



FILE# 23-4-08

HOME OCCUPATION - ORD. AMENDMENT

ADDRESS:

N/A

LEGAL DESCRIPTION: N/A

N/A

APPLICANT/REPRESENTATIVE:

City of Holladay, Community and Econ Dept

PROPERTY OWNER:

ZONING:

N/A

GENERAL PLAN DISTRICT:

N/A

CITY COUNCIL DISTRICT:

N/A

PUBLIC NOTICE DETAILS:

Published 12/08/2023

REQUEST:

Ordinance Amendment

APPLICABLE REGULATIONS:

Home Occupation Regulations
13.07.030

EXHIBITS:

Staff Report
Draft Amendments

STAFF:

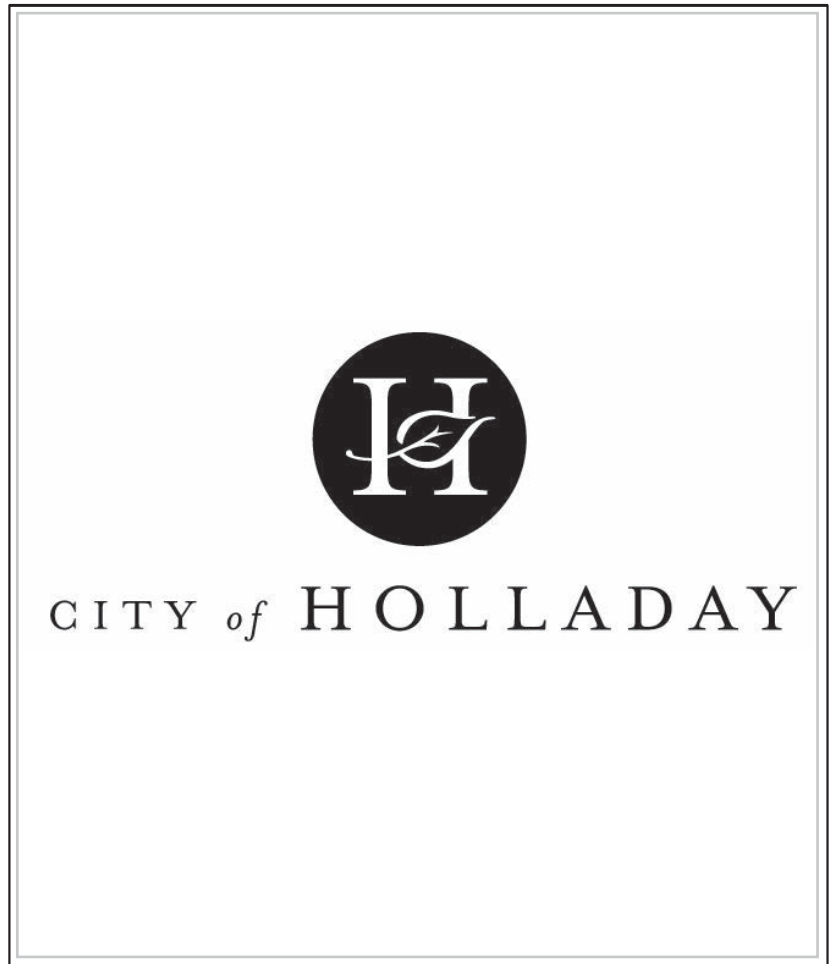
Carrie Marsh, City Planner

DECISION TYPE:

Legislative:

Public Hearing Required. PC shall make a recommendation to City Council to either approve or disapprove the request. All motions require findings which support the recommendation. Holladay Ord. 13.06.050.F2,13.07

SITE VICINITY MAP



Notes:



Request: **Ordinance Amendment Recommendation for City Council**
 Subject: Home Occupations: Conditional use permits, business licensing, parking
 Applicant: City of Holladay, Community and Economic Development Department
 Planner: Carrie Marsh

GOVERNING ORDINANCES:	13.07.030	Text Amendment Procedure / Requirements
	13.04	Definitions

REQUIRED PLANNING COMMISSION ACTION: Recommendation to City Council

*Text, or ordinance amendments are proposed changes to the City of Holladay Code. Amendments can be in the form of a new, or an alteration of, existing rules or regulations/standards. Such amendments to the City of Holladay ordinance requires the Planning Commission to hold a public hearing and **forward a recommendation, with findings, to the City Council for final decision/action.***

REQUEST

Proposal by City Staff to Amend the following sections of the Holladay Municipal Code as related to Home Occupations and Conditional Use Permits, and any other related and needful housekeeping amendments. The purpose of the Code Amendments is to amend the requirements for Home Occupations and the process for Conditional Use Permits. The proposed amendments would create standards for routine home occupations and allow permits to be issued if standards are met after review by staff.

