



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #8**  
**10/19/06**

**DATE:** October 11, 2006  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Development Review  
 Carlton Gilbert, Zoning Supervisor  
**FROM:** Greg Russ, Zoning Coordinator  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To exclude "the display of furniture for sale" from the definition of home occupation; and to eliminate the display of furniture for sale as a home occupation

**TEXT AMENDMENT:** No. 06-24  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** Councilmember Denis  
**INTRODUCED DATE:** September 19, 2006

**PLANNING BOARD REVIEW:** October 19, 2006  
**PUBLIC HEARING:** October 24, 2006; 1:30 pm

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**STAFF RECOMMENDATION:** DENIAL

**PURPOSE OF THE TEXT AMENDMENT**

To exclude "the display of furniture for sale" from the definition of home occupation; and to eliminate the display of furniture for sale as a home occupation

**BACKGROUND**

- Councilmember Denis introduced the subject text amendment to address a Department of Permitting Services (DPS) interpretation that permits the display of furniture for sale in single-family homes in residential zones under the home occupation provisions. The sponsor believes that furniture display for sale typically takes place in commercial zones. As such he believes that the DPS interpretation is contrary to the language of the Zoning Ordinance and he wants to eliminate the display of furniture from use as a home occupation.

## ANALYSIS

### Proposed Text Amendment Language

The proposed text amendment language is as follows:

#### **59-A-2.1. Definitions.**

\* \* \*

*Home occupation: Any occupation, other than a registered home health practitioner's office, that provides a service or product and is conducted within a dwelling unit by a resident or residents of the dwelling unit without diminishing its residential character.*

\* \* \*

*A home occupation includes, but is not limited to, the office of a member of a recognized profession, such as a lawyer, accountant, architect, engineer, or veterinarian who resides in the dwelling unit in which the office is located. A home occupation does not include the following [or other uses specifically defined or regulated elsewhere in this Ordinance]: bed-and-breakfast establishment, boardinghouse, day care facility, display of furniture for sale in the home or at an offsite location, landscape contractor, private educational institution, tourist home, or the repair and maintenance of motor vehicles.*

\* \* \*

#### **Sec. 2. DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY PERMITS; REGISTRATION OF CERTAIN USES.**

\* \* \*

#### **59-A-3.5. Termination of Home Occupation.**

*(a) The repair and maintenance of motor vehicles for compensation must not be conducted as a no-impact home occupation. The repair and maintenance of motor vehicles may be conducted as a registered home occupation under the non-conforming use provisions of Division 59-G-4 if the use:*

*[(a)](1) was authorized by the Department of Environmental Protection as a registered home occupation under an application filed before October 25, 1994; or*

*[(b)](2) was conducted primarily as a home occupation at a single family detached dwelling under a certificate of registration issued before October 25, 1994 by the Office of Consumer Affairs under Chapter 31A, and all requirements of Section 59-A-3.4 and Section 59-A-6.1(a) and (c) are met by September 20, 1995.*

*A non-conforming use allowed under [(a)](1) or [(b)](2) terminates when ownership or occupancy of the residence changes.*

- (b) The display of furniture for sale in the home or at an offsite location must not be conducted as a home occupation. All home occupations of this type must cease operating within 12 months from the enactment of this section.

The “display of furniture for sale in the home or at an off-site location” is not defined and is a confusing term, but is meant to express the display of furniture in a home for the purpose of its sale--either on the premises or to be ordered from the home display (sample merchandise) and delivered from an off-site location to the purchaser’s home. As discussed below in the “Policy” section, sale of goods is limited to: 1) handicrafts or similar products or; 2) up to 5 visits a month (for registered home occupations) for items customarily ordered on the premises for delivery at a later date to customers at other locations.

### **Defining a Home Occupation**

The term “home occupation” is defined as follows:

***Home occupation: Any occupation, other than a registered home health practitioner's office, that provides a service or product and is conducted within a dwelling unit by a resident or residents of the dwelling unit without diminishing its residential character. A home occupation has the following characteristics:***

- (a) ***It is clearly subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit.***
- (b) ***It is conducted entirely within the dwelling unit or any existing accessory building, as defined in this section, and does not use any open yard area of the lot or parcel on which the dwelling unit is located or any building constructed on the lot or parcel specifically for the purpose of operating the home occupation, except for loading and unloading tools and equipment associated with a lawn maintenance service (all storage and maintenance of these tools and equipment, however, must be within the dwelling unit or any existing accessory structure). It may, however, involve off-site activities such as sales, client contact and other matters related to the home occupation.***
- (c) ***It uses no equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference detectable at or beyond the lot line. It does not involve use, storage or disposal of:***
- (1) ***A quantity of a petroleum product sufficient to require a special license or permit from the fire marshal; or***
  - (2) ***Any material defined as hazardous or required to have a special handling license by the Montgomery County Code, as amended, or the Annotated Code of Maryland, as amended, except that disposal of medical waste must be regulated as provided in Maryland State Laws and Regulations.***

***A home occupation includes, but is not limited to, the office of a member of a recognized profession, such as a lawyer, accountant, architect, engineer, or veterinarian who resides in the dwelling unit in which the office is located. A home occupation does not include the following or other uses specifically defined or regulated elsewhere in this Ordinance: bed-and-breakfast establishment, boardinghouse, day care***

*facility, landscape contractor, private educational institution, tourist home, or the repair and maintenance of motor vehicles.*

As stated above, a home occupation provides a service or product within a residence without diminishing the character of the home and includes characteristics that result in no external modifications that detract from its residential appearance but may involve off-site activities such as sales and client contact. A home occupation must not use equipment that creates a nuisance to adjacent properties. Also, home occupations are **categorized as no impact (no registration required), registered (registration with DPS required) and major (special exception required)**. The table below provides a summary of several major provisions associated with the three types of home occupations. Attachment 2 of the staff report provides the comprehensive list of provisions.

**TABLE OF EXISTING PROVISIONS FOR HOME OCCUPATIONS**

Source: Montgomery County Zoning Ordinance

	No-Impact Home Occupations	Registered Home Occupations	Major Home Occupations
Maximum space available for non-residential uses	33%	33%	33% or 1500 SF
Maximum visits	5 per week including deliveries	20 per week, 5 per day, excluding deliveries	By appointment
On-site sale of goods	Prohibited	On-site sale for off-site delivery (up to 5 visits per month)	On-site sale for off-site delivery (up to 5 visits per month)
Non-resident employees allowed	None	One	Two*

Note: \* May include more employees for a health care practitioner.

**Home Occupations in other Localities**

Staff researched the home occupations provisions for a number of local jurisdictions including Fairfax County, VA, Anne Arundel County, Howard County, Prince George’s County and Frederick County. In summary, although each has its own distinct manner in regulating home occupations, in no case did we find specific exclusion of the display of furniture. In most cases, however, the sale of products or services is limited to crafts that are made on-site. This limitation does not eliminate the display of other items for order to be delivered off-site. Further, each jurisdiction maintains a maximum floor area for the home occupation that ensures that it remains subordinate to the residential use of the dwelling.

