

Chapter 17

HOME OCCUPATIONS

10-17-1: PURPOSE:

The purpose of this chapter is to establish use and development regulations for home occupations. These regulations are intended to ensure that limited business activities allowed in a residential zone do not disturb the residential character of neighborhoods within the city. (Ord. 2008-11, 12-2-2008)

10-17-2: DEFINITION:

"Home occupation" shall mean any commercial or other non-residential use conducted within a dwelling unit that is incidental and secondary to the use of the dwelling unit for residential purposes. All home occupations shall be conducted so that neighbors, under normal conditions, would not be aware of its existence. Home occupations are a temporary privilege which can be revoked if disruption of the residential neighborhood occurs. (Ord. 2008-11, 12-2-2008)

10-17-3: SCOPE:

The requirements of this chapter shall apply to any home occupation conducted within the city. Such requirements shall not be construed to prohibit or limit other applicable provisions of this Title, the Fruit Heights Municipal Code, or other laws.

10-17-4: HOME OCCUPATION PERMIT REQUIRED:

To assure compliance with the provisions of this Title and to protect the character of residential neighborhoods in the city, a home occupation permit shall be required to be obtained from the zoning administrator before a dwelling unit may be used for business or commercial purposes. Home occupation permit applications shall be filed with the zoning administrator in accordance with the provisions of Section 10-17-7. The zoning administrator shall review and approve or deny the application based on compliance with the terms, conditions and regulations of this chapter and applicable city ordinances. (Ord. 2008-11, 12-2-2008)

10-17-5: BUSINESS LICENSE REQUIRED:

In addition to the home occupation permit required in Section 10-17-4, all home occupations shall be required to obtain and maintain a business license in accordance with applicable provisions of Title 3 before a dwelling unit may be used for business or

commercial purposes. Applicants shall be required to obtain a home occupation permit in accordance with Section 10-17-4 prior to applying for a business license.

10-17-4: GENERALLY ACCEPTED HOME OCCUPATION BUSINESSES:

Only those home occupation businesses which will not detract from or impair in any way the residential character of the neighborhood in which they are located and which are in compliance with all of the requirements of this chapter are permitted within the city. Permitted home occupation businesses include, but are not limited to: personal care services, personal instruction services, office, real estate, consulting services, family day care (not to exceed 6 children), insurance sales, data processing, desktop publishing, mail order, and computer programming. (Ord. 2008-11, 12-2-2008)

10-17-5: HOME OCCUPATION STANDARDS:

Except as otherwise provided by conditional use permit in accordance with Section 10-17-5.1, the following standards shall apply to any and all home occupations within the city.

- A. Conducted Within Dwelling: The home occupation business must be carried on entirely indoors within the dwelling unit. Except as otherwise provided herein, a home occupation shall not involve the use of any accessory building, yard space, garage, carport, patio, breezeway or deck, or any activity outside the main building. Subject to the provisions of Section 10-17-6, residential daycare home occupations may use a completely fenced rear yard as an outside play area.
- B. Incidental And Secondary Use: The home occupation business shall be clearly incidental and secondary to the primary residential uses of the dwelling unit in which it is located. Not more than thirty percent (30%) of the dwelling unit shall be used for a home occupation.
- C. Residential Character Maintained: The home occupation business shall not disrupt or impair the normal residential character of the neighborhood in which the dwelling is located.
- D. External Nonresidential Alterations: The home occupation business shall not create, cause or result in alterations to the external structure of the dwelling which are not otherwise customary to a residential building of the same class, design or nature within which the land use zone is located. There shall be no visible evidence from the exterior of the dwelling unit that it is being used for a home occupation.
- E. Nuisances: The home occupation business shall not create, cause or generate offensive dust, fumes, light, noise, smoke, sound, smell, vibration, airborne particulate matter, odorous matter, heat, humidity, glare, electrical interference or any other offensive condition that constitutes a "nuisance" under common law or existing city, county and/or state ordinances or statutes.

