

## Section 51: Home Occupation Permits

### SECTION 51:

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**51.01 Purpose.** The purpose of this Section is to prevent competition with business districts and to provide a means through establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhoods. In addition, this Section is intended to provide a mechanism enabling the distinction between those home occupations having a minimal or no secondary impact and those which have the potential for adverse effects upon surrounding properties so that Permitted Home Occupations may be allowed through an administrative process rather than an interim use process.

**51.02 Application.** Subject to the non-conforming use provision of this Section, all home occupations shall be further defined to distinguish Permitted Home Occupations from Interim Home Occupations. Accordingly, all home occupations which satisfy the permitted home occupation criteria, shall be considered as a permitted accessory use in all residential zoning districts. Home occupations which fail to satisfy the permitted home occupation criteria shall require an Interim Use Permit, as provided in Section #11 (Interim Use Permits), and may be located in any residential zoning district based upon conditions set forth in the approved Interim Use Permit. This Section shall not be construed, however, to apply to home occupations accessory to farming.

### **51.03 Definitions.**

**Subd. 1.** Permitted Home Occupation. A Permitted Home Occupation is an occupation or profession engaged in by the occupant of a residential dwelling unit which is clearly incidental and secondary to the residential use and does not change the nature of the residential use. It shall have no exterior evidence of the occupation, except an exterior sign as permitted in Section #53 (Signs), no significant increase in traffic or demand for parking, no significant increase in levels of noise, air, or other pollution, and no persons employed in the business who do not reside in the dwelling. It may have only limited retail sales activity.

**Subd. 2.** Interim Home Occupation. An Interim Home Occupation is an occupation or profession engaged in by the occupant of a residential

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dwelling unit which is secondary to the residential use and does not change the nature of the residential use but may have a minimal exterior indication of the business use. This type of home occupation may involve employees and a minimal increase in traffic and demand for parking. Interim Home Occupations shall be subject to additional restrictions and conditions to minimize the effect of this use on neighboring residential property.

### 51.04 General Provisions.

- Subd. 1.** All home occupations (permitted and interim) shall comply with the following requirements and general provisions:
- A. Hazards. No home occupation shall constitute a fire hazard to neighboring residences, adversely affect neighboring property values, or constitute a nuisance or safety hazard.
  - B. Interference. No home occupation shall produce traffic, noise, light, glare, odor, electrical interference, vibration, or dust that will in any way have an objectionable effect upon adjacent or nearby property or right-of-way.
  - C. Adverse Impact On Governmental Facilities. No home occupation shall adversely impact governmental facilities and services, including roads, sanitary sewers, water, storm drainage, garbage service, police service, and fire service.
  - D. Adverse Affect On Environmental Features. No home occupation shall adversely affect sensitive environmental features, including lakes, surface water and underground water supply and quality, wetlands, slopes, floodplains and soils, or other factors as found relevant by the City.
  - E. Hazardous Materials. No home occupation shall involve the use of hazardous materials or activities.
  - F. Prohibited Businesses. No home occupation shall involve any of the following: body shops, welding, ammunition manufacturing, flea markets, Sexually Oriented Business, or other objectionable uses as determined by the City Council.
  - G. Alterations. No home occupation shall require internal or external alterations or involve construction features not customarily found in residential dwellings.

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- H. Exterior Storage. There shall be no exterior storage of equipment or materials used in the home occupation except that personal automobiles used in the home occupation may be parked on site.
- I. Signs. Signs pursuant to Section #53 (Signs) shall be permitted.
- J. Nuisance Ordinances. All home occupations shall comply with the provisions of City nuisance ordinances.
- K. Additional Driveway. No home occupation shall cause or create the need for an additional driveway access to the property.
- L. Inspections. The City may at any reasonable time inspect the home occupation to determine whether the applicant is strictly adhering to the criteria for a home occupation.
- M. Update Information. Recipients of either a Permitted Home Occupation Permit or Interim Home Occupation Permit are required to notify the City of any substantial changes to their business including, but not limited to, change in nature or type of business, contact information, and location.