## Policy Basis and Summary

As indicated in the definition, a home occupation does not include a bed-and-breakfast establishment, boardinghouse, day care facility, landscape contractor, private educational institution, tourist home, or the repair and maintenance of motor vehicles—all of which are uses that are specifically defined or regulated elsewhere in the Zoning Ordinance. In fact, the definition of home occupation further states that other uses specifically defined or regulated elsewhere in the Zoning Ordinance are not home occupations. The “*display* of furniture for sale at home or an off-site location” is not defined or regulated elsewhere in the Ordinance and therefore could be considered a home occupation. The sponsor’s rationale for the text amendment is that furniture display for sale usually takes place in commercial zones. However, this determination has not been used as a basis for limiting the types of uses that are considered home occupations. For example, doctors and lawyers offices are often located in commercial zones. However they are not impacted by this text amendment.

Section 59-A-6.1 allows for the display or storage of goods limited to samples of merchandise that may be ordered by customers to whom it will be delivered at off-site locations. In addition, this section allows up to 5 visits per month to the home for on-site sales of items customarily ordered on the premises of the registered home occupation for delivery at a later date to customers at other locations. ***Staff sees no discernible difference in the home display of furniture than with other items displayed in a home as long as the requirements of Section 59-A-6.1 and 59-G-2 (for major home occupations) are adhered to.*** Issues pertaining to the intensity of the use are closely tied to the number of vehicle visits, the number of non-resident employees, the maximum space (floor area) permitted for non-residential uses and the number of on-site sales visits—all regulated by the three types of home occupation provisions and enforced by DPS. **Adherence to these requirements assists in regulating and maintaining the residential character of a neighbor—whether the display items are furniture-related or other approved products and services.**

## RECOMMENDATION

Based on the policy discussion and summary above, staff recommends denial of the proposed text amendment to exclude “the display of furniture for sale” from the definition of home occupation; and to eliminate the display of furniture for sale as a home occupation.

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### Attachments

1. Proposed Text Amendment 06-24
2. Home Occupation Provisions of the Zoning Ordinance
3. Home Occupation Regulations- Surrounding Localities

# ATTACHMENT 1

Zoning Text Amendment No: 06-24  
Concerning: Home Occupation  
Draft No. & Date: 1 – 8/29/06  
Introduced: September 19, 2006  
Public Hearing: 10/24/06; 1:30 p.m.  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Denis

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AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- excluding the display of furniture for sale as a home occupation;
- terminating the display of furniture for sale as a home occupation; and
- generally amending home occupations.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2      “DEFINITIONS AND INTERPRETATION  
Section 59-A-2.1.      “Definitions”

DIVISION 59-A-3      “BUILDING AND USE-AND-OCCUPANCY PERMITS;  
REGISTRATION OF CERTAIN USES”  
Section 59-A-3.5.      “Termination of Home Occupation”

**EXPLANATION:** **Boldface** indicates a heading or a defined term.  
Underlining indicates text that is added to existing laws by the original text amendment.  
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.  
Double underlining indicates text that is added to the text amendment by amendment.  
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.  
\* \* \* indicates existing law unaffected by the text amendment.

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-A-2 is amended as follows:**

2           **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3           **59-A-2.1. Definitions.**

4           \* \* \*

5           **Home occupation:** Any occupation, other than a registered home health  
6 practitioner's office, that provides a service or product and is conducted within a  
7 dwelling unit by a resident or residents of the dwelling unit without diminishing its  
8 residential character.

9           \* \* \*

10          A home occupation includes, but is not limited to, the office of a member of a  
11 recognized profession, such as a lawyer, accountant, architect, engineer, or  
12 veterinarian who resides in the dwelling unit in which the office is located. A home  
13 occupation does not include the following [or other uses specifically defined or  
14 regulated elsewhere in this Ordinance]: bed-and-breakfast establishment,  
15 boardinghouse, day care facility, display of furniture for sale in the home or at an  
16 offsite location, landscape contractor, private educational institution, tourist home,  
17 or the repair and maintenance of motor vehicles.

18          \* \* \*

19           **Sec. 2. DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY**  
20 **PERMITS; REGISTRATION OF CERTAIN USES.**

21          \* \* \*

22           **59-A-3.5. Termination of Home Occupation.**

23           **(a)** The repair and maintenance of motor vehicles for compensation must not be  
24 conducted as a no-impact home occupation. The repair and maintenance of  
25 motor vehicles may be conducted as a registered home occupation under the  
26 non-conforming use provisions of Division 59-G-4 if the use:



27 [(a)](1) was authorized by the Department of Environmental Protection  
28 as a registered home occupation under an application filed  
29 before October 25, 1994; or

30 [(b)](2) was conducted primarily as a home occupation at a single  
31 family detached dwelling under a certificate of registration  
32 issued before October 25, 1994 by the Office of Consumer  
33 Affairs under Chapter 31A, and all requirements of Section 59-  
34 A-3.4 and Section 59-A-6.1(a) and (c) are met by September  
35 20, 1995.

36 A non-conforming use allowed under ([a]1) or ([b]2) terminates when ownership  
37 or occupancy of the residence changes.

38 (b) The display of furniture for sale in the home or at an offsite location must  
39 not be conducted as a home occupation. All home occupations of this type  
40 must cease operating within 12 months from the enactment of this section.

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42 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of  
43 Council adoption.

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45 This is a correct copy of Council action.

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50 Linda M. Lauer, Clerk of the Council

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## Article 59-A

**Helistop:** A designated area, either at ground level or elevated on a structure, used for the landing and takeoff of helicopters or other rotorcraft. No major rotorcraft support facilities are allowed such as those permitted in a heliport. Minor support facilities such as a small sheltered waiting or loading area, a small administrative office, and one permanent tie-down space are allowed. A small fuel tank for a ground level facility is allowed, if necessary. Helistops may be public or private use facilities in accordance with paragraphs (a) and (b) of the heliport definition.

**Helistop, temporary:** An area, either at ground level or elevated on a structure, whether public or private, that may be used for the landing and taking off of rotorcraft on an occasional or temporary basis, but without rotorcraft support facilities. A temporary helistop is intended to be used only in visual flight rules (VFR) weather conditions for a period of less than 30 consecutive days within a one-year period and not to exceed 10 operations per week during the period.

**Highway fuel and food service:** The retail sale of automobile fuels, oils and accessories dispensed on-site and the auxiliary retail sale of food (including drive-in) prepared for the general public, both located within the same building.

