

**CITY OF PHOENIX  
PHOENIX, OREGON**

**ORDINANCE NO. 950**

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,  
CHAPTER 4.9.1 (TEMPORARY USES)**

**WHEREAS**, the Comprehensive Plan has an adopted policy to “foster economic development through the retention, renewal, upgrading expansion and linkage of existing commercial and industrial business and recruitment of new ones” (Economic Element, Goal 1); 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 has 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 14-04; 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:14-04, Exhibits A.

**Section 2:** The Land Development Code Chapter 4.9.1 are amended as proposed in Exhibit B.

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

**PASSED AND ADOPTED** by the City Council and signed by me in authentication of thereof  
on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Mayor 

ATTEST:

\_\_\_\_\_, City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

**PLANNING DEPARTMENT**

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE  
REGARDING TEMPORARY USES, AMENDING CHAPTER 4**

**FILE NUMBER:** LDC: 14-04

**APPLICANT:** City of Phoenix

**STAFF REPORT:** Available May 19, 2014 at the City of Phoenix, 112 W 2<sup>nd</sup> Street (M-F, 8:00 am to 5:00 pm) or on the website ([www.phoenixoregon.net](http://www.phoenixoregon.net)). For more information, call City of Phoenix, Planning Office, and (541)535-2050.

**DATE OF PLANNING COMMISSION HEARING:** April 14, 2014

**DATE OF THE COUNCIL HEARING:** June 2, 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.) create a new section for the development of temporary food vendors; and 2.) identify requirements for this type of development.

The current language in the Code has been frustrating for the Staff as well as the applicants. Currently, the section that addresses food vendors is the same as the section that address nearly all temporary buildings. Special circumstances apply to food vendors and the new language addresses these special issues.

The process is also recommended to be changed to allow for a more streamlined process and lower costs.

**II. PROPOSED AMENDMENTS:** The proposed amendments are:

## **Chapter 4.9 – Miscellaneous Permits**

### **4.9.1 – Temporary Use Permits**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, *and temporary food vendors* and seasonal sales such as Christmas tree sales, fire works stands, and vegetable stands. ~~Three~~ *Four* types of temporary uses require permit approval. (See A, B ~~and~~ C, *and D*)

#### **A. Seasonal and Special Events.**

**B. Temporary Sales Office or Model Home.**

**C. Temporary Building.** Using a Type ~~H~~ I Procedure, as governed by Chapter 4.1.4 – Type ~~H~~ I Procedure (~~Administrative~~ ***Ministerial***), the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.4 – Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

**E. Temporary Food Vendor. These uses are provided from trailers or similar devices which are used for the purpose of preparing, processing or converting food for immediate consumption. Temporary means all equipment must be removed from the site at the end of the vendor's business day. Using a Type I Procedure, under Chapter 4.1.3 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer for use on any real commercial or industrial property within the City as a temporary food vendor associated with the primary use on the property, but for no other purpose, based on following findings that all of the following criteria are satisfied:**

- 1. The temporary trailer shall be located within the boundaries of the parcel of land on which it is located;**
- 2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;**
- 3. The area of the temporary trailer, including any slide outs, shall be no more than 170 square feet;**

4. Attached awnings are permitted as long as they are no larger than the temporary trailer and are used for weather protections for customers;
5. If the temporary trailer is located on or adjacent to a privately owned walkway, the remaining unobstructed walkway width shall be a minimum of five (5) feet wide;
6. All food must be in a ready to eat condition when sold;
7. No temporary trailer shall displace required parking spaces or access to required spaces per Chapter 3.4 – Vehicle and Bicycle Parking;
8. The temporary unit and all outdoor equipment shall be located on an improved surface (asphalt or concrete);
9. Temporary units must comply with the following permits:
  - a. Sign permits for any attached signs. Free standing signs are prohibited for temporary food vendors. Signs painted on the vehicle do not require a sign permit.
  - b. Current registration for the temporary unit.
  - c. Building permits where required for any utility connections or building condition.
  - d. Jackson County Department of Health and Human Services where required.
10. Ingress and egress will be safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
11. The use will not result in vehicular congestion on streets;
12. The use will not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
13. The length of time that the temporary building will be used shall not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

III. **COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS:** Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

**FINDING:** This proposed amendment was reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting the information beginning May 14, 2014.

**FINDING:** The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

**FINDING:** A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and Map Designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

**FINDING:** The changes to add Temporary Food Vendors to Temporary Uses is in compliance with Comprehensive Plan policies. Specifically, Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading expansion and linkage of existing commercial and industrial business and recruitment of new ones.” The proposed amendment will reduce financial and time barriers for food vendors who want to start a new business in the City of Phoenix.

**FINDING:** The changes proposed are in compliance with Comprehensive Plan policies. Specifically, Economic Element, Goal 5: “To encourage the development now local business and start-ups.” The proposed new section for Temporary Food Vendors will make the process clearer and more applicable for these vendors. The result should be an increase in the number of these small businesses. Ultimately, some of these food vendors will move into bricks and mortar restaurants.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

**FINDING:** The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

**FINDING:** The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact Transportation needs in the City.

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 clarification of the process for Temporary Food Vendors and the addition of criteria that are directly applicable will not significantly impact the transportation system. The criteria for all temporary businesses included ones that dealt with not creating off-site impacts including vehicle traffic, etc.

