ORDINANCE NO. 791

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-14 (HOME OCCUPATIONS), AMENDING SECTION 15-11 (DEFINITIONS), AND AMENDING SECTION 15-02-004(B)(2) (HOME-BASED BUSINESSES) OF THE UNIFIED DEVELOPMENT CODE OF THE TOWN OF PAYSON. (HOME OCCUPATIONS)

WHEREAS, the Town of Payson regulates the businesses within the Town, including Home Occupations; and

WHEREAS, the Town desires to enable its residents to use their residence for Home Occupations to facilitate economic development; and

WHEREAS, the Town also recognizes the need to protect surrounding residential uses from potential adverse impacts generated by business activities; and

WHEREAS, the Town believes that the Home Occupation regulations set forth in Section 15-14 balance these two policies; and

WHEREAS, the Town of Payson now desires to adopt Section 15-14 (Home Occupations) and conforming changes,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 15-14 (Home Occupations) of the Unified Development Code set forth in Resolution 2577 was heretofore declared to be a public record, and the provisions thereof are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance.

Section 2. Amendments to Section 15-11 (Definitions) of the Unified Development Code set forth in Resolution 2577 were heretofore declared to be a public record, and the provisions thereof are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance.

Section 3. At least three copies of the amendments adopted by Sections 1 and 2 above, shall be filed in the Office of the Town Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

Section 4. Section 15-02-004(B)(2) of the Unified Development Code is hereby amended and shall read as follows:

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SECOND READING AND PUBLIC HEARING NOV 04 2010 G.2.B

2. Reserved.

~~2. Home-Based Businesses~~

~~a. Definition - A home-based business is any business, occupation or commercial activity undertaken within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit.~~

~~b. Intent / Purpose - The Town of Payson desires to enable its residents to use their residence for home-based business activities to facilitate economic development, but also recognizes the need to protect surrounding areas from potential adverse impacts generated by business activities. The action of approving a home-based business contains a finding that the use will not generate impacts different from the use of the property as a residential dwelling unit.~~

~~c. Licensing & Inspections - A home-based business must secure and maintain a Payson Business License and a Transaction Privilege Tax License from the Arizona Department of Revenue. As a condition of issuing and maintaining a Business License, a homebased business licensee must allow inspections to be conducted by representatives of the Community Development and Fire Departments to verify compliance with standards and limits prescribed by this Code and stipulations of Conditional Use Permits. Such inspections shall occur between the hours of 8 AM and 5 PM and only upon 24 hours notice to the licensee.~~

~~d. Use of the Residence - A home-based business must be conducted within the principal residential structure and permitted accessory structures. Only an occupant/owner or occupant-lessee of a premise may own and operate a home-based business. The use must not change the character of the dwelling unit. The use must be conducted entirely within an enclosed structure with no outside business activities or outside storage, unless authorized by a conditional use permit.~~

~~e. Prohibited Home-Based Businesses - The following uses are prohibited in the residential zoning districts:~~

~~(1) Barber shops and beauty salons~~

~~(2) Motor vehicle repair services~~

~~(3) Kennels, stables, pet grooming services, veterinarian clinics~~

~~(4) Medical and dental clinics~~

~~(5) Restaurants, clubs and drinking establishments~~

~~(6) Undertaking and funeral parlors~~

~~(7) Adult entertainment establishments, adult retail establishments, adult theaters~~

~~(8) Taxi services, transit, express mail or package carriers~~

~~(9) Storage of firewood for sale~~

~~f. Home-Based Business Operational Standards~~

~~(1) Operating Limits - No visible or audible indications of business activities, other than those typical of a residential dwelling unit ;~~

~~shall be permitted before 8:00 AM or after 8:00 PM.~~

~~(2) Advertising - Advertising signs on the exterior of the premises of a home-based business are prohibited, except for identification signs on one motor vehicle that may be parked on the premises.~~

~~(3) Vehicles~~

~~(a) No person operating a home-based business shall use or cause delivery vehicles to visit their premises except for passenger vehicles, mail carriers and express carriers, such as vehicles used by United Parcel Service and Federal Express.~~

