

5-1D-8 HOME OCCUPATIONS:

5-1D-8 (1) Definition: "Home Occupations" means any business, profession, occupation or trade conducted for gain or support within a residential building or an accessory structure thereto, which is incidental and secondary to the use of such a building for dwelling purposes and which does not change the essential residential character of such building.

5-1D-8 (2) Home Occupations Inspector. There is hereby created the position of Home Occupations Inspector and this position shall be discharged by the City Manager. The Home Occupations Inspector is hereby given the authority to enforce this Ordinance. The powers of the Home Occupations Inspector shall include but not be limited to:

- a. The authority to issue a misdemeanor citation for a violation of this Ordinance and to issue a municipal infractions citation or a notice to abate nuisance for a violation of this Ordinance.
- b. The authority to inspect residential real estate for the enforcement of this Ordinance.
- c. The authority to determine that the particular use of a residence comes within one of the exceptions to this Home Occupation Ordinance under 5-1D-8-(3); and the authority to grant or deny an application for a home occupation permit.
- d. The authority to make a redetermination of a decision made under 5-1D-8-(3).

5-1D-8 (3) Exceptions. Notwithstanding the definition of home occupations set forth above, certain occupations that are pursued partially or entirely in a district zoned R-1, R-2, R-3 and A-1 may be excluded from the requirements and regulations of this Ordinance by determination of the Home Occupations Inspector. Those occupations that may be excluded from the operation of this Ordinance are:

- a. McNess dealers
- b. Amway dealers
- c. Avon dealers
- d. Mary Kay products dealers
- e. Home Interior salespersons
- f. Insurance salespersons
- g. Sewing and alterations
- h. Seed corn or agricultural products
- i. Salesperson
- j. Woodworking
- k. Catering from the home and home baking

1. Any other home occupation which the Home Occupations Inspector has determined has such an insignificant impact on the neighborhood that it may be exempt from the requirement to apply for and obtain a Home Occupations Permit.

The Home Occupations Inspector, in making his determination to exempt an occupation from the operation of this Ordinance shall, take into consideration whether the home occupation and residence substantially complies with the requirements of 5-1D-8-(7) (a through j); and, the Home Occupations Inspector shall also consider the comments of neighbors within 200 feet of the premises in question.

5-1D-8 (4) Permit Required.

a. It shall be unlawful for any person to carry on a business, profession, occupation or trade at a residence in an area of the City zoned R-1 or R-2 or R-3 or A-1, unless the person has applied for and received a permit to do so or has obtained an exemption under 5-1D-8-(3) from the Home Occupations Inspector. Each day that this Ordinance is violated shall be a separate violation of this Ordinance.

b. It shall be unlawful for a title holder to real estate to knowingly allow a person to use the real estate for a home occupation in violation of this Ordinance after title holder has received written notice from the Inspector that the real estate is being used in violation of this Ordinance and seven days have elapsed from the receipt of that notice.

c. It shall be unlawful for anyone who is granted a permit to carry on a Home Occupation to violate any of the rules and regulations set forth at Section 5-1D-8-(7) of this Ordinance and of the Municipal Infractions Ordinance.

5-1D-8 (5) Penalty. Each violation of this Ordinance shall create a simple misdemeanor.

(Ord. 991, Passed April 19, 2004)

5-1D-8 (6) Nuisance. In addition, any violation of this Ordinance may be subject to abatement as a nuisance under Title 3 Chapter 2 of the Code of Ordinances.

5-1D-8 (7) General Regulations. It shall be unlawful to operate a business, profession, occupation or commercial activity within a district zoned R-1, R-2, R-3, or A-1 unless the person operating the business complies with the following regulations:

A. The business, profession, occupation or activity shall employ only members of the immediate family living within the dwelling. No more than one person other than a member of the family may be employed on a temporary basis and such employees shall be limited to a total of not more than thirty (30) individual days in any twelve (12) month period for all the employees' combined time.

(Ord. 774, 1-6-92)

B. The Home Occupation shall be conducted entirely within the principal dwelling unit or permitted accessory building.

C. A Home Occupation shall not occupy more than the equivalent of thirty (30%) percent of the gross floor area of one (1) story of each building. A Home Occupation may occupy the entire gross floor area, of any accessory building. This restriction shall not apply to persons who operate child care services.
(Ord. 776, 2-3-92)

D. There shall be no outdoor display or storage of equipment or material used in the Home Occupation that shall indicate from the exterior that the building is being utilized in whole or in part for any other purpose other than that of a dwelling. This restriction shall not apply to persons who operate child care services. (Ord. 776, 2-3-92)

E. No Home Occupation shall permit generation or emission of noise, vibration, smoke, dust, or other particulate matter, odorous matter, humidity, glare, refuse, radiation, or other objectionable emission that will be detrimental to the residential character of the neighborhood at any time.