**Home health practitioner's office:** The office of a health practitioner who resides in the dwelling unit in which the office is located. For this purpose, a health practitioner is defined as a person who is licensed or certified by a Board under the Maryland Department of Health and Mental Hygiene and has an advanced degree in the field from an accredited educational institution, except that this definition excludes an electrologist, mortician, nursing home administrator, pharmacist or veterinarian. This definition includes a registered nurse or physician's assistant only if that person has an advanced degree in the field and practices independently. A home health practitioner's office that does not qualify for registration in accordance with Sections 59-A-3.4 and 59-A-6.1(a) and (d) may obtain a special exception as a major home occupation, in accordance with Section 59-G-2.29.

**Home occupation:** Any occupation, other than a registered home health practitioner's office, that provides a service or product and is conducted within a dwelling unit by a resident or residents of the dwelling unit without diminishing its residential character. A home occupation has the following characteristics:

- (a) It is clearly subordinate to the use of the dwelling unit for residential purposes and requires no external modifications that detract from the residential appearance of the dwelling unit.
- (b) It is conducted entirely within the dwelling unit or any existing accessory building, as defined in this section, and does not use any open yard area of the lot or parcel on which the dwelling unit is located or any building constructed on the lot or parcel specifically

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for the purpose of operating the home occupation, except for loading and unloading tools and equipment associated with a lawn maintenance service (all storage and maintenance of these tools and equipment, however, must be within the dwelling unit or any existing accessory structure). It may, however, involve off-site activities such as sales, client contact and other matters related to the home occupation.

- (c) It uses no equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference detectable at or beyond the lot line. It does not involve use, storage or disposal of:
- (1) A quantity of a petroleum product sufficient to require a special license or permit from the fire marshal; or
  - (2) Any material defined as hazardous or required to have a special handling license by the Montgomery County Code, as amended, or the Annotated Code of Maryland, as amended, except that disposal of medical waste must be regulated as provided in Maryland State Laws and Regulations.

A home occupation includes, but is not limited to, the office of a member of a recognized profession, such as a lawyer, accountant, architect, engineer, or veterinarian who resides in the dwelling unit in which the office is located. A home occupation does not include the following or other uses specifically defined or regulated elsewhere in this Ordinance: bed-and-breakfast establishment, boardinghouse, day care facility, landscape contractor, private educational institution, tourist home, or the repair and maintenance of motor vehicles.

**Home occupation, major:** A home occupation, as defined above, that is regulated in accordance with the special exception provisions of Section 59-G-2.29; it may include a home health practitioner's office whenever that office does not qualify for registration in accordance with Sections 59-A-3.4 and 59-A-6.1.

**Home occupation, no impact:** A home occupation, as defined above, that is regulated in accordance with the applicable requirements and standards of 59-A-6.1(a) and (b) and is not required to register.

**Home occupation, registered:** A home occupation, as defined above, that is accessory to the residential use of the dwelling unit in which it occurs and is registered in accordance with Sections 59-A-3.4 and 59-A-6.1(a) and (c).

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DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.\*

**Sec. 59-A-6.1. A no-impact home occupation, registered home occupation, or home health practitioner's office.**

- (a) The following provisions apply to a no-impact home occupation, a registered home occupation, and to a home health practitioner's office:
- (1) Each home occupation operator or home health practitioner must reside in the home for a period of at least 220 days in each calendar year.
  - (2) Each home occupation or home health practitioner must maintain a log of all visits made to the home in connection with the use; this log must be available to the Department on request.
  - (3) The amount of floor area used for the home occupation or home health practitioner's office must not exceed 33 percent of the total floor area of the dwelling unit and any existing accessory building on the same lot or parcel. Any enlargement of the total floor area resulting from construction completed on or after the date of commencement of the home occupation or within the 18 months immediately preceding commencement of the home occupation must be excluded from the total floor area on which this calculation is based.
  - (4) No equipment or process that creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable at or beyond the lot line of a detached dwelling unit or the floor, ceiling or party wall of an attached dwelling unit is allowed in connection with the operation of a home occupation or home health practitioner's office, nor is this operation allowed to involve use, storage, or disposal of:
    - (A) A quantity of a petroleum product sufficient to require a special license or permit from the fire marshal; or

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\*Editor's note—Section 59-A-6 [formerly §111-4] is quoted in Marathon Builders, Inc. v. Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission 246 Md. 187, 227 A.2d 755 (1967).

Section 2 of Ord. No. 11-61 changed the title of this division from "Uses Permitted in Any Zone" to "Uses Permitted in More Than One Class of Zone."

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- (B) Any material defined as hazardous or required to have a special handling license by the Montgomery County Code, as amended, or the Annotated Code of Maryland, as amended, except that disposal of medical waste must be regulated as provided in Maryland State Laws and Regulations.
- (5) No truck deliveries are permitted, except for parcels delivered by public or private parcel services that customarily make residential deliveries.
- (6) A home occupation or home health practitioner's office found to be in violation of any provision of Section 59-A-6.1 is subject to the enforcement procedures stated in Section 59-A-3.43(c), (d), and (e).
- (b) A no-impact home occupation must comply with the following standards:
  - (1) It must be conducted by a member or members of the family, as defined in Section 59-A-2.1, residing in the dwelling unit. No non-resident employees are permitted.
  - (2) A maximum of 5 visits per week including deliveries, is allowed in connection with no impact home occupations on one lot or parcel. For the purposes of this section, a "visit" is defined as a visit to the home by one automobile transporting one or more clients or customers.
  - (3) No sale of goods on the premises is allowed.
  - (4) Display or storage of goods is limited to samples of merchandise that may be ordered by customers to whom it will be delivered at off-site locations, or merchandise awaiting such delivery, but in no event must the storage of merchandise awaiting delivery exceed 30 square feet of floor area.
  - (5) No equipment or facilities may be used other than:
    - (A) Domestic or household equipment;
    - (B) Office equipment, such as a typewriter, word processor, calculator or computer; or
    - (C) Art or handicraft equipment, such as a hand loom, spinning wheel, potter's wheel, kiln, and woodworking tools, or wine-making and beer-making equipment.

