

Article XIV – Home Occupations

Section 14-1. Permit Procedures

Home occupations complying with the criteria established in Section 14-1-1 shall be considered minor in character and permitted by right. Major home occupations shall commence only after the receipt of a special exception from the Zoning Board of Adjustments, as outlined in Section 10-8 of this Ordinance.

14-1-1 Criteria for Minor Home Occupations

Use classified as minor shall be permitted in all zoning districts which allow residential land uses. The following regulations shall be permitted in all zoning districts which allow residential land uses. The following regulations shall apply to all minor home occupations.

A. The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others, with the following exceptions:

1. In residential day care facilities, outside play shall be permitted to the extent required by State day care regulations, and State-approved substitute workers shall be permitted to participate in the residential day care home occupation. The licensee and day care operator shall be the same individual.
2. Professional services may be rendered outdoors to the extent required, in the opinion of the service provider. For example, clergy may counsel individuals outdoors, artists may work outdoors, etc.
3. Instruction which must be provided outdoors, such as certain athletic instruction, may be so provided, if it generates no effects beyond the property line any greater than would be normally expected for a residence. In no event shall musical instrument instruction be provided outdoors.

B. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered by the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises.

C. No more than one room of the dwelling may be used for the home occupation, except that this requirement will not apply in the case of family day care facilities. (Ord. 92-25)

D. There shall be no advertising, display, or other indications of a home occupation on the premises.

E. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.

F. No storage or display of goods shall be visible from outside the structure.

G. No highly explosive or combustible material should be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.

H. A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located.

I. Parties for the purpose of selling merchandise or taking orders shall not be held more than once each month.

J. A home occupation shall not create the need for additional parking spaces in excess of those required by Article V of this Ordinance for the use of the property as a dwelling.

K. No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.

L. Notwithstanding any provision contained herein to the contrary, garage, basement, yard, or other similar sales shall not be allowed more than twice each year, and each sale shall not last more than 10 consecutive hours.

M. No deliveries from commercial suppliers may not be made to the dwelling. All supplies must be picked up off-site by the individual conducting the home occupation.

N. Permitted minor home occupations include, but are not necessarily limited to, the following:

1. Artists and sculptors
2. Authors and composers;
3. Home crafts for sale off-site;
4. Office facility of minister, rabbi, or priest;
5. Office facility of a salesman, sales representative, or manufacturer's representative provided that no transactions are made in person on the premises
6. Professional office facilities not excluded elsewhere in this Ordinance;
7. Individual tutoring;
8. Preserving and home cooking for sale off-site;
9. Individual instrument instruction provided that no instrument may be amplified;
10. Telephone solicitation work
11. Family day care in a residential dwelling not involving more than six children. (Ord. 92-25)

O. The following uses by the nature of the investment or operation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, the uses specified below shall not be permitted as minor home occupations:

1. All uses prohibited as major home occupations;
2. Minor or major auto repair;
3. Barber shop;
4. Carpentry work;
5. Dance instruction;
6. Dental offices;
7. Medical offices;
8. Painting of vehicles, trailers, or boats;
9. Photo developing, photo studios;
10. Private schools with organized classes;
11. Television repair
12. Upholstering;
13. Beauty parlors;
14. Massage parlors
15. Small engine repairs
16. Welding shop; and
17. Other similar uses.

14-1-2 Criteria for Major Home Occupations

Uses classified as major shall be considered special exceptions administered according to Section 10-8 of this Ordinance. Residential R-1A, R-1B, and R-2 districts should, in general, be protected from major home occupations, unless it can be specifically demonstrated that such a use will have no short- or long-term negative impact on the neighborhood. To this extent, the following regulations shall apply to all major home occupations.

A. The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others, except that with the following exceptions

1. In residential day care facilities, outside play shall be permitted to the extent required by State day care regulations, and State-approved substitute workers shall be permitted to participate in the residential day care home occupation. The licensee and day care operator shall be the same individual.
2. Professional services may be rendered outdoors to the extent required, in the opinion of the service provider. For example, clergy may counsel individuals outdoors, artists may work outdoors, etc.
3. Instruction which must, by its nature or for safety reasons, be provided outdoors, such as certain athletic instruction, may be so provided, if it generates no effects beyond the property line any greater than would normally be expected for a residence. In no event shall musical instrument instruction be provided outdoors.

B. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered by the occupation within the residence, nor be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises. (Ord.92-25)

C. The total area used for such purposes(including storage) shall not exceed the equivalent of one-half of the floor area, in square feet, of the first floor of the user's dwelling unit, if any; otherwise, the main floor of the dwelling unit. In no case shall more than two rooms of the dwelling unit be used for the Home Occupation. This restriction shall not apply in the case of group day care facilities. (Ord. 92-25)

D. There shall be no advertising, display, or other indications of a home occupation on the premises. (Ord. 92-25)

E. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies, or products, provided that incidental retail sales may be made in connection with other permitted home occupations; for example, a single-chair beauty parlor would be allowed to sell combs, hair spray and other miscellaneous items to customers. However, a dressmaker would be required to do only custom work for specific clients and would not be allowed to develop stocks of dresses for sale to the general public on-site.