- Title 13, Chapter 76.730, Home Occupation
- Title 13.08.040; Conditional Use Permit
- Title 13.100 Appendix A – Allowed Uses

NOTE: The Planning Commission oversees Land Use in Title 13. Additional components of Home Occupations are found in Title 5 Business Licensing. All changes regarding Home Occupation in Title 5 would be addressed directly with City Council.

REASONING & PURPOSE

The overall intent of this amendment is to simplify the process and requirements involved with a home owner seeking a conditional permit for home occupation where clients come to the home. Home Occupations are a traditional and customary accessory use of a person’s dwelling and have thus been permitted in neighborhoods, with conditions to mitigate health and safety impacts to neighboring properties caused by increased traffic and visitors to the home. Currently, the City has rules which place specific requirements on conducting a home occupation (as per Chapter 13.76.760 of the City Code), further regulated by a conditional use permit to mitigate potential impacts associated with the operation of the business from the home (as per Chapter 13.08.040). Conditional use permits for home occupations under the current code require public notice to surrounding properties, a public hearing, and conditions imposed by the Planning Commission.

Conditional uses are an administrative act and state code requires that conditional uses be approved if reasonable conditions can be applied to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with standards contained in the ordinance. Conditions applied to Home Occupations can be standardized within City Code, specific to Home Occupations, and applicants can either meet those standards, or not. This code amendment creates a list of standards that is equally applied to all home occupation applicants, a process that is clear and simple for applicants, and enables the approval of Home Occupation Conditional Use Permits to staff.

Additionally, removing home occupations from a conditional use eliminates a home business use being tied to the land and makes the home occupation non-transferrable and contingent upon having a current business license.

NON-CONFORMING USES

This Code Amendment to the above sections would create non-conforming use situations as conditional use permits issued prior to any changes would remain in adherence to the conditions specific to their conditions. While these

would largely be the same, there may be conditional use permits previously approved that do not have the same extent of conditions outlined in the proposed changes. These non-conforming uses created are addressed with language in the code that eliminates any previously approved home occupation conditional use permit once ownership of a property changes.

PROPOSED ORDINANCE CONSIDERATIONS:

As currently written, The City’s current code consists of land use regulations that date to early 1980’s. Some elements, i.e. permitted and conditional land uses and the zone in which they are allowed, have been left unaltered since the City’s 2000 incorporation from Salt Lake County. Many cities and Salt Lake County have moved home occupations to permitted uses, with standards. The purpose of this change is to create an easier, clearer, and more standardized process for individuals who have clients come to their home as part of a business operation while also mitigating impacts that often accompany this type of use. The proposed ordinance is structured as follows and includes the following changes:

GENERAL PLAN COMPLIANCE

The General Plan encourages appropriate development standards for all uses and zoning categories within Holladay. This code amendment would further that goal and objective.

SUMMARY OF CHANGES COMPARISON CHART

Below is a simplified comparison chart of the current (codified) code and the most recent proposal. The proposal eliminates Home Occupation standards from Title 5 (Business Licensing) and puts all standards to Home Occupations into Title 13 (Land Use).