~~(b) Home-based businesses are not required to provide parking beyond what is required for residential use, but on-street parking is prohibited.~~

~~(c) A home-based business shall be limited to the parking or storage of one vehicle on the premises that is used in the business, but it may not exceed one-ton capacity.~~

~~(4) Employees - A home-based business shall have no nonresident employees on the premises at any time, unless authorized by a conditional use permit.~~

~~g. Limits on Equipment / Operation Nuisances - The operation of home-based business equipment, not typically used in residential dwelling units shall not:~~

~~(1) Create vibrations, heat, glare, dust, odors, or smoke discernable at the property lines;~~

~~(2) Generate noise discernable by the human ear at the property lines;~~

~~(3) Create electrical or magnetic interference off the premises of the dwelling unit, or;~~

~~(4) Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.~~

~~h. Fire Code Compliance - A home-based business shall conform to the requirements set forth in the adopted Fire Code. No flammable liquids or hazardous materials may be handled, used or stored incidental to a home-based business.~~

~~i. Approval Authority -~~

~~(1) A home-based business may be approved administratively by the Community Development Director, his or her designee, with an application for a Business License, if the owner / operator provides written certification that the business use of a dwelling unit will comply with this Code. Such written certification shall be incorporated and made part of the Business License.~~

~~(2) Approval of a Conditional Use Permit is required for any of the following homebased business uses:~~

~~(a) Day Care Centers~~

~~(b) Uses that have more than two customer / Client visits per~~

~~day~~

~~(c) Uses that have outside business activities or outside storage~~

~~(d) Uses requiring more off street parking spaces than required for residential use~~

~~(e) Uses desiring a nonresident employee on the premises, however in no case shall home-based business employ more than one nonresident employee.~~

~~(f) Bed and Breakfast establishments which shall be owner-occupied and have no more than four (4) units.~~

~~(3) In considering an application for a Conditional Use permit for a home-based business, the Planning and Zoning Commission shall review the size and zoning of the parcel, the size of the principal residential structure and accessory structures. Larger parcels and structures in low density zoning districts may more reasonably accommodate uses enumerated at subparagraph (2) of this section, than such uses on smaller parcels and structures in high density zoning districts.~~

~~(4) Stipulations to a Conditional Use Permit for a home-based business may include requirements for screening, additional dust-free parking spaces, requirements to relocate additional parking spaces outside of the front and side yard setback areas and other measures consistent with the purpose of maintaining the residential character of the dwelling unit.~~

~~j. Enforcement -~~

~~(1) The Town of Payson will not enforce subdivision covenants, conditions and restrictions (CC & R's) that may be more or less restrictive than standards and limits prescribed by this Code. Subdivision covenants, conditions and restrictions are terms of contracts between private property owners. CC & R's and provisions of this Code are independently enforceable against the property owner in a court of jurisdiction.~~

~~(2) Complaints alleging violations of home-based business standards and limits prescribed by this Code or stipulations of a Conditional Use Permit shall be submitted to the Community Development Department for potential enforcement action.~~

~~(3) The Community Development Department will attempt to hold the identity of complainants confidential unless court enforcement is necessary. In a court proceeding , the complaining party usually must be made known to the offending party and subpoenaed as a witness in court, where he or she may be confronted and cross-examined.~~

~~(4) A violation of this Code or a stipulation of a Conditional Use Permit shall be cause for revocation of a Business License.~~

Section 5. Section 15-05-005(B)(5) of the Unified Development Code is hereby amended and shall read as follows:

Home Occupation ~~Based Business~~ Signs: A Home Occupation ~~Based Business that is licensed and~~ in compliance with Section 15-14 ~~all of the requirements of this Unified Development Code~~ shall be allowed one name plate sign subject to the following restrictions:

a. The name plate sign shall not exceed two square feet, and
b. The Community Development Director shall review and approval all name plate signs to ensure that they complement the home's architecture and color and do not detract from the neighborhood.

Section 6. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 7. If any section, subsection, or portion of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Common Council declares that it would have adopted this Ordinance and each section, subsection, or portion despite the fact that any one or more sections, subsections, or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of November, 2010, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Timothy M. Wright, Town Attorney