**Subd. 2.** Permitted Home Occupations shall comply with the following additional requirements and general provisions:

- A. Employees. No person other than those who customarily reside on the premises shall be employed by the Permitted Home Occupation.
- B. Delivery Vehicles. No Permitted Home Occupation shall be serviced by delivery vehicles which do not customarily service residential areas.
- C. Parking. Permitted Home Occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway or on accessory paved parking areas on site.

**Subd. 3.** Interim Home Occupations shall comply with the following additional requirements and general provisions:

- A. Hours. Interim Home Occupations shall have outside employees and/or customers between the hours of 7:00 a.m. and 10:00 p.m. only.

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- B. On-street Parking. Interim Home Occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such case where on street parking facilities are necessary, however, the Council shall maintain the right to establish the maximum number of on-street parking spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.
- C. Code Compliance. Interim Home Occupations must comply with all building, electrical, mechanical, and fire codes governing the use in a residential occupancy.

### 51.05 Procedures and Permits.

#### **Subd. 1.** Permitted Home Occupation Permits.

- A. Administrative Permit. Any Permitted Home Occupation shall require an administrative permit. Such permits shall be issued subject to the conditions of this subsection, other applicable City Ordinances, and State law. This permit may be issued by the Zoning Administrator or her agent based upon proof of compliance with the provisions of this subdivision. An application for a Permitted Home Occupation Permit shall be accompanied by a fee as established by City Council Resolution. The Zoning Administrator may impose such conditions on the granting of a Permitted Home Occupation Permit as may be necessary to carry out the purpose of the provisions of this Section.
- B. Appeal. If the Zoning Administrator denies a permitted home occupation permit to an applicant, or imposes conditions which are disagreeable to the applicant, the applicant may appeal the decision to the Planning Commission. The Planning Commission shall make a report and recommendation to the City Council, which shall make the final decision.

#### **Subd. 2.** Interim Home Occupation Permits.

- A. Interim Use Permit. Any home occupation that does not comply with the requirements for a Permitted Home Occupation shall require an Interim Use Permit. An application for an Interim Home Occupation Permit shall be handled in accordance with the procedural provisions of Section #11 (Interim Use Permits) of this Ordinance.
- B. In addition, an Interim Home Occupation Permit shall only be

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granted if the following conditions are met:

- i) No Adverse Effect on Neighborhood. The City Council finds that all home occupation activity occurring on the premises shall not cause any adverse changes to the residential character of the neighborhood;
- ii) Screening of Exterior Changes. The City Council finds that any exterior changes necessary to conduct the home occupation are sufficiently screened, properly designed, or separated by distance so as to be consistent with the existing adjacent residential uses and compatible with residential occupancy;
- iii) Interior Changes. The City Council finds that any interior changes necessary to conduct the home occupation comply with all building, electrical, mechanical, and fire codes governing the use in a residential occupancy and do not limit future residential use; and
- iv) Traffic. The City Council finds that the traffic generated by the home occupation involves only vehicles of the type that typically service single family residences and that such traffic constitutes neither a nuisance nor a safety hazard.

- C. Lapse of Interim Home Occupation Permit by Non-Initiation. Whenever within 1 year after granting a permit the use as permitted by the permit shall not have been initiated, such permit shall become null and void unless a petition for an extension of time has been granted by the City Council. Such petition shall be required in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original permit. There shall be no charge for filing of such petition. The petition 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.

### **Subd. 3.** Procedural Provisions for Both Permitted and Interim Home Occupation Permits:

- A. Duration. Any permit issued shall remain in full force and effect for such time as set forth in the approved Interim Use permit or such time as there has been a change in conditions or the provisions of this subdivision have been breached, whichever is earlier. At such

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time as the City has reasons to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The Planning Commission shall then make a report and recommendation to the City Council. The City Council shall make a final decision on whether or not the permit holder is entitled to the permit.

- B. Lapse by Non-Use. Home Occupation Permits shall terminate if, for any reason, the authorized use ceases for more than 6 months.
- C. Transferability. Home Occupation Permits shall not run with the land and shall not be transferable.
- D. Reconsideration. Whenever an application for a permit has been considered and denied by the Zoning Administrator and/or City Council, a similar application for a permit affecting substantially the same property shall not be considered again for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council.