Ordinance	Topic	Current Language	Proposed Changes
13.100.010	<i>Table of Allowed Uses</i>	Home occupation conditional use refers to section 13.76.730 for all conditional uses.	Change of Home Occupations from Conditional (C ⁵) to Permitted (P ⁵). The P ⁵ references to the Home Occupation chapter (13.76.760), where all conditions specific to Home Occupations are located.
13.76.760	<i>Home Occupation</i>	Approval by the Planning Commission	Approval by Staff with conditions/standards as detailed in new language in 13.76.760. Home Occupations that do not meet standards outlined in 13.76.760 must apply for conditional use and review by PC
13.76.760E	<i>Home Occupation; accessory buildings and yard</i>	The current language does not allow the use of yard space or accessory buildings.	Language that allows the use of an accessory building, with limitations. Business use cannot occupy required garage spaces.
13.76.760F	<i>Home Occupation; Parking</i>	Parking standards for home occupations currently require the same parking standards that would be applied for general office space, requiring two on-site parking spaces.	New text includes: <ul style="list-style-type: none"> · All parking associated with the business must be on site. · Parking that is unsafe or involves property rights conflicts can have street parking reviewed/approved by the Director. · On-street parking limited to one vehicle and located immediately adjacent to the home or within 200 feet · Off-Site Parking agreements can be approved. · Parking exceedance (i.e. recitals or groups) cannot occur more than two times in one month. <i>*consider requiring a special event application for these instances*</i>

13.76.760	<i>Home Occupation; Prohibited uses</i>	No current language about prohibited uses besides what is in the land use table	<ul style="list-style-type: none"> • Added specific uses not allowed.
13.76.760	<i>Home Occupations</i>	Current code does not outline specific conditions relating to home occupations to mitigate the effects on neighboring properties.	<ul style="list-style-type: none"> • Limits to number of children/people present. <i>*NOTE: No more than 6 people for group lessons does not necessarily mean that 5-6 cars will all be parked there (usually group lessons involve drop off/pick up). If a group involves 5-6 vehicles, parking requirements in the proposed code state that all cars would have to be parked on the property, not street. The applicant would have to show adequate parking for the number of clients present at the house.</i> • Hours of operation • Drop off/pick up routes • Employee limitations • Ownership is clearly defined • Expiration and non-transferability (associated to the person, not the land) • Additional review/potential conditions applied if other home occupations exist within ¼ mile. • Health/fire/building code inspections required as per business licensing standard. Property can be inspected at any time. • Revocation if standards are not being met.

RECOMMENDATION:

Public hearing was held on this item 12/19/2023 with no public comments. Staff recommends that the Planning Commission review changes made by staff after the continuation on 12/19/2023. After review of changes and adding any additional language desired by the Commission, Staff recommends that the Planning Commission forward a *positive recommendation* to the City Council to amend Title 13, Chapter 13, 76.760 and the associated Table of Allowed Uses in Title 13, Chapter 13.100.010 , of the Holladay Municipal Code, as shown in Exhibit “A,” based on the following findings:

1. Compliance with the Purpose of the Land Development Code by promoting and facilitating the orderly growth and development within the City of Holladay.
2. Compliance with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within the City of Holladay
3. Any additions or removals as specifically discussed
 - a. Can list any changes specifically in the findings if desired

STANDARDS OF CONSIDERATION, FOR or AGAINST:

13.07.030G: Approval Standards:

1. A decision to amend the text of this title or the zoning map is a matter within the legislative discretion of the city council. The city council, after reviewing the planning commission recommendation, may:
 - a. Adopt the amendment as recommended by the planning commission;
 - b. Make any revisions to the proposed amendment that it considers appropriate;

- c. Remand the proposed amendment back to the planning commission for further consideration; or
 - d. Reject the proposed amendment.
2. In reviewing a text or map amendment, the following factors should be considered:
- a. Whether the proposed amendment is consistent with goals, objectives and policies of the city's general plan;
 - b. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
 - c. The extent to which the proposed amendment may adversely affect abutting properties; and
 - d. The adequacy of facilities and services intended to serve the subject property, such as, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, environmental hazard mitigation measures, water supply, and wastewater and refuse collection.

MOTION EXAMPLES

A motion to approve or deny:

“I___Motion to forward a recommendation to the City Council to (approve, deny) the application to amend 13.100 and 13.76.760 of the City of Holladay Land Use code to allow for Home Occupations to be permitted, with standards approved by staff, based upon the following findings...”