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

**IV. RECOMMENDATION:** The Planning Commission recommends the adoption of the amendments to Chapter 4.9.1, Temporary Use Permits and the creation of a Section C. Temporary Food Vendor of the Phoenix Development Code and the Phoenix Municipal Code.

**Exhibit B CHAPTER 4.9.1 OF THE CITY OF PHOENIX LAND  
DEVELOPMENT CODE, AS AMENDED BY ORDINANCE 950 ON JUNE 16, 2014,  
SHALL READ AS FOLLOWS:**

**4.9.1 – Temporary Use Permits**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and temporary food vendors and seasonal sales such as Christmas tree sales, fire works stands, and vegetable stands. Four types of temporary uses require permit approval. (See A, B C, and D)

**A. Seasonal and Special Events.**

**B. Temporary Sales Office or Model Home.**

**C. Temporary Building.** Using a Type I Procedure, as governed by Chapter 4.1.4 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.4 – Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and

10. The length of time that the temporary building will be used does not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

**E. Temporary Food Vendor.** These uses are provided from trailers or similar devices which are used for the purpose of preparing, processing or converting food for immediate consumption. Temporary means all equipment must be removed from the site at the end of the vendor's business day. Using a Type I Procedure, under Chapter 4.1.3 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer for use on any real commercial or industrial property within the City as a temporary food vendor associated with the primary use on the property, but for no other purpose, based on following findings that all of the following criteria are satisfied:

1. The temporary trailer shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. The area of the temporary trailer, including any slide outs, shall be no more than 170 square feet;
4. Attached awnings are permitted as long as they are no larger than the temporary trailer and are used for weather protections for customers;
5. If the temporary trailer is located on or adjacent to a privately owned walkway, the remaining unobstructed walkway width shall be a minimum of five (5) feet wide;
6. All food must be in a ready to eat condition when sold;
7. No temporary trailer shall displace required parking spaces or access to required spaces per Chapter 3.4 – Vehicle and Bicycle Parking;
8. The temporary unit and all outdoor equipment shall be located on an improved surface (asphalt or concrete);
9. Temporary units must comply with the following permits:
  - a. Sign permits for any attached signs. Free standing signs are prohibited for temporary food vendors. Signs painted on the vehicle do not require a sign permit.
  - b. Current registration for the temporary unit.
  - c. Building permits where required for any utility connections or building condition.
  - d. Jackson County Department of Health and Human Services where required.
10. Ingress and egress will be safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;

11. The use will not result in vehicular congestion on streets;
12. The use will not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
13. The length of time that the temporary building will be used shall not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.



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 2<sup>nd</sup> Street (M-F, 8:00 am to 5:00 pm) or on the website ([www.phoenixoregon.net](http://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**

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

i. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee at the home occupation site at any given time. As used in this Chapter, the term "home occupation site" means the lot on which the home occupation is conducted.

ii. Additional individuals may be employed by or associated with the home occupation, as long as they do not report to work or pick up/deliver at the home.

iii. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

d. Advertising and Signs. Signs are not permitted at a home occupation site.

e. Vehicles, Parking, and Traffic

i. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

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.

#### 4.9.2—Home Occupation Permits

~~*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. They are permitted by right in all residential units, subject to the following standards:*~~

##### ~~*A. Appearance of Residence*~~

~~*1. 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.*~~

~~*2. 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.*~~

~~*3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).*~~

~~*4. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.*~~

##### ~~*B. Storage*~~

~~*1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.*~~

~~*2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.*~~

~~*3. 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*~~

~~*1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full-time equivalent employee at the home occupation site at any given time. As used in this Chapter, the term "home occupation site" means the lot on which the home occupation is conducted.*~~

~~*2. Additional individuals may be employed by or associated with the home occupation, as long as they do not report to work or pick up/deliver at the home.*~~

~~*3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.*~~

~~*D. Advertising and Signs. Signs are not permitted at a home occupation site.*~~

##### ~~*E. Vehicles, Parking, and Traffic*~~

~~*1. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not*~~

~~*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.*~~

**III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS:** Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

**FINDING:** This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

**FINDING:** The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

**FINDING:** A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

**FINDING:** The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Economic Element, Goal 5, Policy 5.1: “Require businesses licenses for home occupations but waive the associated fee.” The proposed change creates a Low Impact Home Occupation which may have a reduced or no fee annual licenses.

**FINDING:** The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Economic Element, Goal 5, “To encourage the development of new local business and start ups. Double the incidence of people working at home from 5.7 percent in 1990 to 11.4 percent by 2015.” This relocation of the conditions should make the permitting process easier to find for the planner and the applicant and, therefore, easier to accomplish.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

**FINDING:** The proposed changes do not conflict with other standards or criteria of the Code.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule compliance, applicable.

**FINDING:** The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact transportation needs in the City.

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

- i. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee at the home occupation site at any given time. As used in this Chapter, the term “home occupation site” means the lot on which the home occupation is conducted.
  - ii. Additional individuals may be employed by or associated with the home occupation, as long as they do not report to work or pick up/deliver at the home.
  - iii. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
- d. Advertising and Signs. Signs are not permitted at a home occupation site.
- e. Vehicles, Parking, and Traffic
- i. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
  - 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.

