RESOLUTION NO. 2577

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-14 (HOME OCCUPATIONS) AND AMENDING SECTION 15-11 (DEFINITIONS) OF THE UNIFIED DEVELOPMENT CODE OF THE TOWN OF PAYSON AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD. (HOME OCCUPATIONS)

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 and was adopted as a public record by Ordinance Number 588; and

WHEREAS, it is the intention of the Town of Payson to add Section 15-14 (Home Occupations) and amend Section 15-11 (Definitions) of Unified Development Code of the Town of Payson; and

WHEREAS, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

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

Section 1. Section 15-14 (Home Occupations) of the Unified Development Code of the Town of Payson is hereby added, is declared to be a public record, and shall read as set forth in Exhibit A.

Section 2. Section 15-11 (Definitions) of the Unified Development Code of the Town of Payson is hereby amended to include the additional definitions set forth in Exhibit B, such amendments are declared to be a public record, and such additional definitions shall read as set forth in Exhibit B.

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

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EXHIBIT A TO RESOLUTION 2577

15-14 HOME OCCUPATIONS

15-14-001 Purpose and Intent

The Town of Payson desires to enable its residents to use their residence for Home Occupations to facilitate economic development, but also recognizes the need to protect surrounding residential uses from potential adverse impacts generated by business activities. The action of approving a Home Occupation constitutes a finding that the use will not adversely impact surrounding properties.

15-14-002 Applicability

The requirements of this Section shall be applicable to all areas that are zoned residential and all areas where a residential use has been established regardless of zoning classification.

15-14-003 Home Occupations

A. No Home Occupations shall be operated unless such Home Occupation is in compliance with the provisions of this Section and any Conditional Use Permit required and obtained pursuant to this Section.

B. Except as otherwise provided in this Section, Home Occupations are subject to all of the requirements of the Unified Development Code and the Code of the Town of Payson including, but not limited to, all adopted fire and/or construction codes.

15-14-004 Licensing, Inspections, and Approvals

A. All Home Occupations are subject to the provisions of Chapter 110 (Business Licensing) of the Code of the Town of Payson.

B. Representatives of the Community Development and Fire Departments may inspect any Home Occupation to verify compliance with provisions of this Section, stipulations of any Conditional Use Permit issued pursuant to this Section, and compliance with all other Town Codes including, but not limited to the adopted fire and building codes. Unless a potential hazard involving life and/or safety is involved, all such inspections shall occur between the hours of 8:00 a.m. and 5:00 p.m. and upon 24 hours notice.

C. Approvals

1. Prior to operating a Home Occupation, the owner/operator of such Home Occupation shall submit a written description of the Home Occupation and certify that the Home Occupation will comply with the provisions of this Section.

2. An approval for a Level One or a Level Two Home Occupation will be issued by the Community Development Director concurrently with the issuance of a Business License. If a Business License is not required, an approval of a Level One or Level Two Home Occupation may be issued at anytime.

3. Approvals for Level Three Home Occupations (Conditional Use Permits) shall be issued in accordance with Section 15-09-004.

4. An approval obtained pursuant to this subsection shall satisfy the Business Occupancy Permit under Section 110.07 of the Town Code.

5. The Town of Payson does not enforce covenants, conditions and restrictions (CC&R's). Nothing in this Section restricts, amends or changes any covenants, conditions and restrictions.

15-14-005 Prohibited Home Occupations

The following uses shall be prohibited as Home Occupations except as noted:

A. Motor vehicle repair services

B. Kennels

C. Restaurants, clubs and drinking establishments

D. Undertaking and funeral parlors

E. Adult uses, including but not limited to entertainment establishment and theaters.

F. Storage of firewood for sale

G. Taxi services; transit, express mail or package carriers.

H. Stables and pet grooming services.

15-14-006 Level One - Minor Home Occupations

A. Scale/Character

A Level One - Minor Home Occupation is a Home Occupation conducted entirely within a residence, is clearly incidental to the use of the structure as a residence, and commensurate with quiet family living.

B. Allowable Locations

Any single family residence, apartment, condominium, guest house, guest quarters, or accessory dwelling unit located in any zoning district.

C. Employees

No employees other than immediate family members residing at the residence are permitted unless authorized by a Conditional Use Permit. Under a Conditional Use Permit, no more than one non-resident employee may be allowed.

