

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 949

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 1.3 (DEFINITIONS), CHAPTER 2.2.9 (RESIDENTIAL DISTRICTS, SPECIAL STANDARDS FOR CERTAIN USES) AND CHAPTER 4.9 (HOME OCCUPATION PERMITS)

WHEREAS, the Comprehensive Plan has an adopted policy to encourage Home Occupations (Economic Element, Goal 5); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-01; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-01, Exhibit A.

Section 2: The Land Development Code chapters 1.3, 2.2.9 and 4.9 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING HOME OCCUPATIONS AND AMENDING CHAPTER 2**

FILE NUMBER: LDC:14-01

APPLICANT City of Phoenix

STAFF REPORT: Available March 21, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) relocate the process and requirements for Home Occupations to the Residential Use chapter; and 2.) refine the requirements to encourage the creation of home occupations and protect the adjoining property owners.

It is clear in the Comprehensive Plans that the City should do it all it can to encourage Home Occupations development. The proposal moves the requirements and process for the creation of a Home Occupation to a location in the Code that is more intuitive. It also proposes a two tiered use that would allow the Council to reduce the costs for Home Occupations that will be “invisible” to the adjoining properties.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 1.3 Definitions

Home occupation, home-occupation site: “home occupation” is a gainful occupation or profession conducted by persons residing on the premises and conducted entirely within the dwelling or its accessory buildings. The use must be incidental and secondary to the principal residential use of the dwelling unit and must not change the residential character of the dwelling unit. See Chapter ~~4.9.2~~ 2.2.9.M. Home Occupation ~~Permits~~.

Chapter 2.2 Residential Districts

(Note: Table 2.2.2 will be changed to reflect the change below)

2.2.9 – Special Standards for Certain Uses

M. Home Occupations. *The purpose of this Section is to encourage those who are engaged in small commercial ventures that are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their*

ii. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 8 p.m. to 7 a.m.

iii. There shall be no more than eight vehicles per day at the home occupation site.

f. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 8 p.m. only, subject to Sections a and e, above.

g. Prohibited Home Occupation Uses

i. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.

ii. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from art instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to items a-f, above.

iii. Any uses described in this Section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as:

a. Ambulance service;

b. Animal hospital, veterinary services, kennels, or animal boarding;

c. Auto and other vehicle repair, including auto painting or tow trucks;

d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.

e. Mobile food vendors.

h. Low Impact Home Occupation. A Home Occupation which meets the following criteria, is considered a Low Impact Home Occupation and will be subject to reduced fees.

ii. All employees are members of the family.

iii. Business traffic will be limited to vehicle deliveries which will not exceed one per day.

iv. No noise is heard on a regular basis on the adjoining property. Examples of noise are power saws or sanders.

i. Enforcement. The Planning Director may visit and inspect the site of home occupations in accordance with this Code periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. The Planning Commission may revoke the Home Occupation Permit if the site is found to be in violation of this Code. Code violations shall be processed in accordance with Chapter 1.4 – Enforcement.

~~*overhang into the public right of way when parked in the driveway or other location on the home occupation site.*~~

~~*2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 8 p.m. to 7 a.m.*~~

~~*3. There shall be no more than eight vehicles per day at the home occupation site.*~~

~~*F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 8 p.m. only, subject to Sections a and e, above.*~~

~~*G. Prohibited Home Occupation Uses*~~

~~*1. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.*~~

~~*2. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from art instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to items a-f, above.*~~

~~*3. Any uses described in this Section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as:*~~

~~*a. Ambulance service;*~~

~~*b. Animal hospital, veterinary services, kennels, or animal boarding;*~~

~~*c. Auto and other vehicle repair, including auto painting or tow trucks;*~~

~~*d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.*~~

~~*e. Mobile food vendors.*~~

~~*H. Enforcement. The Planning Director may visit and inspect the site of home occupations in accordance with this Code periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. The Planning Commission may revoke the Home Occupation Permit if the site is found to be in violation of this Code. Code violations shall be processed in accordance with Chapter 1.4—Enforcement.*~~

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The relocation of the requirements for Home Occupations and the additional requirements do not significantly impact the City transportation facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Staff recommends that the Planning Commission review the proposed amendments to the sections regarding Home Occupations of the Phoenix Development Code and the Phoenix Municipal Code, take testimony, and direct Staff on a recommendation to City Council.

Exhibit B LDC 14-01

CHAPTER 4.9.2 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD) "HOME OCCUPATION PERMITS" IS HERBY REPEALED IN ITS ENTIRETY. CHAPTERS 1 AND 2 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 949 ON JUNE 16, 2014, SHALL READ AS FOLLOWS:

Chapter 1.3 Definitions

Home occupation, home-occupation site: "home occupation" is a gainful occupation or profession conducted by persons residing on the premises and conducted entirely within the dwelling or its accessory buildings. The use must be incidental and secondary to the principal residential use of the dwelling unit and must not change the residential character of the dwelling unit. See Chapter 2.2.9.M. Home Occupation Permits.

Chapter 2.2 Residential Districts

2.2.9 – Special Standards for Certain Uses

M. Home Occupations. The purpose of this Section is to encourage those who are engaged in small commercial ventures that are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses.

1. Use and development standards:

a. Appearance of Residence

- i. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
- ii. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
- iii. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
- iv. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

b. Storage

- i. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
- ii. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
- iii. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

c. Employees

h. Low Impact Home Occupation. A Home Occupation, which meets the following criteria, is considered a Low Impact Home Occupation and will be subject to reduced fees.

ii. All employees are members of the family.

iii. Business traffic will be limited to vehicle deliveries which will not exceed one per day.

iv. No noise is heard on a regular basis on the adjoining property. Examples of noise are power saws or sanders.

i. Enforcement. The Planning Director may visit and inspect the site of home occupations in accordance with this Code periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. The Planning Commission may revoke the Home Occupation Permit if the site is found to be in violation of this Code. Code violations shall be processed in accordance with Chapter 1.4 – Enforcement.