



RULE INTERPRETATION DETERMINATION

Determination #: 2020-002

Title: Home Occupations

Drafted by: Land Development Division, Zoning Section

Rule in Question: Section 35-378 "Home Occupations"

Department Action: This RID is for clarification purposes and includes a suggested UDC Amendment. The Director concurs with staff's position regarding activities that can be classified as a home occupation.

Michael Shannon, CBO
Development Services Director

4/6/2020
Date

Effective Date of Determination: Immediately

Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.

Staff Analysis:

The Unified Development Code defines Home Occupations in 35-A101 as any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit. Additionally, the Code regulates home occupations in Section 35-378, which are as follows:

Sec. 35-378 - Home Occupations.

(a) General Requirements. Home occupations are permitted in any dwelling unit subject to the following provisions:

(1) The appearance of the dwelling unit shall not be altered nor shall the home occupation be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials,

construction, lighting, signs, increased traffic or the emission of odors, sounds, or vibrations. The city's noise and nuisance regulations are also applicable.

(2) No outdoor display of goods or outdoor storage of equipment or materials used in the home occupation shall be permitted.

(3) The home occupation shall not involve the use of advertising signs on the premises or any other advertising media which calls attention to the fact that the dwelling unit is being used for a home occupation, with the exception of a telephone number listing. One (1) nameplate not exceeding one (1) square foot in area shall be allowed provided the nameplate is nonilluminated and attached flat to the dwelling unit or visible through a window.

(4) The home occupation shall be conducted solely by resident occupants of the dwelling unit. No person not permanently residing on the premises shall be employed for hire or as a volunteer.

(5) The home occupation shall be conducted entirely within the dwelling unit except for those necessary outdoor activities related to the care of children. No more than twenty-five (25) percent of the gross area of the dwelling unit shall be used for the home occupation. Use of accessory buildings, garages, or carports for a home occupation is prohibited.

(6) The use of electrical or mechanical equipment that would change the fire rating of the dwelling or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited.

(7) The home occupation shall not involve the use of commercial vehicles for delivery of materials to and from the premises.

(8) No direct on-premises selling of goods shall be allowed; however, telephone soliciting is permitted.

(9) No certificate of occupancy is required for a home occupation.

(b) Prohibited Uses. The following uses are prohibited as home occupations:

(1) Vehicle painting, service, or repair.

(2) Barber and beauty shops; however, both beauty shops and barber shops are permitted as a specific use permit.

(3) Animal hospitals, kennels, stables, hospitals, or obedience/training schools.

(4) Restaurants, catering, or the preparation of food for resale.

(5) Furniture repair or upholstering.

(6) Teaching of music, art, dance, or exercise classes to more than two (2) students at any one time.

The current regulations dealing with home occupations are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in

the home. Regulations can properly limit these activities so they can take place in a residential structure without changing the character of the neighborhood or the structure.

Direct on-premise selling of goods implies that sales transactions occur at the site where the product or good is located. Technology has evolved to allow sales transactions to be conducted outside of the home, such as over the internet (i.e. Paypal, Amazon, Facebook Marketplace, etc) or through mail order. The code provisions for home occupations should be clarified to allow activities resulting in a sales transaction and transfer of goods that takes place off premises.

Staff Position and Interpretation:

It is staff's position that the UDC should be amended to allow a Home Occupation as a use allowing for home based businesses where sales transactions are conducted through the internet or by mail order but precludes on premise transfer of goods. Section 35-378 "Supplemental Use Regulations – Home Occupations" should be updated to clarify the allowance for internet or mail order sales for home based businesses.

Future UDC Amendments: Staff recommends the following amendments:

The purpose of regulating home occupations is to properly limit activities so they can take place in a residential structure without changing the character of the neighborhood or the structure. Section 35-378 (b) outlines certain activities prohibited as home occupations.

To clarify previous interpretation of the provisions of UDC Section 35-378 to preclude the transfer of goods from the home, regardless of the location of the actual sales transactions, Section 35-378 (a)(8) is updated as follows:

(8) No direct on-premises selling or transfer of goods shall be allowed; however, telephone, internet, or mail order soliciting and sales is permitted. Direct on-premises selling is defined as the sales, exchange or transfer of products with direct contact on the premises with a buyer.