D. Accessory Space, Storage, and Outside Uses/Displays

1. Accessory Space may be used only for storage

2. Outside storage and/or uses are prohibited

3. No product, merchandise, or goods may be displayed in a manner so that it is visible from outside the residence.

E. Vehicles/Traffic, Parking, and Access

1. Total Vehicle Trips shall not exceed 2 per day.

2. Vehicles associated with the Home Occupation and parked on site shall:
   a. not exceed two at any time, including employee and client vehicles;
   b. not be larger than one ton type vehicles; and
   c. be in a number and of a type typically associated with a residential use.

3. Additional parking is not required beyond what is required for residential use.

4. Vehicles related to the Home Occupation shall not be stored, parked, or repaired on the public right of way.

5. Delivery vehicles other than passenger vehicles, mail carriers, and express carriers (such as U.S. Postal Service, United Parcel Service, and Federal Express) are prohibited.

F. Noise

1. No noise that is discernable outside the residence is permitted.

2. Noise generated by passenger vehicles is exempt from the provisions of this Subsection.

G. Equipment

Equipment not typically associated with residential uses that is used in the Home Occupation shall not (1) create vibrations, heat, glare, dust, odors, or smoke discernable at the property lines; (2) create electrical or magnetic interference off the premises of the dwelling unit; or (3) consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.

15-14-007 Level Two - Intermediate Home Occupations

A. Scale/Character

A Level Two - Intermediate Home Occupation is a Home Occupation conducted predominantly within a single family residential unit located in a transitional area between commercial uses and quiet single family living, that is incidental to the use of the structure as a residence, has limited parking and vehicular traffic, and retains its residential character.

B. Allowable Locations

1. Any single family detached residence located in a R2 or R3 zoning district.

2. Any single family detached residence located in a R1 zoning district that fronts and takes access from an arterial roadway.

3. Any single family detached residence located on a parcel that is either one acre or more in size, or exceeds the zoning district

minimum lot size by 100%.

4. Level Two - Intermediate Home Occupations are prohibited in town houses, apartments, condominiums, guest houses, guest quarters, or accessory dwelling units.

C. Employees

Up to three employees are permitted.

D. Accessory Space, Storage, and Outside Uses/Displays

1. Use of up to 500 square fee of Accessory Space is permitted.

2. Outside storage and/or uses are prohibited.

3. No product, merchandise, or goods may be displayed in a manner so that they are visible from outside the residence.

E. Vehicles/Traffic, Parking, and Access

1. Total Vehicle Trips shall not exceed 20 per day.

2. Vehicles associated with the Home Occupation and parked on site shall:
   a. not exceed four at any time, including employee and client vehicles;
   b. not be larger than one ton type vehicles; and
   c. be in a number and of a type typically associated with a residential use.

3. Employee and client parking shall be in defined areas and such areas shall be accessible, designed, and surfaced for parking.

4. Vehicles related to the Home Occupation shall not be stored, parked, or repaired on the public right of way.

5. All vehicular traffic shall access via a public or private roadway.

F. Noise

1. Between 8:00 a.m. and 5:00 p.m. no noise that exceeds the greater of 60 dba or the ambient noise level outside the residence is permitted.

2. Between 5:00 p.m. and 8:00 a.m., no noise that is discernable outside the residence is permitted.

3. Noise generated by passenger vehicles is exempt from the provisions of this Subsection.

G. Equipment

Equipment not typically associated with residential uses that is used in the Home Occupation shall not (1) create vibrations, heat, glare, dust, odors, or smoke discernable at the property lines; (2) create electrical or magnetic interference off the premises of the dwelling unit; or (3) consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.

15-14-008 Level Three - Major Home Occupations

A. Scale/Character

A Level Three - Major Home Occupation is a Home Occupation conducted predominantly within a single family residential unit located in a commercial area that could accommodate a limited number of employees and vehicle traffic, and such use does not detract from any adjoining residential uses.

B. Allowable Locations

1. With the issuance of a Conditional Use Permit, in any single family detached residence located within a commercial zoning district.

2. Level Three - Major Home Occupations are prohibited in town houses, apartments, condominiums, guest houses, guest quarters, or accessory dwelling units.

C. Employees

Up to five employees may be permitted.

D. Accessory Space, Storage, and Outside Uses/Displays

1. Use of up to 1500 square fee of Accessory Space is permitted

2. Outside storage and/or uses are prohibited

3. No product, merchandise, or goods may be displayed in a manner so that they are visible from outside of the residence.