F. There shall be no exterior storage on the premises of material used in the home occupation nor of any highly explosive or combustible material. No activity shall be allowed which would interfere with radio or television transmission in the area; nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.

G. A home occupation, including studios or rooms for instruction, but not including group day care facilities, shall provide additional off-street parking area reasonably adequate to accommodate needs created by the home occupation of not less than one parking space for each 300 square feet of floor area devoted to the home occupation, said spaces to be in addition to the spaces required by Article V of this Ordinance. In the case of group day care facilities, one additional parking space shall be provided for each employee not residing in the dwelling. (Ord. 92-25)

H. Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.

I. Parties for the purpose of selling merchandise or taking orders shall not be held more often than three times each month.

J. Notwithstanding any provision contained herein to the contrary, garage, basement, yard, or other similar sales shall be permitted not more than once each month, and each sale shall not last more than 15 consecutive hours.

K. Permitted major home occupations shall include but are not necessarily limited to the following:

1. Any use allowed as a minor home occupation;
2. Single-chair beauty parlors and barber shops;
3. Photo developing
4. Organized classes with up to six students at one time
5. Upholstering
6. Dressmaking;
7. Woodworking, excluding cabinet making;
8. Group day care in a residential dwelling caring for more than six children, but no more than twelve children. (Ord. 92-25)

L. The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes and are more suited to professional or business districts. Therefore, the uses specified below shall not be permitted as home occupations:

1. Minor or major auto repair, painting of vehicles, trailers, or boats;
2. Funeral chapel or home;
3. Gift shops;
4. Medical or dental clinic;
5. Rental businesses;
6. Catering;
7. Photos studios;

8. Massage parlors;
9. Welding or machine shops; and
10. Any retail, wholesaling, or distribution not specifically enumerated as a permitted use or special exception use, or accessory to such a use.

Section 14-2. Applications, Permits, and Inspections

14-2-1 Applications

Individuals wishing to conduct a home occupation in a dwelling that they own may apply to the Director of Community Development for a Home Occupation Permit on forms available from the Department. Individuals other than the dwelling owner who wish to conduct a home occupation in the dwelling must submit a letter from the owner granting permission for the home occupation along with the application, or the application will not be accepted. A one-time fee of \$30 shall be paid to the Department with the application.

14-2-2 Classification and Approval

The Director of Community Development will classify Home Occupation Permit Applications as Major or Minor Home Occupations. Major Home Occupation Applications will be referred to the Board of Adjustment for processing in accordance with Section 10-8 of the Zoning Ordinance. Minor Home Occupation Applications will be approved administratively by the Director or his designee upon presentation of representations and/or verifications provided by the applicant, provided that the Director or his designee finds that the conditions established in Section 14-1-1 of this Ordinance are met. Minor Home Occupation Applications that are denied administratively may be appealed to the Board of Adjustment under the provisions of Section 10-7, or by resubmitting the application as a Major Home Occupation and requesting a Special Exception under Section 10-8 of this Ordinance.

14-2-3 Inspections

The Director of Community Development or his designee shall have the right, at any reasonable time, and upon reasonable request, to enter and inspect the premises covered by a Home Occupation Permit, in order to ensure compliance with the terms of said permit, or for other lawful reasons.

14-2-4 Permits

Applicants whose requests for Home Occupation Permits are approved shall pay an annual fee of \$7.50 to the City Clerk on or before January 1 of each year for the privilege of conducting the home occupation. Said fee shall be in addition to fees for a City of Madison Business Privilege License, and any other fees required by law. The City Clerk shall refuse to renew a Home Occupation Permit on advice from the Director of Community Development that representations made on the Home Occupation Permit Application are, or have become, an inaccurate description of the business, or that other conditions in this Ordinance are not being met.

14-2-5 Transferability

Home Occupation Permits are not transferable between individuals, nor are they valid for a location other than the location noted on the permit. An individual who moves may not resume their home occupation in the new location without reapplying for a Home Occupation Permit.

14-2-6 Prior Nonconforming Home Occupations

Individuals who have received Special Exception Approval from the Board of Adjustment to operate a home occupation shall be exempt from reapplying for Home Occupation Permits, provided that the home occupation has been pursued continuously since the approval was granted. However, such individuals must purchase Home Occupation Permits for the year after the year in which this Ordinance becomes effective. Individuals who operate home occupations, who have not received Special Exceptions to do so, shall have four months from the date of this Ordinance to apply for a Home Occupation Permit without penalty. Thereafter, individuals who are found to be engaging in home occupations without the necessary permits shall be subject to penalties provided for in Section 13-2 of this Ordinance.