F. No Home Occupation shall be permitted which is noxious, offensive, or hazardous by reason of vehicular traffic, parking of vehicles or pedestrian traffic.

G. Spaces for off-street parking and loading shall be provided in compliance with provisions set forth in Subchapter 1L, Off-Street Parking Requirements, for any type of home occupation or commercial activity that would require more than two off-street parking spaces.

H. Any sign or display shall be limited to one (1) only and shall not exceed two (2) square feet in size. It shall carry only the name and occupation of the occupant of the premises. The sign or display shall be non-lighted and non-reflective in nature and shall be attached to the dwelling or accessory building or located within two (2) feet thereof.

I. Occasional garage sales are exempt from the provisions of this Ordinance. Garage sales that are conducted for more than three (3) consecutive days or more than three garage sales in any twelve (12) month period are considered to be Home Occupations and are subject to the provisions of this Ordinance.

J. No Home Occupation shall be permitted in an accessory building that had previously been used as a dwelling unit or residence. No Home Occupation shall be expanded upon an adjacent residential lot or separately platted parcel of land other than the lot where the home or principal building is located.
(Ord. 774, 1-6-92)

It shall be unlawful to operate a motor vehicle repair or motorcycle repair or small engine repair business within a district zoned R-1, R-2, R-3 or A-1 and such a business shall not be granted a Home Occupation permit by the Inspector; however, the operator of a small engine repair business may appeal the decision of the Inspector under the appeal procedure in 5-1D-8-(10).

5-1D-8 (8) Home Occupation Permit. Any person wishing to operate a Home Occupation must make application for a Home Occupation Permit upon forms provided by the Home Occupations Inspector.

Upon receipt of the application the Home Occupations Inspector shall set a hearing upon the Application and shall cause one publication of notice of the date, time, place and purpose of the hearing. The publication shall appear in the newspaper selected for official notices not less than 5 days before and not more than ten days before the date of the hearing.

The hearing shall be conducted informally by the Home Occupations Inspector and upon the conclusion of the hearing the Home Occupations Inspector may grant the permit, deny the permit, or determine that the occupation is an exception under 5-1D-8-(2). The decision of the Home Occupations Inspector must be communicated in writing within five days of the conclusion of the hearing.

The Home Occupations Inspector shall deny the application for the permit if the applicant has not complied with the requirements of 5-1D-8-(7) (a through j). Any decision of the Home Occupations Inspector may be appealed under 5-1D-8 (10).

Should an applicant be denied a permit for failure to comply with 5-1D-8 (7) (a through j), the applicant may appeal for an exemption from one or more requirements for 5-1D-8 (7), (a through j), by using the appeal procedure in 5-1D-8 (10).

5-1D-8 (9) Consent to Inspection. The signature of the applicant upon the application shall grant the consent by the applicant to an inspection of the Home Occupation premises by the Home Occupations Inspector. Failure by the applicant to allow for the inspection of the premises by the Home Occupations Inspector shall be grounds for refusal to grant a permit or a determination by the Inspector.

5-1D-8 (10) Appeal. The applicant or a neighbor who lives within 200 feet of the applicant's residence or the Council Person for the applicant's Ward may appeal any decision made by the Home Occupations Inspector under this Ordinance.

The applicant or neighbor or Council Person shall state his/her objection to the decision of the Home Occupations Inspector in writing and mail or deliver the Appeal to the City Manager at City Hall. The Appeal must include the name, address and signature of the person making the Appeal and the name and address of the person operating the

Home Occupation subject to the Appeal. The Appeal must be mailed or delivered no later than twenty days after the decision of the Inspector has been made.

The City Manager shall place the matter of the Appeal on the City Council Agenda for the regularly scheduled meeting of the Council following receipt of the Appeal.

The City Council shall take up the matter of the Appeal in public session and shall by resolution uphold the decision of the Inspector or reverse the decision of the Inspector with instructions for the correction of the decision which may include an exemption from one or more requirements of 5-1D-8 (7) (a through j). The Council shall consider the requirements of Section 5-1D-8 (7) and the comments of the neighbors and the applicant in ruling upon the Appeal.

A party to the Appeal who is aggrieved by the decision of the Council may seek a remedy for that decision in the District Courts of the State of Iowa as provided by law.