

MEMO



To: Mayor Olson and City Council
From: Ryan Harris, Senior Planner
Date: April 26, 2024
Re: Home Daycare and Preschool Code Amendment

It is proposed that the City Council Consider amending language related to Home Daycares and Preschools found in Santaquin City Code 10.080.020, 10.40.050, and 10.40.060. The proposed code amendment aligns the City Code with the State Code and includes a few minor changes discussed below.

In 2022, the State passed HB15, which focused on childcare programs (daycare). This bill created a law (Utah State Code 10.8-84.6 "Prohibition on licensing or certification of childcare programs") that doesn't allow the City to impose licensing or certification requirements for a daycare. The City can require a business license, make sure the business meets buildings, fire, and health codes, and ensure that the daycare meets all state requirements.

Below is a summary of the major changes considered with this code amendment.

1. Update the definition of a Family Group Daycare to be consistent with State Code.
2. Changes the requirements that home daycares licensed with the State meet state requirements and get a business license. Daycares not licensed by the State will be required to follow all requirements in the Santaquin City Home Occupation Code. Daycares with eight or fewer children are not required to be licensed by the State but can still get licensed if they choose to. Daycares that have nine or more children are required to be licensed by the State.
3. Move a Family Group Daycare (nine children or more) from a major home occupation (requires a conditional use permit) to a minor home occupation (staff approval).
4. Add a requirement when two preschool sessions are held in one day, there must be a minimum 30-minute break between them. This will help with traffic control so everyone can show up at different times to pick up and drop off.

The Planning Commission held a public hearing and has provided a recommendation to the City Council. The Planning Commission gave the following motion.

Motion: Commissioner Weight made a motion to recommend approval of the proposed code amendment related to home daycares and preschools with the discussed changes. Commissioner Moak seconded the motion.

Commissioner Hoffman, Yes; Commissioner Moak, Yes; Commissioner Nixon, Yes; Commissioner Romero, Yes; Commissioner Tolman, Absent; Commissioner Weight, Yes; Commissioner Wood, Yes; The motion passed.

Recommended Motion: "Motion to approve Ordinance No. 04-03-2024, an ordinance amending Santaquin City Code to update language related to home daycare businesses, so it is consistent with State Code, providing for codification, correction of scrivener's errors, severability, and an effective date for the ordinance."

Attachments:

1. Draft Ordinance

ORDINANCE NO. 04-03-2024

AN ORDINANCE AMENDING SANTAQUIN CITY CODE TO UPDATE LANGUAGE RELATED TO HOME DAYCARE BUSINESSES SO IT IS CONSISTENT WITH STATE CODE, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER’S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the City of Santaquin is a fourth-class city of the state of Utah; and

WHEREAS, the City Council has specific authority pursuant to Title 10, Chapter 9a Utah Code Ann. (1953 as amended) to adopt a zoning plan including an ordinance and map which divide the municipality into districts or zones and within such districts to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures and the uses of land; and

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the city to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the City Council desires to amend Santaquin City Code Title 10 Chapter 08 Section 020, Title 10 Chapter 40 Section 050 and Title 10 Chapter 40 Section 060 to update language related to home day care businesses so it is consistent with state code.

WHEREAS, the Santaquin City Planning Commission held a public hearing on April 23, 2024, which hearing was preceded by the posting of public notice in at least three public places within the City limits of Santaquin City in accordance with Section 10-9a-205 of the Utah State Code; and

WHEREAS, after the noted public hearing, the Santaquin City Planning Commission shall forward a recommendation to the City Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Santaquin City, State of Utah, as follows:

Section I. Amendments

Title 10, Chapter 08, Section 020 “Terms Defined – Land Use and Development”: is amended as follows: (underlined text is added, stricken text is deleted)

10.08.020 TERMS DEFINED - LAND USE AND DEVELOPMENT MANAGEMENT CODE

DAYCARE: The provision of care for four (4) or more cumulative hours during the day for a group of individuals not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult, with or without compensation, specifically:

Family Group Daycare: A home wherein care is provided for nine (9) ~~or more to sixteen (16)~~ children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult, for less than twenty four (24) hours a day, for direct or indirect compensation and licensed by the state of Utah.