A motion to continue:

“I___Motion to continue the application to amend 13.100 and 13.76.760 of the City of Holladay Land Use code to allow for Home Occupations to be permitted, with standards approved by staff, to the next regularly scheduled meeting”

New proposed language for home occupations. All former language to be struck out and replaced with new. See old code language at end of document.

1 **13.76.730: HOME OCCUPATION:**

2 A. Purpose: The purpose of this section is to permit the establishment of home occupations in
3 within single-family, duplex, and multi-family dwellings within zones as shown in the Table of
4 Allowed Uses (13.100.010) and ensure that the home occupations are compatible with the zone
5 in which they are located, having no negative impacts on the surrounding neighborhood. Home
6 occupations are intended to promote local and sustainable economic growth and development.

7 A. No home occupation license shall be required for businesses that:

- 8 1. Do not have customers or clients that come to the home;
- 9 2. Do not have employees who come to the home; and
- 10 3. Do not have combined offsite impacts of the home-based business and the primary
11 residential use that exceed the impact of the residential use alone.

12 **B. Home Occupations that do not comply with the standards of this section shall apply for a**
13 **Conditional Use Permit as per 13.08.040.**

14 C. Permitted Home Occupations: All home occupations not specifically listed as prohibited may
15 be permitted subject to their compliance with the standards specified in subsection D of this
16 section.

17 D. Home Occupations Prohibited: The following businesses, regardless of their conformance
18 with the standards in subsection H of this section, are prohibited as home occupations This
19 section supersedes any other allowed uses within this Title.

- 20 1. Motor vehicle repair
- 21 2. Kennels
- 22 3. Welding shops or machine shops
- 23 4. Large appliance/electronics or equipment repair or service (washers, dryers,
24 refrigerators, and other appliances or equipment that are too large to be carried in 1
25 individual's arms)
- 26 5. Truck hauling
- 27 6. Deliveries
- 28 7. Stables/Boarding
- 29 8. Bottling plant
- 30 9. Commercial bakery
- 31 10. Industrial assembly
- 32 11. Laboratory, medical, dental, optical
- 33 12. Laboratory, testing
- 34 13. Sale or repair of firearms
- 35 **14. Stocking and sale of ammunition**
- 36 15. Stock and trade
- 37 16. Tattoos and body art

39 E. Applications for home occupations shall include the following information:

- 40 1. Completed Business License Application
- 41 2. A complete description of the type of business proposed including the location of the
- 42 storage and operations area for the home occupation.
- 43 3. The expected hours of operation of the business
- 44 4. The expected number of clients per hour and total expected number of clients visiting
- 45 the home per day.
- 46 5. Drop off and pick up routes and locations
- 47 6. Location of parking for clients in relation to the nature of the business

48 F. License required: It is unlawful for any person, firm, corporation, or association to engage in a
49 "home occupation" as defined in chapter of this title without first obtaining a license pursuant to
50 the provisions of Title 5, Chapter 5.06.020 of this code. Prior to issuance of said license, the
51 criteria set forth in this title must be satisfied and all applicable fees shall be paid. All home
52 occupation permits shall be valid for one year, and may be renewed annually, provided there
53 have been no reported violations, subject to subsection J of this section.

54 G. Determination of Completeness: Upon receipt of an application for a home occupation, the
55 Business License Official shall make a determination of completeness.

56 H. Standards: All home occupations shall comply with the following standards:

- 57 1. The home occupation must be clearly incidental and secondary to the primary use of the
58 dwelling for residential purposes.
59
- 60 2. The dwelling unit must be either the primary place of residence for the person(s)
61 conducting the home occupation, or be owner occupied, with "owner occupant" defined as
62 the following:
 - 63 a. An individual who is listed on a recorded deed as an owner of the property;
 - 64 b. Any person who is related by blood, marriage, or adoption to an individual who is
65 listed on recorded deed as an owner of the property; or
 - 66 c. An individual who is a trustor of a family trust who possesses legal ownership of
67 the property.
- 68
- 69 3. The area of the residence used for home occupations shall remain in character with the
70 rest of the home except for minor renovations necessary to conduct an approved home
71 occupation.
72
- 73 4. The home occupation shall not be conducted in, nor in any way use, a carport, or any
74 portion of the yard. A home occupation may use a garage or other fully enclosed accessory
75 structure provided all other standards in this section are met. A home occupation may not
76 eliminate or occupy required parking areas for a dwelling within a garage. A home
77 occupation license to distribute produce grown on the premises for off-premises sales may
78 be conducted in the rear yard and include the use of accessory buildings but may not
79 occupy required parking areas; Home occupation work conducted at the residence shall not
80 involve more than one employee from outside of the home. Persons lawfully living in the
81 residence may be employed;
82
- 83 5. Except for the applicant's personal transportation, there shall be no vehicles or equipment
84 stored outdoors, which would not normally be found at a residence. Service vehicles which
85 double as a personal vehicle such as taxicabs, limousine, or other vehicles used for mobile