- F. Traffic, Parking Increase: The home occupation business shall not create, cause or generate an increase in pedestrian or vehicular traffic or parking that is not common to or not consistent with a residential neighborhood or other location within the city having the same land use zoning.
- G. Employment Of Nonresidents: The home occupation business shall not employ any person who is not a resident of the dwelling unit.
- H. Parking Of Motor Vehicles: Motor vehicles used in conjunction with the home occupation are not permitted to be parked on the street. Drop-off or customer parking shall be located on-site on paved portions of the lot or parcel in accordance with the parking standards set forth in this Title. No additional customer or employee parking may be established on the lot or parcel.
- I. Storage Outside Main Building: The home occupation business shall not result in storage of materials or products associated with the home occupation business being stored outside of the main dwelling unit. Storage or use of dangerous, explosive, or other hazardous material shall not be permitted on the premises.
- J. Signage: A sign indicating the name of the home occupation business may be attached to the main dwelling unit, attached garage or freestanding building in which the home occupation is conducted. Such a sign shall be no larger than one square foot and shall not be connected to or operated by an electrical or other power source. No freestanding sign for the home occupation shall be permitted. Exterior Display Of Goods: The home occupation business shall not be permitted to have exterior displays of goods.
- L. Building And Safety Code Compliance: The building in which the home occupation business is located shall conform to all applicable laws, including city, county, and state, fire, building, electrical and industrial discharge codes and/or regulations.
- M. Inspection: The building in which the home occupation business is located is subject to inspection by the city to determine compliance with this chapter and with all other applicable codes, ordinances and regulations. The building in which the home occupation is located is also subject to inspection by the Fire Department for compliance with applicable fire codes and regulations.
- N. Outcall Services: Outcall services of a type performed by a sexually oriented business outside of the premises of a licensed sexually oriented business, including, but not limited to, escorts, models, dancers and other similar employees is strictly prohibited as a home occupation business. (Ord. 2008-11, 12-2-2008)
- O. Hours of Operation. Home occupations involving customers, patrons, deliveries and services shall not be operated before 7:00 a.m. or after 9:00 p.m.

- P. Customers. Home occupations involving customers that come to the dwelling shall be limited to no more than four (4) customers, patrons, visitors, or prospective customers or patrons, or parents of customers or patrons, at any time.

10-17-5.1: CONDITIONAL USE PERMIT REQUIREMENTS.

The following home occupation permits may be allowed only upon approval of a conditional use permit in accordance with the review and approval procedures set forth in chapter 12 of this Title. In addition to the conditional use permit requirements set forth herein, applicants shall also be required to obtain a home occupation permit from the zoning administrator and a business license from the City, as more particularly provided in this chapter. Applicants shall be required to obtain a conditional use permit, if required under this section, prior to applying for the home occupation permit from the zoning administrator. Home occupations requiring a conditional use permit include:

- A. A home occupation utilizing a portion of an accessory building or garage;
- B. A home occupation employing one (1) person on the premises at any time who is not a resident of the dwelling unit;
- C. A home occupations requiring additional customer or employee parking on the lot or parcel, or proposing to use off-site parking; and
- D. A home occupation for residential daycare or preschool for up to ten (10) children.
- E. A home occupation permitting more than four (4) customers, patrons or visitors, or prospective customers or patrons, or parents of customers or patrons, at any time.

10-17-6: RESIDENTIAL DAYCARE OR GROUP INSTRUCTION:

The following conditions shall apply only to home occupation licenses for residential daycare or group instruction:

- A. Use Of Rear Yard: The rear yard may be used for outside play area or instruction.
- B. State License And Compliance With Regulations: Residential daycare facilities shall comply with all regulations of the state and shall be licensed by the state.
- C. Group Instruction Sessions: Residential group instruction (preschools) shall be limited to no more than six (6) children in each session who are not residents of the home. There shall be no more than two (2) sessions per day and each session may not exceed four (4) hours. No child or person may attend more than one session per day.
- D. Minimum Floor And Outdoor Play Area For Daycare: A minimum interior floor area of thirty five (35) square feet and a minimum secured outdoor play area of forty (40) square feet per child shall be provided for residential daycare facilities.
- E. Total Floor Area: Total floor area used for residential daycare or group instruction may be no more than twenty five percent (25%) of the ground floor area of the residence.
- F. Inspection: An annual inspection for continued compliance will be required for license renewal of all residential daycare and group instruction facilities. (Ord. 2008-11, 12-2-2008)

10-17-7: HOME OCCUPATION PERMIT APPLICATION PROCEDURES:

- A. Home Occupation Permit Required: In accordance with the provisions of Section 10-17-4, a home occupation permit is required to be obtained from the zoning administrator before a dwelling unit may be used for business or commercial purposes.
- B. Application: Application for a home occupation permit shall be made to the zoning administrator by the property owner or agent certified in writing on forms provided by the city for such purposes. Such application shall describe the nature of the proposed home occupation referencing the applicable standard industrial classification codes, and provide other such pertinent information as required in order to enable the zoning administrator to determine compliance with other sections of this chapter relative to performance standards as well as other applicable city ordinances. The complete application shall include completion of the city's industrial discharge, flammable materials, chemicals, and hazardous waste questionnaire, as applicable. The application for a home occupation permit license will not be

processed by the zoning administrator until all of the elements of the application are complete.