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- (6) If an accessory building is used for any part of the no-impact home occupation, there must be no external evidence of such use. No more than one accessory building may be used for this purpose. A new accessory building must not be constructed for the purpose of conducting the home occupation. For the purpose of this section an accessory building must have existed for at least 18 months prior to the onset of the business activity in order to be used as a part of the home occupation.
  - (7) In the residential one-family zones regulated by Section 59-C-1.3 and in recorded residential subdivisions in the agricultural zones regulated by Division 59-C-9, any commercial vehicle that is parked or garaged on-site in connection with the no impact home occupation must comply with the regulations for commercial vehicles in Section 59-C-1.31, titled "Land Uses." In townhouse and multiple family dwellings in zones other than residential one-family or agricultural, one commercial vehicle may be parked on-site in connection with this use if parked in a garage.
  - (8) The display of a sign must comply with the requirements established in Article 59-F of this chapter.
  - (9) A no-impact home occupation must have no discernible impact on the surrounding neighborhood and must be accessory to the residential use of the dwelling unit in which it occurs.
  - (10) In the R-60 and R-90 zones:
    - (A) Not more than one motor vehicle of a patron, client, or any other non-resident using, visiting, or associated with a no-impact home occupation may be parked at the same time on a lot or parcel where a home occupation is conducted.
- (c) A registered home occupation in a residential or agricultural zone, as provided by Section 59-C-1.31, 59-C-1.71, 59-C-2.3 or 59-C-9.3, must comply with the following standards:
- (1) A maximum of 2 registered home occupations is allowed in any one dwelling unit.
  - (2) It must be conducted by a member or members of the family, as defined in Section 59-A-2.1, residing in the dwelling unit, and may employ no more than one nonresident assistant or business associate who is required to be at the

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dwelling unit for any length of time during the 24-hour day. The arrival and departure of the nonresident assistant or associate are not included in (3) below.

- (3) A maximum of 20 visits per week, and no more than 5 per day, excluding deliveries, is allowed in connection with one or both registered home occupations on one lot or parcel. For the purposes of this section, a "visit" is defined as a visit to the home by one automobile transporting one or more clients or customers. Visits by employees or business associates for the purpose of collecting equipment or merchandise for use, sale or delivery at off-site locations are not permitted.
- (4) The sale of goods on the premises is limited to:
  - (A) Handicrafts or art products or similar hand-made products or services such as dressmaking, hand-weaving, block-printing, jewelry, pottery, and musical instruments, which are produced on site by a resident of the dwelling; or
  - (B) Up to 5 visits per month that involve the sale of items customarily ordered on the premises of the registered home occupation for delivery at a later date, to customers at other locations. However, the delivery of the goods to the customer must occur off-site.
- (5) Display or storage of goods is prohibited except for:
  - (A) Such handmade items as enumerated in paragraph (4)(A) above; or
  - (B) Samples of merchandise that may be ordered by customers to whom it will be delivered at off-site locations, or merchandise awaiting such delivery.

The storage of equipment or merchandise for collection by employees who will use or deliver it at off-site locations is prohibited.

- (6) No equipment or facilities may be used other than:
  - (A) Domestic, household, or lawn maintenance service equipment;
  - (B) Office equipment, such as but not limited to a typewriter, word processor, calculator or personal computer; or

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- (C) Art or handicraft equipment, such as but not limited to a hand loom, spinning wheel, potter's wheel, kiln or woodworking tools.
- (7) If an existing accessory building is used for any part of the registered home occupation, there must be no external evidence of such use. No more than one existing accessory building may be used for this purpose. A new accessory building must not be constructed for the purpose of conducting the registered home occupation. For the purpose of this section an accessory building must have existed for at least 18 months prior to the onset of the business activity in order to be used as part of the home occupation.
- (8) A registered home occupation must not require construction of any off-street parking area other than that required by the residential use, except that any lot, including one recorded prior to June 1, 1958, with less than the minimum area required by the zone, must have 2 off-street parking spaces. Newly constructed spaces must be located in the side or rear yard. If there is a common parking area serving more than one dwelling unit, as in the case of multiple-family or other attached dwelling units, parking in connection with the registered home occupation must not encroach on parking serving neighboring dwelling units.
- (9) In the R-60 and R-90 zones:
  - (A) Not more than two motor vehicles of any non-resident employee, patron, client, or any other non-resident person associated with a registered home occupation may be parked at the same time on a lot or parcel where a registered home occupation is conducted.
  - (B) A registered home occupation must have a home occupation residential parking area on the lot or parcel on which the registered home occupation is conducted that is no greater than that which will accommodate two parked motor vehicles, each with a maximum dimension of 8.5' x 18', except that the following driveways are deemed to accommodate two parked motor vehicles regardless of the size of the driveways:
    - (i) a driveway 12 feet or less in width that provides direct access for a motor vehicle to a public or private right-of-way, to a garage, carport or a home occupation residential parking area for one car; or,



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- (ii) a driveway 20 feet or less in width that provides direct access for a motor vehicle to a garage, carport or home occupation residential parking area for more than one car.
- (C) Before a Certificate of Registration may be issued, the operator of the home occupation must submit evidence acceptable to the Department that the drainage of the home occupation residential parking area will not damage any nearby property or public street.
- (D) No home occupation residential parking area, regardless of when created, may be established, maintained or used for parking of any motor vehicle on a parcel or lot on which a registered home occupation is conducted pursuant to registration certificate issued after November 18, 2002, except in accordance with the requirements of this section.
- (E) For a registered home occupation for which a registration certificate had been issued before November 18, 2002, a home occupation residential parking area that accommodates more than two parked motor vehicles may continue to be used and maintained, provided that such area has been used for parking for a registered home occupation for not less than three years prior to November 18, 2002.
- (F) A registered home occupation for which a registration certificate was issued before November 18, 2002, must bring all home occupation residential parking areas into compliance with the requirements of this section, if any home occupation residential parking area is constructed or increased for use by the registered home occupation after November 18, 2002.
- (G) Except for a driveway covered in subparagraph (B)(i) or (ii), or as otherwise provided in this section, each home occupation residential parking area must be set back from a lot line no less than:

	R-90	R-60
(1) Front <sup>1</sup>	30 feet	25 feet
(2) Side <sup>2</sup>	16 feet	16 feet
(3) Rear <sup>3</sup>	25 feet	20 feet

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<sup>1</sup> The setback may be reduced up to 50 percent if a four-foot high solid wood fence, masonry wall, berm, evergreen landscaping six feet high at a time of planting, or a combination, effectively screens from view from the ground of adjoining or confronting property, vehicles parked in the home occupation residential parking area.

<sup>2</sup> The setback may be reduced up to 50 percent if a six-foot high solid wood fence, masonry wall, berm, evergreen landscaping six feet high at time of planting, or a combination, effectively screens from view from adjoining or confronting property, vehicles parked in the home occupation residential parking area.

<sup>3</sup> For a corner lot, the side yard adjoining a public right-of-way shall be considered as a front yard and the front yard setbacks apply.

- (10) In the Residential One-Family Zones regulated by Section 59-C-1.3 and in recorded residential subdivisions in the Agricultural Zones regulated by Division 59-C-9, any commercial vehicle that is parked or garaged on-site in connection with the registered home occupation must comply with the regulations for commercial vehicles in Section 59-C-1.31, title "Land Uses." In the Townhouse and Multiple-Family Zones regulated by Sections 59-C-1.7 and 59-C-2.3, respectively, one commercial vehicle may be parked on-site in connection with this use if parked in a garage.
- (11) The display of a sign must comply with the requirements established in Article 59-F of this chapter.
- (d) A home health practitioner's office, in those agricultural or residential zones where it is allowed as a registered use in accordance with Section 59-C-1.31, 59-C-2.3 or 59-C-9.3, must comply with the following requirements, except as provided in Paragraph (d)(9), below:

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§59-G-2.28

Article 59-G

- (4) The floor area of the food facility patron area is less than the floor area of the fuel facility patron area.