~~FAMILY DAYCARE: See definition of Daycare.~~

~~NURSERY, DAYCARE: See definition of Daycare~~

Title 10, Chapter 40, Section 050 “Minor Home Occupation”: is amended as follows:
(underlined text is added, stricken text is deleted)

10.40.050 MINOR HOME OCCUPATIONS

A. Employees:

1. One full time or full time equivalent nonresident may be employed, volunteer, or work at a designated workstation or area on the premises or inside the home where the home occupation business is located. Only one nonresident employee may work at the home, in such manner, at one time. No more than two (2) persons shall comprise the equivalent full time employee.
2. In addition to the employees described in paragraph A,1, any home occupation may utilize employees to work off site. Such off site employee, volunteer, hiree and any other persons engaged with the home occupation shall not come to the home for purposes related to the home occupation license, except for incidental vehicle stops in accordance with the traffic and operational hours qualifications outlined below.

B. Operational Hours: The home occupation shall not generate any traffic before six o'clock (6:00) A.M. or after eight o'clock (8:00) P.M. (e.g., clients, patrons, employees, volunteers, students, pupils, etc.).

C. Traffic: Vehicular traffic from business related visitors, employees, volunteers, and customers shall not exceed that which normally and reasonably occurs for a home in the neighborhood, and shall be conducted so that the neighbors will not be significantly impacted by its existence. Minor home occupations shall be limited to three (3) business related vehicular stops to the residence during any one hour to a maximum of eight (8) business related vehicular stops per day. Vehicles for delivery or pick up of business related supplies or products (e.g., UPS package delivery vehicles) shall not exceed two (2) per day.

Exception: Daycare and child group activities having an approved traffic circulation and safety plan may exceed the above maximum number of vehicle stops up to a total of sixteen (16) business related vehicle stops at the home in a day (e.g., dropping off and picking up a child would count as 2 vehicle stops).

D. Areas And Property To Be Used:

1. The business activities in the dwelling shall not occupy more than five hundred (500) square feet or twenty five percent (25%) of the total floor area of such dwelling, whichever is less. For the purposes of this section, a garage, carport,

patio, breezeway, or any accessory building is not considered to be part of the dwelling.

2. Business activities in an accessory structure shall not exceed eight hundred (800) square feet or fifty percent (50%) of the accessory structure floor area, whichever is more unless such accessory structure is being utilized for licensed agribusiness functions or is associated with a licensed boarding facility for animals.
- E. Business Related Vehicles: Business related vehicles include those vehicles owned and operated by residents of the dwelling, vehicles on the property which are nonoperable due to: 1) a collision or other violent act; 2) has had parts removed from the vehicle rendering the vehicle inoperable; or 3) is being stored on a lot for the purpose of restoration. Business related vehicles shall also include any vehicles brought to the residence by the applicant, an employee, customer, client or business related visitor and shall comply with the following:
1. There shall be no more than four (4) business related vehicles parked or being stored at the residence at any one time.

Exception: Any vehicle, operable on a road or not, that is inside a fully enclosed, permanent structure shall not be included in the maximum number of vehicles permitted at one time. Single or dual occupancy, off highway recreation vehicles (OHV) or watercraft are also excluded unless such are used as part of the business operation.
 2. Business related vehicles shall not exceed eight feet (8') in height.

Exception: Delivery or pick up vehicles (e.g., UPS package delivery vehicles) not owned or operated by the owner or employees of the licensed home occupation.
 3. Business related vehicles shall not exceed two (2) axles or twenty two feet (22') in length individually nor three (3) axles or thirty five feet (35') in length with attachments. No vehicle having more than two (2) axles shall travel to the residence for the purpose of delivery of merchandise, goods, or supplies for use in the home occupation.
 4. Business related vehicles may not exceed sixteen thousand (16,000) GVW.
- F. Number Of Licenses Allowed: Multiple home occupation licenses may be granted per residence as long as the cumulative effects of the businesses do not exceed the above standards and qualifications.
- G. Additional Qualifications For [Family](#) Daycares And Child Group Activities
1. Child oriented home occupations shall not exceed eight (8) children at any one time. A maximum of eight (8) students/children is permitted per day. This number shall include the licensee's own children if they are less than six (6) years of age and are under the care of the licensee at the time the home occupation is conducted.
 2. All child-oriented home occupations shall be allowed to provide safe, outdoor playtime as required by state, county or local laws governing such business

activity. All outdoor play areas must be enclosed by a fence of at least five feet (5') if there are more than six (6) children enrolled.