- C. Fees: The application for a home occupation permit shall be accompanied by an application fee as established by the city council or such other amount as established by the city council from time to time and published as part of the application for home occupation permit. If the city conducts an inspection pursuant to the authority granted in subsection F of this section, the fee or the actual cost of such an inspection shall be added to the application fee. Additional business licensing fees may be applicable.
- D. No Return Of Fees: If the application for a home occupation permit is denied, the fee paid by the applicant shall be retained by the city to pay for the costs of processing such application.
- F. Review And Approval Procedure: Upon receipt of a complete application, the zoning administrator shall review the application for compliance with all applicable city ordinances. The zoning administrator may require a written certification or other reasonable assurance that the applicant will comply with all applicable laws, including state and federal statutes and regulations. An inspection of the dwelling unit proposed for the home occupation may be conducted by any competent authority having jurisdiction to enforce compliance with applicable laws as a condition precedent to approval of the application. The zoning administrator shall review and approve or deny the home occupation permit based on compliance with the terms, conditions and requirements of this chapter and applicable city ordinances. The zoning administrator shall notify all applicants of his or her decision regarding the application, in writing, within a reasonable time from receipt of a completed application.

10-17-8: ANNUAL RENEWAL:

- A. Annual Renewal Required: The home occupation permit and business license shall be renewed annually.
- B. Fees: The application for renewal of the home occupation permit and business license shall be accompanied by a renewal fee as established by the city council, or such other amount as established by the city council from time to time and published as part of the application for home occupation permit and business license. If the city conducts an inspection pursuant to the authority granted in subsection C3 of this section, the fee or the actual cost of such an inspection shall be added to the application renewal fee. Regardless of whether the application for renewal is granted, the renewal fee paid by the applicant shall be retained by the city to pay for the costs of processing such applications.

C. Renewal Procedures:

1. A complete renewal application for the home occupation permit and business license, including all required permit and license renewal fees, shall be submitted to the city not later than thirty (30) days prior to the listed expiration date on the current home occupation permit and business license. Sixty (60) days prior to the expiration of the home occupation permit and business license, the city shall send notice by regular mail to the license holder that an application for renewal is required on or before the listed expiration date of such home occupation permit and business license.
2. A late fee equivalent to one hundred percent (100%) of the renewal fee shall be assessed for failure to submit a complete application for renewal and the required permit and license renewal fees sixty (60) days after the expiration of such home occupation permit and business license.
3. The city shall have thirty (30) working days from the receipt of a complete application for permit and license renewal to review and take action to approve or disapprove the renewal application. Renewal of a home occupation permit and business license may be approved by the zoning administrator following the receipt of a completed application and written certification or other reasonable assurances that the home occupation is in compliance with all applicable laws. The zoning administrator may conduct an on site inspection of the home occupation to assess compliance with applicable laws of the city or may request an inspection by any competent authority having jurisdiction to enforce compliance with applicable laws.
4. If any home occupation is determined to be in violation of applicable laws, the zoning administrator shall take no action on the application for renewal and shall issue a cease and desist order prohibiting the applicant from continuing to conduct the home occupation until corrective action is completed. If corrective action is completed within sixty (60) days, the zoning administrator may approve the license renewal. If corrective action is not completed within sixty (60) days, the zoning administrator shall deny the application for renewal. (Ord. 2008-11, 12-2-2008)

10-17-9: REVOCATION:

- A. Inspections: The city may conduct an inspection of the home occupation if the city receives any complaint regarding the home occupation or obtains any other information indicating that the home occupation is not being conducted in compliance with this chapter. If the city conducts such an inspection, a bill for the greater of twenty five dollars (\$25.00) or the actual cost of such an inspection may be billed to the home occupation. The city may revoke the home occupation permit and/or business license for failure to pay such an inspection bill within thirty (30) days.
- B. Violation Of Applicable Laws: If the city finds that a licensed home occupation is not in compliance with applicable laws, the zoning administrator shall issue a cease and

desist order prohibiting the applicant from continuing to conduct the home occupation business until corrective action is completed that will bring the home occupation into compliance with applicable laws. The holder of the home occupation permit and business license shall have sixty (60) days from the cease and desist order to complete the corrective action. After the corrective action is completed, it must be approved by the zoning administrator. If corrective action is not completed within sixty (60) days, the home occupation permit and/or business license may be revoked by the zoning administrator upon ten (10) days written notice to the permit holder. Three (3) or more repeated violations of the same applicable law or a combination of three (3) separate violations during any licensing period are grounds for the permanent revocation of a home occupation permit and/or business license without opportunity for further corrective action.

10-17-10: APPEAL:

Any person aggrieved by the decision of the zoning administrator concerning the issuance, renewal or revocation of a home occupation permit may appeal the decision to the board of adjustment within thirty (30) days of the action taken by the zoning administrator. (Ord. 2008-11, 12-2-2008)

10-17-11: ENFORCEMENT; PENALTY:

Any person in violation of this chapter shall be subject to the enforcement and penalties provided by chapter 4 of this title. (Ord. 2008-11, 12-2-2008)