(Legislative History: Ord. No. 13-80; §3.)

**Editor's note**—Former Section 59-G-2.28, regarding helistops, was repealed by § 11 of Ord. No. 10-39. Helistops are now governed by § 59-G-2.27.

**Sec. 59-G-2.29. Home occupation, major.**

The use of a dwelling for a major home occupation, including a professional or home health practitioner's office that is not in accordance with Sections 59-A-3.4 and 59-A-6.1, may be allowed, subject to the following provisions:

- (a) The use must be clearly subordinate to the use of the dwelling for residential purposes. The amount of floor area used for the major home occupation must not exceed 33 percent or 1,500 square feet, whichever is less, of the total floor area of the dwelling unit and any existing accessory building on the same lot or parcel. Any enlargement of the total floor area resulting from construction completed on or after the date of application for the special exception or within 18 months immediately preceding the application must be excluded from the total floor area on which this calculation is based.
- (b) The use must be conducted within the dwelling unit or any existing accessory building and not in any open yard area of the lot or parcel on which the dwelling is located. Exterior storage of goods or equipment is not permitted. No separate detached building may be constructed on the lot or parcel for the express purpose of specifically operating the home occupation. No more than one existing accessory building may be used for this purpose. The use may, however, involve off-site activities such as sales, client contact and other matters related to the home occupation.
- (c) The Board may grant a special exception for a major home occupation on the same property as a registered home occupation, if it finds that both together can be operated in accordance with the provisions of this section and Section 59-G-1.2, title "Conditions for Granting." The Board must not grant a special exception for more than one major home occupation on the same property or approve such a use if the property is also approved for a different special exception in accordance with this Division 59-G-2.
- (d) The home occupation office must be conducted only by members of the family, as defined in Section 59-A-2.1, residing in the dwelling and a maximum of 2 nonresident employees or associates to be determined by the Board, taking into account the impact on neighboring residences of the resultant parking and traffic. The Board may allow more than 2 nonresident employees for a health practitioner's practice; however, no

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nonresident health practitioner is allowed. In any case where customers, clients or patients visit the dwelling, there must be no more than 2 resident operators of the home occupation or 2 resident health practitioners or other professionals practicing in the dwelling; abuse of this exemption may lead to revocation of the Certificate of Registration.

- (e) Clients, customers, patients or other visitors in connection with the home occupation must visit by appointment only. The Board may specify the hours during which they may visit and may limit the number of clients, customers, patients, or other visitors during those periods. An indoor waiting room must be provided. In the case of a home health practitioner, as defined in Section 59-A-2.1, emergency patients may visit outside the specified hours or without appointment; abuse of this exemption may lead to revocation of the special exception.
- (f) No equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference detectable at or beyond the lot line is allowed as part of the special exception activity, nor is it allowed to involve use, storage or disposal of:
  - (1) A quantity of a petroleum product sufficient to require a special license or permit from the fire marshal; or
  - (2) Any material defined as hazardous or required to have a special handling license by the Montgomery County Code, as amended, or the Annotated Code of Maryland, as amended, except that disposal of medical waste must be regulated as provided in Maryland State Laws and Regulations.
- (g) The only allowable equipment or facilities are those needed for:
  - (1) Domestic or household purposes;
  - (2) General office purposes, such as but not limited to a personal computer, calculator, word processor, or typewriter; or
  - (3) Art or handicraft equipment, such as but not limited to a hand loom, spinning wheel, kiln, or woodworking tools.
  - (4) In the case of a home health practitioner, as defined in Section 59-A-2.1, medical equipment may also be used, subject to the provisions of Paragraph (f), above.

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- (h) The sale of goods on the premises is prohibited, except for:
- (1) The products of dressmaking, hand-weaving, block-printing, the making of jewelry, pottery or musical instruments by hand, or similar arts or handicrafts performed by a resident of the dwelling; or
  - (2) No more than 5 sales per month of items customarily ordered for delivery to customers at off-site locations.

- (i) Display or storage of goods is prohibited except for:

- (1) Such handmade items as are enumerated in paragraph (h)(1) above; or
- (2) Samples of merchandise that may be ordered by customers to whom it will be delivered at off-site locations, or merchandise awaiting such delivery.

The storage of equipment or merchandise for collection by employees who will use or deliver it at off-site locations is prohibited.

- (j) Except as provided in Paragraph (2), off-street parking must be provided on-site in accordance with the relevant provisions of Article 59-E, as follows:
- (1) For a home health practitioner, the Board may require the number of spaces specified in Section 59-E-3.7 for "office, medical practitioner." Alternatively, and for any other use encompassed by this Section 59-G-2.29, there must be one parking space for each nonresident employee or associate plus one parking space for every client or customer allowed by the conditions of the special exception to visit in any one-hour period. These spaces must be in addition to the number of spaces required for the residential use of the property.
  - (2) In determining the necessary amount of on-site parking, the Board may take into account the availability of on-street parking spaces, but on-street parking must not be allowed in connection with the home occupation or professional office if it will have an adverse impact on neighboring residences.
  - (3) Screening must be provided in accordance with Section 59-E-2.83. The required spaces must be located in the side or rear yard, except that the Board may approve parking in a driveway traversing the front yard if it finds that there is inadequate space for the parking or necessary screening in the side or rear yard, and the front-yard driveway can be screened in accordance with Section 59-E-2.83. If an applicant can establish, to the satisfaction of the Board, that a front-

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yard parking area was constructed prior to February 5, 1990, in order to satisfy the parking requirements for a residential professional office as a permitted use, the Board may waive the requirement for side or rear yard parking if it finds that such action will not have an adverse impact on neighboring residences.

- (k) In the Residential One-Family Zones regulated by Section 59-C-1.3 and in recorded residential subdivisions in the Agricultural Zones regulated by Division 59-C-9, any commercial vehicle that is parked or garaged on-site in connection with the home occupation must comply with the regulations for commercial vehicles in section 59-C-1.31, title "Land Uses." In the Townhouse and Multiple-Family Zones regulated by Sections 59-C-1.7 and 59-C-2.3, respectively, one commercial vehicle may be parked on-site in connection with the home occupation if parked in a garage.
- (l) The Board may restrict deliveries by truck in volume and frequency and may limit them to deliveries by public or private services that also deliver to private homes.
- (m) Reserved.
- (n) A special exception for a major home occupation is granted for a two-year period and the special exception may be renewed if it is operated in compliance with the findings and conditions of the Board in the initial grant and satisfies the compliance procedures specified by Section 59-G-1.3. The public hearing on the renewal may be waived by the Hearing Examiner if the inspection of the premises indicates that the special exception is in compliance with the conditions established by the Board of Appeals and the parties entitled to notice are given an opportunity to request a hearing and fail to do so.
- (o) In those zones where a professional office for a resident of a dwelling was permitted by right prior to February 5, 1990, and if a use-and-occupancy permit for the professional office was issued prior to February 5, 1990, the office may be continued as a nonconforming use, as provided in Division 59-G-4. (See Section 59-C-1.31, 59-C-2.3 or 59-C-9.3.)