3. All daycare and other child group activity facilities must be located on a through street unless a traffic and circulation plan is approved by the city as part of the business operations.
 4. Family daycares that are not licensed by the State are required to meet all requirements in this chapter. If the family daycare is licensed by the State, the daycare shall follow all State requirements and are exempt from the requirements in this Chapter, except the following:
 1. A home occupation license is required to operate the business.
 2. Licensure: Copies of all licenses required by the state shall be provided to the city for verification of compliance with all state standards. All licenses from the State shall be maintained while the business is in operation.
- H. Family Group Daycare With Nine (9) Children Or More:
1. Family Group Daycares shall follow all State requirements and are exempt from the requirements in this Chapter, except the following:
 - a. A home occupation license is required to operate the business.
 - b. Licensure: Copies of all licenses required by the state shall be provided to the city for verification of compliance with all state standards. All licenses from the State shall be maintained while the business is in operation.

Title 10, Chapter 40, Section 060 “Major Home Occupation”: is amended as follows:
(underlined text is added, stricken text is deleted)

10.40.060 MAJOR HOME OCCUPATIONS

Major home occupations must comply with all of the standards outlined in SCC 10.40.040 and where possible the qualifications of SCC 10.40.050. Major home occupations must be reviewed by the planning commission and granted a conditional use permit before pursuing a business license through the city. Each major home occupation is subject to the pertinent conditions listed below:

- A. General conditions for all major home occupations:
 1. Major home occupations may only be conducted from property having a detached single-family dwelling,
 2. The conditional use permit and the home occupation business license shall be maintained in good standing for the entire period that business is being conducted,
 3. Conditional use permits can be revoked based upon unresolved legitimate complaints as determined by the city zoning administrator.
- B. Child ~~oriented~~-group activity home occupations shall comply with the following conditions:
 1. Maximum Children Permitted: The following maximum numbers include the licensee's and any employees' children if they are under twelve (12) years of

age and are under the care of the licensee at the time the home occupation is conducted:

~~a. Family group daycares may not exceed twelve (12) children at one time or eighteen (18) different children per day.~~

a. Child group activities may not exceed twelve (12) students/children per session and a maximum of twenty four (24) students/children per day. A maximum of two (2) sessions per day may be permitted. There shall be a minimum 30-minute break between the two sessions.

2. Yard Requirements:

a. All nonbusiness related structures or on premises hazards are to be made inaccessible to the children attending the daycare facility.

b. All outdoor play areas must be enclosed by a fence at least ~~five feet (5')~~ Six feet (6') in height.

3. Traffic:

a. All vehicular stops for the dropping off or picking up of children shall be done with the passenger side of the vehicle toward the residence.

b. A traffic circulation and safety plan must be submitted to, reviewed and approved by the city.

c. At least one adjacent residential street must be of sufficient width to accommodate the increased average daily vehicular traffic (ADT) counts caused by the business.

d. The number of business related vehicle stops at the home per day shall not exceed ~~twenty-four~~ forty-eight (2448) (e.g., dropping off and picking up a child would count as 2 vehicle stops).

4. Location Requirements: No child ~~oriented-group activity~~ home occupation, which requires a conditional use permit, may be operated within three hundred feet (300'), as measured from property line to property line, of another child ~~oriented-group activity~~ home occupation operating under a conditional use permit.

5. Licensure: Copies of all licenses required by the state shall be provided to the city for verification of compliance with all state standards.

C. Businesses not conducted within a home, which must obtain a conditional use permit and which may include welding, carpentry, sheet metal work, furniture manufacturing, upholstery and other similar manufacturing activities, must comply with the following:

1. Machinery Operation: No machinery may be operated between the hours of seven o'clock (7:00) P.M. and eight o'clock (8:00) A.M.

2. Noise Levels:

a. No power equipment which emits a sound pressure level in excess of seventy four (74) dB, as measured at a distance of fifty feet (50') (15 m) from such machinery, shall be used.

b. No equipment shall cause a noise disturbance for a consecutive period longer than fifteen (15) minutes or for more than thirty (30) minutes per hour.

c. Business machinery noise levels are not to exceed fifty five (55) dB when measured at the closest property boundary.