E. Vehicles/Traffic/Parking/Access

1. Total Vehicle Trips shall not exceed 30 per day.

2. Vehicles associated with the Home Occupation and parked on site at any time shall not exceed five, including employee and client vehicles.

3. Employee and client parking shall be in defined areas and such areas shall be accessible, designed, and surfaced for vehicular parking.

4. Vehicles related to the Home Occupation shall not be stored, parked, or repaired on the public right of way.

5. All vehicular traffic shall access via an improved public roadway.

F. Noise

1. Between 8:00 a.m. and 5:00 p.m. no noise that exceeds the greater of 60 dba or the ambient noise level outside the residence is permitted.

2. Between 5:00 p.m. and 8:00 a.m., no noise that is discernable outside the residence is permitted.

3. Noise generated by passenger vehicles is exempt from the provisions of this Subsection.

G. Equipment

Equipment not typically associated with residential uses that is used in the Home Occupation shall not (1) create vibrations, heat, glare, dust, odors, or smoke discernable at the property lines; (2) create electrical or magnetic interference off the premises of the dwelling unit; or (3) consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.

15-14-009 Relief

A. Relief from the prohibitions under 15-14-005(G) and/or (H) may be granted through the issuance of a Conditional Use Permit.

B. Except as set forth in Subsection C below, a Home Occupation having direct vehicular access from an improved dedicated roadway that is classified as a collector, arterial, or highway (as identified in the Town of Payson Roadway Classification) may be granted relief from any of the standards set forth in 15-14-006 through 15-14-008 through the issuance of a Conditional Use Permit.

C. The following limitations apply to all Home Occupations

Accessory Space shall not exceed 3,000 square feet.

D. An applicant seeking relief pursuant to this Subsection shall demonstrate (1) the availability of services adequate to serve the proposed use, including transportation, public facilities and other services existing or planned for the area affected by the use; and (2) compatibility with existing land uses.

E. In determining if a Conditional Use Permit should be issued pursuant to this Subsection, the following factors shall be considered:

1. The number of specific standards from which relief is sought; it is presumed that the more standards are exceeded, the more difficult it will be to demonstrate compatibility;

2. The character of the neighborhood, including such factors as the presence of other similar uses, proximity of other dwellings, the level of surrounding traffic, the size of accessory buildings, background noise levels, and other outside uses;

3. The ability to mitigate impacts by screening, landscaping, building location, building design and other property improvements (for example driveway or road improvements);

4. Potential environmental impacts, including effects on air and water quality;

5. Provision of adequate and safe access to public roadways; and

6. All other factors listed in 15-09-004.

EXHIBIT B TO RESOLUTION 2577

Definitions Added to Section 15-11

Home Occupation – An occupation or business activity conducted in whole or in part in a residence and/or an accessory space; is conducted by at least one family member occupying the dwelling; and is clearly subordinate to the residential use of the property.

Operator (for the purpose of 15-14) – The person who conducts a Home Occupation, has majority ownership interest in the business, lives full-time in a dwelling on the subject property, and is responsible for strategic decisions and day-to-day operations of the business.

Accessory Space (for the purpose of 15-14) – Any building space not constructed to residential standards, under the adopted building code of the Town of Payson, that is used for a Home Occupation, including but not limited to an attached garage, detached garage, or shed. Accessory space does not include manufactured dwellings, residential trailers or recreational vehicles.

Employee (for the purpose of 15-14) – Any on-site person not residing at the residence, whether they work full-time or part-time in a Home Occupation, including but not limited to partners, assistants, and any other persons or family members participating in the operation of the business.

Incidental Use – The use of no more than 25% of the floor area of a structure or 500 square feet, whichever is less.

Vehicle (for the purpose of 15-14) – Any motorized or non-motorized transportation equipment intended for use on public roads and associated with a Home Occupation, including but not limited to a car, van, pickup, motorcycle, truck, detached trailer or truck tractor with no more than one trailer. An exception may be made for a detached trailer or trailers, which may be categorized as equipment if stored within an enclosed building approved for this use through a Home Occupation permit. Accessory space utilized for storage of a trailer shall be included in the calculation of total accessory space approved for the home occupation.

Vehicle Trip – A vehicular movement either to or from the subject property by any vehicle used in a Home Occupation, including, but not limited to delivery vehicles associated with a Home Occupation and customer, client, or employee vehicles.