(Legislative History: Ord. No. 11-67, § 10; Ord. No. 13-76, §1; Ord no. 14-47, § 1.)

**Editor's note**—In City of Takoma Park v. County Board of Appeals for Montgomery County, 259 Md. 619, 270 A.2d 772 (1970) it was held that a woman and her 2 children living in a man's home and helping him (sometimes) in his trade of making slip covers are a part of the man's family within the meaning of the home occupation exception. The special exception was granted for an R-60 zone.

**Sec. 59-G-2.30. Nursery, horticultural retail.**

This use may be allowed together with incidental buildings upon a finding by the Board of Appeals that the use will not constitute a nuisance because of traffic, noise, hours of operation, number of employees,

**PRINCE GEORGE'S COUNTY**

**(118) Home Occupation:**

Any occupation or enterprise for gain or profit carried on in a dwelling unit and meeting the following criteria:

(A) It is customarily conducted entirely within a dwelling unit solely by the residents;

(B) It is incidental and secondary to the main residential use of the dwelling unit;

(C) It does not change the residential character or appearance of the dwelling or its primary residential use, nor does it have any exterior evidence, other than a permitted sign, to indicate that the dwelling is used for any but residential purposes;

(D) It has no on-premises storage of merchandise to be sold and used or equipment or materials to be used off the premises, unless storage is specifically permitted;

(E) Employment of nonresidents is prohibited unless specifically permitted as provided below;

(F) Off-street parking requirements in Part 11 do not apply to home occupations;

(G) Not more than two (2) vehicles associated with the home occupation or enterprise may be based at the subject property, nor parked on-site or off-site or on a public street within four hundred (400) yards from the property. Upon request by the Department of Environmental Resources, each dwelling unit resident shall provide for inspection the Motor Vehicle Administration registrations for all vehicles owned or leased by the resident, titled in the business name, or listed as business personal property on the resident's or the business' income or property tax returns;

(H) The following uses are permitted as a home occupation accessory to a dwelling, subject to restrictions in the definitions of those uses, and with additional restrictions as indicated:

(i) Instruction that involves a single instructor and not more than five (5) students at any one time;

(ii) General clerical work (such as typing, envelope or flyer preparation or mailing, bookkeeping, and the like), with no more than two (2) nonresident employees on the premises at any time;

(iii) Retail businesses involving only door-to-door, home party, or mail-order sales, with temporary storage of merchandise permitted prior to delivery;

(iv) The practice of electrolysis (the destruction of hair roots with an electric current);

(v) The practice of taxidermy;

(vi) Nail salons, beauty parlors and barber shops of one (1) chair;

(vii) Catering businesses limited to food preparation for off-premises delivery, with no more than one (1) nonresident employee and one (1) customer on the premises at any time. The business shall be on property of at least ten (10) contiguous

acres and may be in the dwelling unit or in an accessory building subordinate to the dwelling in size and use; and

(viii) The creation, production, and storage within the dwelling unit and accessory buildings, for sale at another location, of tangible objects of art or craft items, works in progress, and supplies and materials;

(I) The following uses are not permitted as a home occupation accessory to a dwelling:

- (i) Fortunetelling;
- (ii) Nursing or care homes, family or adult day care centers, congregate living facilities, group residential facilities, hospitals, and the like;
- (iii) Tourist homes;
- (iv) Nail salons, beauty parlors, or barber shops of more than one (1) chair;
- (v) Businesses, trades, offices, or enterprises which use more than two (2) commercial vehicles, alter the residential appearance of the dwelling, or adversely impact the residential character of the neighborhood; and
- (vi) Wholesale dealers' display, storage or repair of vehicles.

**(118.1) Home Occupation, Low-Impact:**

Any occupation or enterprise for gain or profit carried on in a dwelling unit that meets the above criteria of a home occupation as well as the following criteria:

- (A) No nonresident employees or customers conducting business on the premises at any time; and
- (B) No delivery trucks, additional parking other than that required for the dwelling, or signage is permitted.



ANNE ARUNDEL COUNTY

§ 18-10-119. Home occupations.

A home occupation shall comply with all of the following requirements.

(1) A home occupation shall be located and conducted entirely in a principal dwelling unit and shall be incidental and secondary to the use of the structure as a dwelling.

(2) A home occupation may not change the character of the dwelling unit and may not exceed 25% of the total floor area.

(3) Home occupations are limited to the following:

(i) art, handcraft, woodworking, or ceramics studios for the sale of products made on the premises;

(ii) florist or nursery operations for flowers and plants;

(iii) hair and nail salons;

(iv) jewelry, watch, or clock repair;

(v) seamstress or tailoring establishments;

(vi) photography studios;

(vii) professional or general offices;

(viii) scissor or saw sharpening operations;

(ix) massage practice in which only one State-licensed massage therapist or practitioner practices massage in the dwelling unit as a sole practitioner and receives no compensation from any establishment or individual other than the recipient of the massage;

(x) repair and maintenance of firearms, including handguns, rifles, shotguns, and antique firearms, as those terms are defined in the Criminal Law Article, § 4-201, of the State Code;

(xi) typing and computer services;

(xii) direct sale product distribution, such as Amway, Tupperware, and Avon;

- (xiii) tutoring and instruction for no more than six students;
  - (xiv) child care for a maximum of 12 children in accordance with the requirements of the State Child Care Administration; and
  - (xv) taxidermy, excluding butchering, rendering, or tanning.
- (4) The operator of a home occupation shall be a resident of the dwelling unit in which the occupation is located.
- (5) No more than one nonresident may be employed in the home occupation.
- (6) The sale or rental of goods or products other than those produced on the premises by the home occupation is prohibited.
- (7) Outside storage is prohibited.

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

**PART 3 10-300 HOME OCCUPATIONS**

**10-301 Authorization**

Home occupations are permitted in any dwelling unit subject to the approval by the Zoning Administrator and the following provisions.

**10-302 Permitted Home Occupations**

Home occupations include, but are not necessarily limited to, the following:

1. Artists and sculptors.
2. Authors and composers.
3. Dressmakers, seamstresses and tailors.
4. Home crafts, such as model making, rug weaving, lapidary work, and ceramics.
5. Office facilities, other than home professional offices as defined in Article 20.
6. Schools of special education whose class size does not exceed more than four (4) pupils at any given time and not more than eight (8) pupils in any one day.
7. The letting for hire of not more than two (2) rooms for rooming or boarding use for not more than two (2) persons, neither of whom is a transient.

