

Staff Report

ACTION ITEM: Request for a text amendment to Chapter 65 (Zoning) related to babysitting as a home occupation

APPLICANT: Brian Powell

APPLICANT STATUS: Property owner and resident of 596 Canyon Trail

PURPOSE: To increase the number of children allowed for in-home babysitting as a home occupation without a special use permit from 4 to 6.

HISTORY: Mr. and Mrs. Powell formerly requested a special use permit for an in-home daycare as a home occupation at 596 Canyon Trail. That special use permit was denied. Prior to moving to Canyon Trail, they had a special use permit for an in-home daycare at their former home at 409 N. Shawnee Blvd. where they were state licensed for 10 children. Special use permits do not transfer from one location to another.

APPLICABLE REGULATIONS: Zoning Code (Chapter 65)

Sec. 65-2. Definitions.

Home occupation. Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and which is carried on wholly within the main building or an existing accessory building by an immediate member of the family residing on the premises; provided that:

- (1) No person not a resident of the premises is employed, engaged, or present on the premises in relation to the business.
- (2) No substantial stock in trade is kept or sold upon the premises.
- (3) No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, xray, or electrical disturbance to radio or television instruments.
- (4) No generation of substantial volumes of vehicular or pedestrian traffic or substantial parking demand shall be created.
- (5) No advertising sign is displayed, other than a nameplate not exceeding one and one-half (1½) square foot in area, and there is no other exterior indication that the building is being used for any purpose other than a dwelling.
- (6) No signed or marked vehicle showing a business name or logo shall be parked on or adjacent to the premises except when used as the primary means of personal transportation to the residence by a person residing at the residence.
- (7) No business trailer shall be parked on or adjacent to the premises except when in actual use for the residence, but in no event shall it be kept overnight.

Sec. 65-5. R-1 Residential District Regulations (excerpt)

The wording referencing the R-2 district carries over to the R-2 Single Family, R-3 One and Two-Family, R-4 General Residential, MH-1 Mobile Home District, and O-1 Professional Office District.

- (1) *Use regulations.* A building or premises shall be used only for the following purposes:
 - b. Home occupations listed below which also meet the home occupation definition in [section 65-2](#):
 - a. Art studio.
 - b. Babysitting limited to no more than four (4) children under the age of seventeen (17) at one (1) time.**
 - c. Eldercare limited to no more than four (4) adults under care at one (1) time.
 - d. Dressmaking or tailoring.
 - e. Home crafts, provided that no machinery or equipment is used other than that customarily used for household purposes.
 - f. Teaching, including music instruction, limited to not more than two (2) pupils at one (1) time.
 - g. Telephone, computer, or Internet occupations which comply with the definition of a home occupation.
 - h. Supporting office operations for a business conducted at other locations when the office operations comply with the definition of a home occupation.
 - i. Other home occupations which comply with the general requirements for a home occupation but are not within the listed allowable home occupations with a special use permit only.

COMMENTS: A text amendment to the zoning code for home occupations would affect not only Mr. Powell's address, but all property zoned R-1, R-2, R-3, R-4, MH-1, or O-1. Notices for public hearings about text amendments are published in the Cash-Book Journal and the city's website and are not mailed to any individual property owners or posted on any properties.

- The city's zoning code allows care of no more than 4 children at a time as a home occupation without a special use permit. The keeping of more children at a time as a home occupation requires a special use permit. *(The city's policy has been to not count the resident's own children in the total but to count other relatives such as grandchildren, nieces, nephews, etc., unless the resident is the legal guardian of that child.)*
- State of Missouri licensing for family home daycares allows care of no more than 6 children not related to the caregiver in a home before a state license is required. Licenses are administered by the Missouri Department of Health and Senior Services' Child Care Licensing division. *(Per the state's definition, Related is any of the following relationships by marriage, blood or adoption between the provider and the children in care: parent, grandparent, great-grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, niece, nephew or first cousin.)*

- The city's building code and fire code allows care of no more than 5 children (or other persons in care) in a home to remain classified as one or two-family dwellings. Above that number they are categorized as either institutional facilities or educational facilities depending on the age and number of children and have to meet additional building and fire code requirements. (IBC 308.6.4). *(Since related children or lack of relationship are not referenced in this code, the city follows the same policy as the zoning code.)*

ACTION REQUIRED: Code changes require a public hearing at both the Planning and Zoning level and the Board of Aldermen level prior to each board taking any action.