

SECTION 28

HOME OCCUPATIONS

Section

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20-28-1: **PURPOSE:** The purpose of this Section is to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing land use harmony and compatibility, and the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

20-28-2: **APPLICATION:** Subject to the Non-Conforming Use Section and other applicable provision of this Chapter, all occupations conducted in the home shall comply with the provisions of this Chapter. This Section shall not be construed, however, to apply to home occupations related to farming.

20-28-3: **PROCEDURES AND PERMITS:**

- A. Permitted Home Occupation: Any permitted home occupation as defined in this Section shall require a "permitted home occupation license". Such license shall be issued subject to the conditions of this Section, other applicable City Code provisions and State law. This license may be issued by the Zoning Administrator based upon proof of compliance with the provisions of this Section. Application for the permitted home occupation license shall be accompanied by a fee as adopted by City Council resolution. If the Zoning Administrator denies a permitted home occupation license to an applicant, the applicant may appeal the decision to the Board of Adjustment and Appeals, which shall make the final decision. The license shall remain in force and effect until such time the activity has ceased for a period of one (1) year, there has been a change in conditions or violation, there is a change of occupancy on the property. or until such time as the provisions of this Section have been changed. At such time as the Zoning Administrator has reason to believe that an event has taken place which violates the intent of this Chapter, a public hearing shall be held before the Planning

Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the license.

- B. Special Home Occupation: Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a "special home occupation license" which shall be applied for, reviewed and disposed of in accordance with the procedural provisions of Section 4 of this Chapter.
- C. Declaration of Conditions: The City Council may impose such conditions on the granting of a "special home occupation license" as may be necessary to ensure compatibility and to carry out the purpose and provisions of this Section.
- D. Effect of Permit: A "special home occupation license" may be issued for a period of one (1) year after which the license may be reissued for periods of up to three (3) years each. Each application for license renewal shall be processed and subject to the approval of the Zoning Administrator, except in cases where written complaints have been received concerning the operation or where there has been a change in conditions or violation, a renewal shall be processed in accordance with the procedural requirements of the initial special home occupation license.
- E. Lapse of Special Home Occupation License by Non-Use: Whenever within one (1) year after granting a license, the use as permitted by the license shall not have been initiated, or when the activity as allowed by the special home occupation license has been discontinued for more than one (1) year, then such license shall become null and void unless a petition for extension of time has been granted by the City Council. Such extension shall be requested in writing and filed with the City at least thirty (30) days before the expiration of the original license. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
- F. Reconsideration: Whenever an application for a license has been considered and denied by the City Council, a similar application for a license affecting the same property shall not be considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial unless a decision to reconsider such matter is made by not less than four-fifths (4/5) vote of the entire City Council.
- G. Renewal of License: An applicant shall not have a vested right to a license renewal by reason of having obtained a previous license. In applying for and accepting a license, the license holder agrees that the monetary investment in the home occupation will be fully amortized over the life of the license and that a license renewal will not be needed to amortize the investment. Each application for the renewal of a license will be reviewed without taking into consideration that

a previous license has been granted. The previous granting or renewal of a license shall not constitute a precedent or basis for the renewal of a license.

20-28-4: **REQUIREMENT; GENERAL PROVISIONS:** All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.

A. General Provisions:

1. No home occupation shall produce light, glare, noise, fumes, odor, or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
2. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties. No equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the voltage off the premises.
3. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, not more than ten (10) percent of the floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation. It shall not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
4. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
5. There shall be no exterior storage of equipment or materials used in the home occupation, except personal vehicles used in the home occupation which comply with applicable provisions of this Chapter may be parked on the site.
6. The home occupation shall meet all applicable fire and building codes.
7. There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of directional and identification/business signs to the extent authorized by the provisions of Section 37 of this Chapter.
8. All home occupations shall comply with the provisions of the City Code.
9. No home occupation shall be conducted between the hours of 10:00 PM and 7:00 AM unless approved by the City Council and said occupation is

contained entirely within the principal building and will not require any on-street parking facilities.

10. Home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen (15) feet from the curb line or edge of paved surface.

15 11. No home occupation (permitted or special) shall involve any of the following: body shops, welding, ammunition manufacturing, flea markets, motor vehicle sales or repairs, massage or escort business or other adult oriented businesses as defined by this ordinance, or other objectionable uses as determined by the City Council.

15 12. A maximum of one (1) full-time employee, or equivalent, other than those persons who customarily reside on the premises shall be employed. This provision shall not apply where the home occupation is a meeting place for employees and the work is done off-premise.

15 13. All home occupations shall be conducted entirely within the principal building, including attached garage, except that not less than two hundred (200) square feet of floor area in such garage shall be reserved for the parking of vehicles. In no case shall home occupations be conducted in a detached accessory building.

15 B. Requirements, Permitted Home Occupation:

1. Permitted home occupations include and are limited to: art studio, dressmaking, secretarial services, family day care, foster care, offices, teaching with musical, dancing and other instructions which consist of no more than one (1) pupil at a time, and similar uses.

2. The permitted home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than found in a home; teaching which customarily consists of more than one (1) pupil at a time; over the counter sale of merchandise produced off the premises.

15 C. Requirements, Special Home Occupation:

1. Examples of special home occupations include: barber and beauty services, day care-group nursery, photography studio, group lessons, saw sharpening, small appliances and small engine repair, and the like.

2. The special home occupation may involve any of the following: stock-in trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a

home, the teaching with musical, dancing and other instruction of more than one (1) pupil at a time.

20-28-5: **NON-CONFORMING USE:** Existing home occupations lawfully existing on the effective date of this Chapter may continued as non-conforming uses. They shall, however, be required to obtain licenses for their continued operation. Any home occupation that is discontinued for a period of more than one hundred eighty (180) days, or is in violation of the provisions of the Ordinance under which it was initially established, shall be brought into conformity with the provisions of this Section.

20-28-6: **INSPECTION:** The City hereby reserves the right upon issuing any home occupation license to inspect during reasonable hours, without notice, the premises in which the occupation is being conducted to ensure compliance with and provisions of this Section or any conditions additionally imposed.

¹⁵ 20-28-7: **REVOCATIONS:**

- A. Permitted and special home occupation business licenses shall remain in effect until:
1. Such time as the business is not in compliance with any portion of this ordinance, any other applicable city ordinance, or any applicable state or federal statute, rule or regulation.
 2. Such time as there is any violation of the terms and conditions of license approval.
 3. Such time as there is any change in the conditions of operation of the business as it was originally approved; including any change in the nature of the business, any substantial change in the extent of business, any substantial change in the extent of business operations, any significant expansion of business facilities, or any other circumstances related to the business which have the potential to significantly effect surrounding properties, or which may pose a threat to the health, welfare or safety of the general public.
 4. Such time as the license expires. At such time that the City has cause to believe that any of the events listed in 1, 2 or 3 above have taken place, the City shall immediately notify the license holder of the allegations of violation and the necessary corrections required to bring the license into compliance.