**10-303 Home Occupations Not Permitted**

Permitted home occupations shall not in any event be deemed to include the following:

1. Antique shops.
2. Barbershops or beauty parlors.
3. Eating establishments.
4. Gift shops.
5. Repair service or personal service establishments, except as may be permitted by Sect. 302 above.
6. Riding or boarding stables or kennels.
7. Veterinary hospitals.

## FAIRFAX COUNTY ZONING ORDINANCE

10-304

### Use Limitations

In addition to the use limitations applicable in the zoning district in which located, all home occupations shall be subject to the following use limitations:

1. A home occupation must be conducted by the home occupation permit applicant within the dwelling which is the primary residence of the applicant or in an accessory building thereto which is normally associated with a residential use and shall be clearly subordinate to the principal use of the lot as a dwelling.
2. Except for articles produced on the premises, no stock in trade shall be stored, displayed or sold on the premises.
3. There shall be no exterior evidence that the property is used in any way other than for a dwelling.
4. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home, associated with a hobby or avocation not conducted for gain or profit, or customary for a small office.
5. No outside display or storage of goods, equipment or materials used in connection with the home occupation shall be permitted.
6. The home occupation permit applicant and other persons who use the dwelling as their primary residence may be involved in the home occupation use. In addition, one (1) nonresident person, whether paid or not for their services, may be involved in the home occupation use on the property provided that there is only one (1) such person on the property and the hours of such attendance shall be limited to 8:00 AM to 5:00 PM, Monday through Friday.
7. Only one commercial vehicle shall be permitted per dwelling unit, subject to the provisions of Sect. 102 above.
8. The dwelling in which the home occupation is being conducted shall be open for inspection to County personnel during reasonable hours.
9. A permit for a home occupation is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination of the applicant's residency, the home occupation permit shall become null and void.
10. No sign shall be permitted.
11. There shall be no customers or clients.

10-305

### Revocation of a Home Occupation Permit

A permit for a home occupation shall be revocable by the Zoning Administrator because of the failure of the owner or operator of the use covered by the permit to observe all requirements of the permit and the Zoning Ordinance.

## Frederick County

### (5) Home occupations.

(a) *General home occupation standards.* All home occupations shall comply with the following conditions.

1. There will be no exterior evidence, other than a permitted sign, to indicate that the building is being used for any purpose other than that of a dwelling or an accessory structure.

2. No retail sales or services, other than goods grown, produced or assembled on the premises, shall be conducted on the premises; however, retail sales of products not produced on the premises are permitted when these sales are only incidental to and part of the primary function of the business.

3. Additional off-street parking will be provided in accordance with the requirements set forth by use in § 1-19-168. If there is a question as to the use and corresponding parking, the Zoning Administrator shall make the determination.

4. The home occupation shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference which can be detected at or beyond the property line.

5. There will be no outdoor storage of equipment, material, or stock.

6. There will be no storage on the premises of explosives or highly flammable or extremely hazardous materials as defined by the U.S. Environmental Protection Agency.

7. The business must be conducted by a full-time resident of the property.

8. Home occupations located on properties utilizing a common drive shall be required to give notice of home occupation use to adjoining property owners by registered or certified mail.

9. Any interior structural alterations to accommodate the home occupation will require the issuance of a building permit.

(b) *Home occupation with "no impact."* Home occupations with "no impact" are a permitted accessory use upon completion of home occupation

survey form in the Planning and Zoning Office. Home occupation owners must comply with the general home occupation standards and the following conditions.

1. No more than 5 business- related vehicle visits per week at the premises, excluding delivery vehicles, are permitted when the business is located on a local roadway as specified in the Comprehensive Plan. When located on a collector roadway, no more than 5 business-related vehicle visits per day at the premises, or no more than 20 per week, whichever is greater, excluding delivery vehicles, are permitted. There will be no limit on the number of business-related vehicle visits to a residence when located on an arterial roadway. Deliveries are only permitted by public or private delivery services that customarily make residential deliveries.

2. No nonresident employees (full-time or part-time) are permitted to work on the premises.

3. No more than 600 square feet of an accessory structure may be used for business purposes. There is no limit to the amount of square footage which can be utilized within the principal structure, provided the home occupation remains incidental to the residential use. For parcels of 10 acres or greater in size, the size of accessory structures to be used may be enlarged by special exception after giving due consideration to setbacks, size and location of structure and its impact on the adjoining properties.

4. More than 1 home occupation with no impact may be conducted on the premises; however, the combined business-related impact of the home occupations shall not exceed the limits established in items (b)1.-3. above.

5. "No impact" home occupations may be permitted in all types of residential structures.

(c) *Home occupation with "minor impact."* Home occupations with minor impact must obtain a zoning certificate through the Permits and Inspections Office. Home occupation owners must comply with the general home occupation standards in subsection (5)(a) and the following conditions.

1. No more than 2 business- related vehicle visits per day nor more than 10 visits per week at the premises, excluding delivery vehicles, are permitted when the business is located on a local roadway as specified on the Comprehensive Plan. When located on a collector roadway, no more than 5 business-related vehicle visits per day at the premises, or no more than 20 per week, whichever is greater, excluding delivery vehicles, are permitted. There will be no limit on the number of business-related vehicle visits to a residence when located on an arterial roadway. Deliveries are only permitted by public or private delivery services that customarily make residential deliveries.

2. No more than one nonresident employee (full-time or part-time) is permitted to work on the premises.

3. In residential and conservation zoned parcels, no more than 600 square feet of an accessory structure may be used for home occupation purposes. This square footage may increase to 1,200 square feet in the agricultural zone and on lots over 5 acres in the Resource Conservation (RC) Zone. There is no limit to the amount of square footage which can be utilized within the principal structure, provided the home occupation remains incidental to the residential use. For parcels of 10 acres or greater in size, the size of accessory structures to be used may be enlarged by special exception after giving due consideration to setbacks, size and location of structure and impact on the adjoining properties.

4. More than 1 home occupation with minor impact may be carried out on the premises; however, the combined business-related impact of the home occupations shall not exceed the limits established in items (c)1.-3. above.

5. Home occupations with minor impact shall be permitted within townhouse, condominium, multiplex or apartment dwellings except that vehicle visits shall be limited to the hours between 7:00 a.m. and 6:00 p.m.