86 businesses and used for off-site services may only be parked on-site in a legal parking
87 area;

- 88
- 89 6. Delivery of merchandise, goods, or equipment, to the site of the home occupation, shall be
90 made by a vehicle typically employed in residential deliveries. No deliveries to the site of
91 the home occupation by semi-tractor/trailer truck shall be permitted. Loading and deliveries
92 to the site of the home occupation shall be limited to the hours of eight o'clock (8:00) A.M.
93 and six o'clock (6:00) P.M.;
- 94
- 95 7. Tools, items, equipment shall be limited to those that are commonly associated with a
96 residential use or are customary to home crafts. Tools, items, equipment, or occupations
97 which are offensive or noxious by reason of the emission of odor, smoke, gas, fumes, dust,
98 vibration, magnetic or electrical interference, noise, or other similar impacts extending
99 beyond the property line of the lot where the occupation is located, are prohibited.
100 Operations should not violate noise ordinance as ordinances detailed in City of Holladay
101 Code Title 9, Chapter §9.48.
- 102
- 103 8. Stock in trade, inventory or other merchandise shall be allowed to be kept only in the
104 interior space of the dwelling; "Stock in trade" being an item offered for sale which was not
105 produced on the premises.
- 106
- 107 9. No outdoor storage is permitted in conjunction with the occupation other than produce for
108 off premises sales, outlined in subsection H4 of this section;
- 109
- 110 10. Customers/Clients shall be allowed at the residence only if scheduled on an appointment
111 basis and are only allowed between the hours of seven a.m. and ten p.m. Group lessons
112 or sessions shall not exceed six people at a time.
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- 114 11. In addition to the parking spaces required for the residents of the dwelling, parking for
115 clients and for an employee, if allowed under subsection (E) above, must be provided in the
116 driveway or garage. On-street parking may be approved by the Community and Economic
117 Development Director under circumstances where on-site parking creates a safety issue or
118 is in conflict with property access and use. On-street parking proposals may not exceed
119 one vehicle space and must be located immediately in front of the residence or within 200
120 feet of the residence. Off-site parking agreements may be utilized to fulfil parking
121 requirements. Temporary exceedance of allowed parking on-site may only occur twice
122 within a single calendar month.
- 123
- 124 12. Stock in trade, and/or direct retail sales are prohibited. Incidental or secondary sales
125 ensuing from the services provided in conjunction with the home occupation are permitted.
126 Commodities produced on the premises may be sold on the premises only under the
127 conditions of this title.
- 128
- 129 13. The premises of a home occupation may be inspected during reasonable business hours to
130 determine compliance with the provisions of this title.
- 131
- 132 14. If additional home occupations are being conducted within ¼ mile at the time of application,
133 additional conditions to mitigate increased traffic or other potential impacts in the area may
134 be applied by the Community and Economic Development Director.

135 I. Decision By The Community and Economic Development Director: The Community and
136 Economic Development Director shall issue a permit for the home occupation if they find that:

- 137 1. The provisions of this title are satisfied;
- 138 2. The home occupation will be in keeping with the character of the neighborhood and
139 will not adversely affect the desirability or stability of the neighborhood;
- 140 3. The home occupation does not diminish the use and enjoyment of adjacent
141 properties or create an adverse parking impact on adjacent streets or properties;
- 142 4. The home occupation will not negatively impact the future use of the property as a
143 residence;
- 144 5. The home occupation will not adversely affect the public health, safety or welfare;
145 and
- 146 6. The home occupation conforms with all fire, building, plumbing, electrical and health
147 codes.