3. Storage Qualifications: All storage qualifications listed in SCC 10.40.050 must be met.
 4. Designated Areas: The applicant shall designate the areas of the home, attached/detached garage or accessory structure that will be used for the home occupation and, if approved, the home occupation may be conducted only in the designated areas.
- D. Businesses having more than four (4) business related vehicles parked or stored at the home at one time or which utilize a commercial vehicle that exceeds the maximum height, weight or length requirements established in SCC 10.40.050, must comply with the following conditions:
1. All business related commercial vehicles are to be parked on the property and behind the front of the home when parked on the property.
 2. The vehicles and attachments are to be located behind a six foot (6') tall opaque fence, or other obstruction, so as to minimize their view from the front property line.
 3. Proof of proper CDL licensing must be provided with each license renewal.
 4. No maintenance of vehicles exceeding sixteen thousand (16,000) GVW may occur at the home unless conducted within a fully enclosed permanent structure compliant with building codes.
- E. Businesses entailing food or beverage preparation, storage or catering must comply with the following conditions:
1. Obtain all authorizations required by a state or county department or agency prior to approval of a business license and maintain all such authorizations for the duration of the business.
 2. Compliance with all business related vehicle qualifications listed in SCC 10.40.050 must be met.
- F. Businesses which have operating hours past eight o'clock (8:00) P.M. and before six o'clock (6:00) A.M. must comply with the following:
1. Applicants must show that any operation conducted after eight o'clock (8:00) P.M. and before six o'clock (6:00) A.M. will be compatible with like uses and operations found in the residential neighborhoods between such hours.
 2. All business activities are to be conducted within closed doors between eight o'clock (8:00) P.M. and six o'clock (6:00) A.M. unless shown to be compatible with like uses and operations found in the residential neighborhood between such hours.
 3. Any business lighting shall be shielded and directed downward away from adjoining properties or contained within the building from which it emanates.

Section II. Severability

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been

rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section III. Contrary Provisions Repealed

Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.

Section IV. Codification, Inclusion in the Code, and Scrivener’s Errors

It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

Section V. Posting and Effective Date

This ordinance shall become effective at 5:00 p.m. on Wednesday, May 1, 2024. Prior to that time, the City Recorder shall deposit a copy of this ordinance in the official records of the City and place a copy of this ordinance in three places within the City.

PASSED AND ADOPTED this 30th day of April, 2024

Daniel M. Olson, Mayor

| | | |
|---------------------------------|-------|-----|
| Councilmember Art Adcock | Voted | ___ |
| Councilmember Brian Del Rosario | Voted | ___ |
| Councilmember Lynn Mecham | Voted | ___ |
| Councilmember Jeff Siddoway | Voted | ___ |
| Councilmember Travis Keel | Voted | ___ |

ATTEST:

Amalie R. Ottley, City Recorder

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, AMALIE R. OTTLEY, City Recorder of Santaquin City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Santaquin City, Utah, on the 30th day of April 2024, entitled

“AN ORDINANCE AMENDING SANTAQUIN CITY CODE TO UPDATE LANGUAGE RELATED TO HOME DAYCARE BUSINESSES SO IT IS CONSISTENT WITH STATE CODE, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER’S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE.”

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Santaquin City Utah this 30th day of April 2024.

Amalie R. Ottley
Santaquin City Recorder

(SEAL)

AFFIDAVIT OF POSTING

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, AMALIE R. OTTLEY, City Recorder of Santaquin City, Utah, do hereby certify and declare that prior to the ordinance taking effect, I posted a short summary of the ordinance on the Utah Public Notice Website as required by Utah State Code 10-3-711(1)(b) as a Class A Notice and Santaquin City Code 1-2-050(D)

I further certify that copies of the ordinance were posted online at www.santaquin.org, at the City Hall Building at 110 S. Center Street and on the State of Utah's Public Notice Website, <https://www.utah.gov/pmn/index.html>. A copy of the notice may also be requested by calling (801)754-1904.

AMALIE R. OTTLEY
Santaquin City Recorder

The foregoing instrument was acknowledged before me on this ____ day of ____
2024, by AMALIE R. OTTLEY.
My Commission Expires:

Notary Public