (a) is at least six years old but younger than 18 years old; and
 - (b) is not emancipated.
- (11)
 - (a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection (11)(b), is absent for at least:
 - (i) half of the school day; or

- (ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.
- (b) A school-age child may not be considered truant under this part more than one time during one day.
- (12) "Truant minor" means a school-age child who:
 - (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and
 - (b) is truant.
- (13)
 - (a) "Valid excuse" means:
 - (i) an illness, which may be either mental or physical, regardless of whether the school-age child or parent provides documentation from a medical professional;
 - (ii) mental or behavioral health of the school-age child;
 - (iii) a family death;
 - (iv) an approved school activity;
 - (v) an absence permitted by a school-age child's:
 - (A) individualized education program; or
 - (B) Section 504 accommodation plan;
 - (vi) competition in a rodeo sanctioned by an international, non-profit organization dedicated to the development of sportsmanship, horsemanship, and character in youth through the sport of rodeo;
 - (vii) an absence permitted in accordance with Subsection 53G-6-803(5); or
 - (viii) any other excuse established as valid by a local school board, charter school governing board, or school district.
 - (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (13)(a)(i) through (vii), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection (13)(a)(viii).

Amended by Chapter 34, 2025 General Session

Effective 3/26/2025

Renumbered 11/6/2025

10-9a-305 Other entities required to conform to municipality's land use ordinances --

Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

- (1)
 - (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.
 - (b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- (2)
 - (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.
 - (b)
 - (i) Notwithstanding Subsection (3), a municipality may:
 - (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
 - (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).
 - (ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)
 - (i) shall be objective standards only and may not be subjective.
 - (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).
 - (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.
- (3) A municipality may not:
 - (a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;
 - (b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;
 - (c) require a district or charter school to pay fees not authorized by this section;
 - (d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

- (e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;
- (f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or
- (g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:
 - (i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or
 - (ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.
- (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:
 - (a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and
 - (b) maximize school, student, and site safety.
- (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:
 - (a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and
 - (b) provide recommendations based upon the walk-through.
- (6)
 - (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
 - (i) a municipal building inspector;
 - (ii)
 - (A) for a school district, a school district building inspector from that school district; or
 - (B) for a charter school, a school district building inspector from the school district in which the charter school is located; or
 - (iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a municipal building inspector or:
 - (A) for a school district, a school district building inspector from that school district; or
 - (B) for a charter school, a school district building inspector from the school district in which the charter school is located.
 - (b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.
 - (c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.
- (7)
 - (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a municipality.
 - (b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.
 - (c) Parking requirements for a charter school or a micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

- (d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or a micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.
- (e)
- (i) A school district, charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:
 - (A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or
 - (B) a municipal official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a municipal building inspector for inspection of the school building.
 - (ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).
 - (iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.
 - (iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.
- (f)
- (i) A micro-education entity may operate in a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).
 - (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i) may have up to 100 students in the facility.
- (g) A micro-education entity may operate in a facility that is subject to and complies with the same occupancy requirements as a Class A-1, A-3, B, or M Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- (i) the facility has a code compliant fire alarm system and carbon monoxide detection system;
 - (ii)
 - (A) each classroom in the facility has an exit directly to the outside at the level of exit or discharge; or
 - (B) the structure has a code compliant fire sprinkler system; and
 - (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet.
- (h)
- (i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling.
 - (ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated by Section 15A-1-210.

- (8)
- (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:
 - (i) as early as practicable in the development process, but no later than the commencement of construction; and
 - (ii) with sufficient detail to enable the land use authority to assess:
 - (A) the specified public agency's compliance with applicable land use ordinances;
 - (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;
 - (C) the amount of any applicable fee described in Section 10-9a-510;
 - (D) any credit against an impact fee; and
 - (E) the potential for waiving an impact fee.
 - (b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.
- (9) Nothing in this section may be construed to:
- (a) modify or supersede Section 10-9a-304; or
 - (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.
- (10) Nothing in Subsection (7) prevents a political subdivision from:
- (a) requiring a home-based microschool or micro-education entity to comply with municipal zoning and land use regulations that do not conflict with this section, including:
 - (i) parking;
 - (ii) traffic; and
 - (iii) hours of operation;
 - (b) requiring a home-based microschool or micro-education entity to obtain a business license;
 - (c) enacting municipal ordinances and regulations consistent with this section;
 - (d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
 - (e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

Amended by Chapter 461, 2025 General Session