

Advisory Opinion 305

Parties: Kayla and Logan Iverson, Ogden City

Issued: June 6, 2025

TOPIC CATEGORIES:

Compliance with Land Use Regulations

Interpretation of Ordinances

Requirements Imposed on Development

Entitlement to Application Approval

The property owners applied for a home occupation business license to conduct ceramics classes in their attached garage. The City denied the application, arguing the garage is an accessory building where home occupations are not allowed. However, the City Code defines a structurally connected garage as part of the dwelling. Because the Code does not plainly prohibit the proposed use and contains ambiguous language, state law requires interpreting the Code in favor of the property owner. Therefore, the application complies with zoning regulations and must be approved.

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ADVISORY OPINION

Advisory Opinion Requested by:	Iverson Ceramics
Local Government Entity:	Ogden City
Property Owner:	Kayla and Logan Iverson
Type of Property:	Residential
Date of this Advisory Opinion:	June 6, 2025
Opinion Authored By:	Marcie M. Jones, Attorney Office of the Property Rights Ombudsman

Issue

Does the application for a home occupation business license comply with the zoning regulations of the city code?

Summary of Advisory Opinion

The property owners seek a business license to operate an art studio from their attached garage where they occasionally teach small ceramics classes. The City Code includes provisions regarding home occupations that are not entirely clear when read as a whole. Because one interpretation clearly allows such use, and ambiguity in zoning ordinances must be interpreted in favor of the property owner, the proposed use must be allowed.

Although the City contends that the garage qualifies as an accessory building and therefore may not be used for a home occupation, the City Code does not plainly prohibit a home occupation in an attached garage. As such, the City must approve the application.

Evidence

The following documents and information with relevance to the issue involved in this Advisory Opinion were reviewed prior to its completion:

1. Request for Advisory Opinion submitted by Amy Thompson on behalf of Kayla and Logan Iverson (Iverson Ceramics), with attachments, received April 15, 2024; and
2. Response from Ogden City received June 21, 2024.

Background

Kayla and Logan Iverson (the Property Owners) operate a ceramics studio in their attached garage. The garage, which includes an electric kiln and folding tables and chairs, is used both for personal art creation and for holding small ceramics classes. It shares a roof and wall with the main residence and is thus structurally connected.

In 2019, the Property Owners obtained an electrical permit from Ogden City (the City) to upgrade an outlet in their garage for the kiln. Following that upgrade, they report having spoken with city staff who indicated that a business license was not necessary for holding ceramics classes in their home studio.

Five years later, in 2024, the City became aware of the use after receiving neighbor complaints. A Code Officer informed the Property Owners that they were in violation of the City Code for operating without a home occupation business license.

The Property Owners suspended the ceramics classes and applied for a home occupation business license. After extended discussions, the City denied the application, asserting that the proposed use did not conform to land use regulations. The Property Owners maintain that the City has misinterpreted the applicable code provisions and that their proposed use is lawful.

The Property Owners have therefore requested this Advisory Opinion to answer whether their home occupation business license application complies with the applicable City land use regulations.

Analysis

The City maintains the applicable land use ordinances do not permit the home occupation of ceramics classes in the garage for two reasons:

- (1) home occupations must take place within a dwelling and cannot be in an accessory building, and
- (2) a garage that does not house vehicles and is used to conduct business is an accessory building.

The City relies on the following definitions for their interpretation:

- **HOME OCCUPATION:** The use of a portion of a dwelling as an office, studio or workroom for occupations which are customarily conducted in the home that are incidental to the primary use as a home or residence; provided additionally, that: a) the occupation is limited to members of the family who reside on the premises; b) such occupation shall not require

interior or exterior alterations; c) the occupation shall not include the sale of commodities which are not produced on the premises; and d) *the occupation shall not use any accessory buildings, yard or any space outside of the main building not normally associated with residential use* (it may include child daycare of not more than 8 children or preschool of not more than 8 children); and e) wholesale and/or retail sales of commodities are not permitted directly from the home. CITY CODE § 15-5-9 (emphasis added).