**B. Noncomplying Structures and Uses**

1. A structure or use which does not comply with current bulk requirements, but which complied with the requirements in effect when it was constructed, may remain in place and may be maintained or repaired as necessary.
2. Any additions to the structure or use must comply with current bulk requirements unless a variance is granted with the following exceptions:
  - a. An addition to a single-family detached dwelling may encroach into a front setback without a variance, provided that the addition encroaches no further into the front setback than the existing dwelling.
  - b. The architectural features listed in Sections 128.A.1.A through 128.A.1.C may be added to a building without a variance, provided the features does not extend further out from the current building than the maximum setback encroachment allowed by those sections.
  - c. A previously unoccupied but reserved burial plot in a cemetery may encroach into a setback without a variance, provided that plot encroaches no further into the setback than an occupied burial plot along the same property boundary. [Council Bill 5-2006(ZRA-67), effective 4/10/06]
3. If a noncomplying structure is destroyed by fire, flood or other calamity, it may be replaced without a variance, without complying with current bulk requirements, provided that:
  - a. It may be replaced with a structure of the same or lesser size and dimensions in the same location as the destroyed structure, provided the Director of Planning and Zoning determines that it is not feasible to replace the structure in a location closer to compliance with current bulk requirements.
  - b. It may be replaced with a structure of the same or lesser size and dimensions in a location which is closer to compliance with current bulk requirements than the original location, provided that the Director of Planning and Zoning determines that it is not possible to replace the structure in a location fully in compliance with current bulk requirements.
4. The provisions of Subsection 2 above shall not apply if the structure was vacant for more than one year immediately prior to being destroyed. Subsection 2 shall apply only if a building permit is obtained within two years of the date the structure was destroyed, construction pursuant to the building permit begins within six months of the issuance of the permit, and construction is substantially completed within one year. The building permit shall be revoked and a variance shall be required if these conditions are not met.
5. These provisions shall not be deemed to permit the intentional demolition and replacement of a structure which does not comply with current bulk requirements.

**C. Home Businesses**

**1. Home Occupations**

Home occupations which meet the following requirements are permitted accessory uses in all residential zoning districts and in residential land use areas of the NT, PGCC and MXD Districts. If more than one home occupation is located within a residence or on a residential lot, the requirements given below apply to the cumulative total of all home occupations on the site.

- a. The total area devoted to home occupations shall not exceed 33% of the gross floor area of the dwelling or 800 square feet, whichever is less.



- b. A home occupation shall be located entirely within a dwelling, an accessory building, or both, except that a home office which may be visited by clients shall be located within a dwelling. An office visited by clients may not be separated from the remainder of the structure by an attached garage or an open or enclosed breezeway.
- c. A home occupation shall not alter the residential appearance and character of the dwelling, accessory building or lot.
- d. There shall be no exterior evidence, other than a permitted sign, to indicate that the lot is being used for any purpose other than that of a dwelling. Exterior evidence shall include outdoor display or storage, noise, dust, vibration, glare, fumes, odors or extensive parking area.
- e. No sale or rental of commodities shall take place on the lot.
- f. A home occupation shall be conducted by persons residing in the dwelling. In addition, the following number of nonresident employees may work on the lot in connection with the home occupation:
  - (1) On a lot 40,000 square feet or larger, no more than two full-time equivalent employees not residing in the dwelling, not to exceed four individuals, shall be permitted.
  - (2) On a lot smaller than 40,000 square feet which is improved by a single-family detached dwelling, no more than one full-time equivalent employee not residing in the dwelling, not to exceed two individuals, shall be permitted.
  - (3) Within a single-family attached or apartment dwelling, no more than one full-time equivalent employee not residing in the dwelling, not to exceed one individual, shall be permitted provided that the nonresident employee shall work only between 9:00 a.m. and 5:00 p.m. Monday through Friday.
- g. No business-related deliveries by trucks with more than two axles shall be permitted. Parcel post and other similar delivery trucks are permitted.
- h. Home occupations may include the uses listed below, as well as other uses which comply with all requirements of this section.
  - (1) Art or hand craft studios.
  - (2) Direct sale product distribution (e.g., Amway, Avon, Tupperware, etc.).
  - (3) Mail-order or telephone sales.
  - (4) Dressmaker, seamstress, tailor, and similar uses.
  - (5) Typing and computer services.
  - (6) Repair services for computer hardware, clocks, jewelry, cameras, guns, and similar uses.
  - (7) Tutoring.
  - (8) Business or professional offices which have no more than two vehicles visiting the home occupation at any one time.
  - (9) Catering, subject to Health Department approval.
  - (10) In the RC and RR Districts only, lawn mower and small engine repair on lots of three acres or larger.
- i. The following uses are not permitted as home occupations:
  - (1) Vehicle repair, sales or rental.
  - (2) Restaurants.

- (3) Manufacturing and processing operations, other than production of handcrafts and similar activities.
  - (4) Furniture refinishing.
  - (5) Uses which require a conditional use in any residential zoning district.
- j. Certain home occupations which do not comply with the requirements of this section may be permitted as conditional use, subject to the provisions of Section 131.N.28 and other applicable regulations.

**2. Home-Based Contractors**

In the RC and RR Districts, and on lots larger than two acres in the R-ED, R-20, AND R-12 Districts, a home-based contractor shall be a permitted accessory use, provided that:

- a. The site shall have at least 60 feet of frontage on a public road.
- b. In addition to the commercial or unregistered vehicles which may be parked on the lot according to the accessory use requirements of the applicable zoning district, the following is allowed:
  - (1) In the RC and RR Districts, one additional commercial vehicle may be parked on lots larger than two acres.
  - (2) In the R-ED, R-20, and R-12 Districts, one additional commercial vehicle may be parked on lots larger than three acres.
- c. Employees who do not live on the lot may visit the lot for the sole purpose of picking up or returning vehicles or equipment. Such trips shall be limited to:
  - (1) In the RC and RR Districts, no more than four trips per day for lots two acres or less, eight trips for lots larger than two and less than three acres, and twelve trips for lots of three or more acres.
  - (2) In the R-ED, R-20, and R-12 Districts, no more than eight trips per day for lots larger than one acre.
- d. In addition to the employee visits allowed by Paragraph 2.c, one non-resident, full-time equivalent office employee, not to exceed two individuals, may work on site. Non-resident employees are not permitted to perform non-office functions (e.g. equipment repair, loading, etc.).
- e. No nonresident employees shall be on the lot and no commercial vehicles or equipment shall be taken from or returned to the lot between 7:00 p.m. and 6:30 a.m.
- f. The total area used for parking and storage of commercial vehicles, equipment and supplies, whether outdoors or indoors, shall be limited to the following:
  - (1) In the RC and RR Districts, no more than two percent of the gross lot area or 5,000 square feet, whichever is less.
  - (2) In the R-ED, R-20, R-12 and R-SC Districts, no more than two percent of the gross lot area or 1,000 square feet, whichever is less.
- g. Parking and storage areas shall be restricted as follows:
  - (1) In the RC and RR Districts, supplies shall be stored within a building, except that mulch, compost, soil, sand, stone and other natural materials may be stored