148 J. Loss Of Home Occupation Use: The Community and Economic Development Director may
149 terminate any home occupation use upon making findings that support either or both of the
150 following conclusions:

- 151 1. Any of the required licenses or permits necessary for the operation of the business
152 have been revoked or suspended; or
- 153 2. Any of the provisions of this title have been violated.

154 K. Termination of Home Occupation:

- 155 1. The licensee shall be responsible for the operation of the licensed premises in
156 conformance with this code. Any business license issued by the city may be suspended
157 or revoked per the provisions of Title 5, Chapter 5.10.020 of this code.

158 L. Appeals:

- 159 1. Any termination of a home occupation may be appealed pursuant to the provisions of
160 Title 5, Chapter 5.11.050 of this code as if the termination were a business license revocation.
- 161 2. Any person adversely affected by the denial or issuance of a permit for a home
162 occupation may appeal that decision to the appeals hearing officer pursuant to Chapter
163 5.11.010 of this title.

164 M. Existing Home Occupation Licenses: Existing licenses for home occupations which were
165 legal under the prior zoning ordinance regulating home occupations but which are not permitted
166 under this title are subject to the following:

- 167 1. May continue in operation, subject to the approved conditions of their conditional use
168 permit.
- 169 2. Shall discontinue operation upon transfer of ownership of the property. Any new
170 owner shall reapply for a Home Occupation Permit under the provisions of this section.

171 N. Non-transferability: Permits for home occupations are personal to the applicant, non-
172 transferable and do not run with the land.

173 13.100.010: TABLE OF ALLOWED USES:

174 Zone Reference
 175 FR: Forestry and Recreation, R-1: Residential Single-family, R-2: Residential Two-family, R-M: Multiple
 176 Family Residential, PO: Professional Office, HCR: Holladay Crossroads, ORD: Office, Research Park, and
 177 Development, P: Public, RO: Residential Office, NC: Neighborhood Commercial, C-1: Commercial, C-2:
 178 Commercial, HV: Holladay Village, R/M-U: Regional Mixed-Use, LU: Limited Use

Use	All FR Zones	R-1-4, R-1-8, R-1-10, R-1-15	R-1-2 1, R-1-4 3, R-1-8 7	R-2- 8/ R-2-10	R-M	PO	HCR	O-R-D	P	RO	NC	C-1	C-2	H V	R/M-U	L U
Home occupation	P ⁵	P ⁵	P ⁵	P ⁵	P ⁵	-	P ⁵	P ⁵	-	-	-	-	-	-	-	-

179 5. See section 13.76.730, "Home Occupation", of this title.

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182 **5.54.010: HOME OCCUPATIONS DEFINED:**

183 Home Occupation License, Non-Regulated: Add Definition

184 Home Occupation License, Regulated: See 13.76.760: Home Occupation

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CURRENT HOLLADAY CODE

13.76.730: HOME OCCUPATION:

A. The business activity must be conducted entirely within a dwelling and carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or property for residential purposes.

B. No home occupation license shall be required for businesses that:

1. Do not have customers that come to the home;
2. Do not have employees who come to the home; and

3. Do not have combined offsite impacts of the home based business and the primary residential use that exceed the impact of the residential use alone.

C. There shall be no display of merchandise nor stock in trade, "stock in trade" being an item offered for sale which was not produced on the premises.

D. The business shall not include the sale of commodities except those produced on the premises.

1. Original or reproductions of works of art designed or created by the artist operating a home occupation may be stored on the premises. "Reproductions of works of art" include such items as printed reproductions, casting and sound recordings.

2. Commodities produced on the premises may be sold on the premises if the Planning Commission grants a conditional use permit for customers coming to the home.

E. The home occupation shall not involve the use of an accessory building or yard space or activity outside the main building.

F. The Community Development Director shall determine whether additional parking, in addition to the requirements of [chapter 13.80](#) of this title is required for a home occupation and shall also determine the number and location of such additional parking spaces. (Ord. 2017-17, 6-15-2017)