- **BUILDING, ACCESSORY:** A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building. CITY CODE § 15-2-3.
- **GARAGE, PRIVATE:** An enclosed space or accessory building for the storage of one or more motor vehicles; provided, that no business, occupation or service is conducted for profit therein, nor space therein for more than one car is leased to a nonresident of the premises. A garage shall be considered part of the dwelling if the garage and dwelling have a roof or wall in common, or are connected structurally by a physical connection such as a wall, trellis or solid fence. CITY CODE § 15-2-8.

Note that under Utah law, when interpreting ordinances, any ambiguity must be resolved in favor of the property owner. For instance, “if a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.” UTAH CODE § 10-9a-306(2). Also “We read the plain language of the ordinance as a whole and interpret its provisions in harmony with other ordinances in the same chapter and related chapters.” *Springville Citizens for a Better Cmty. v. City of Springville*, 1999 UT 25, ¶ 29, 979 P.2d 332. *See also*: *LPI Servs. v. McGee*, 2009 UT 41, ¶ 11, 215 P.3d 135; *Miller v. Weaver*, 2003 UT 12, ¶ 17, 66 P.3d 592. Furthermore, “Land use ordinances must be liberally construed in favor of the property owner due to their restrictive nature on property rights.” *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602.

The City contends that the garage is an accessory building and therefore not eligible for use as a home occupation. The City’s first point—that home occupations may not occur in accessory buildings—is supported by the ordinance. City Code Section 15-5-9 clearly states that a home occupation “shall not use any accessory buildings.”

However, the City’s second point—that the garage qualifies as an accessory building—is less clear. The definition of GARAGE, PRIVATE states that a garage “shall be considered part of the dwelling if the garage and dwelling have a roof or wall in common, or are connected structurally.” Here, the garage is structurally connected, which satisfies this definition. Therefore, by ordinance, the garage is part of the dwelling.

The City’s counterargument hinges on the same provision, which defines a private garage as “an enclosed space or accessory building not used for profit.” The City interprets this to mean that any profit-generating use converts the garage into an accessory building. However, this interpretation is unsupported by the text and contradicts the provision’s unambiguous language identifying structurally connected garages as part of the dwelling. The Code contains no clear directive stating that converting a garage to profit-making use alters its classification. There is no express language indicating that “attached garages used for profit are considered accessory buildings.”

The City further argues that the garage is “not normally associated with residential use.” However, garages are widely accepted as part of residential use—particularly when structurally integrated.

Similarly, the definition of BUILDING, ACCESSORY is described as a structure “the use of which is customarily incidental to that of the main or principal building.” The City maintains that the garage use is incidental to the main or principal dwelling. While plausible, this narrow interpretation is not otherwise supported by the ordinance, and it does not override the express definition in City Code Section 15-2-8 that attached garages are part of the dwelling.

The City Code includes contradictory language. One section plainly states that a structurally connected garage is considered part of the dwelling, while others suggest that perhaps garages used for profit may not be permissible for home occupations. Where there is contradiction or ambiguity, state law requires interpretation in favor of the applicant.

Key terms such as “residence,” “residential use,” and “dwelling” are not defined in the relevant City Code or under state law. This, combined with the contradictory language, creates ambiguity. While some provisions could be interpreted as supporting the City’s denial, others—particularly the definition stating a garage “shall be considered part of the dwelling” when structurally connected—support the Property Owners’ position.

Ambiguity in land use regulations must be interpreted liberally in favor of allowing the proposed use. Because the City Code does not plainly prohibit the proposed use in this case, and because there is clear support for classifying the garage as part of the dwelling, the application for a home occupation business license complies with zoning regulations and the City must approve the application.

Conclusion

The property owners applied for a home occupation business license to conduct ceramics classes in their attached garage. The City denied the application, arguing the garage is an accessory building where home occupations are not allowed. However, the City Code defines a structurally connected garage as part of the dwelling. Because the Code does not plainly prohibit the proposed use and contains ambiguous language, state law requires interpreting the Code in favor of the property owner. Therefore, the application complies with zoning regulations and must be approved.

Jordan S. Cullimore, Lead Attorney
Office of the Property Rights Ombudsman

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While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

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