

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 16, 2009 AGENDA

Subject:	Type:	Submitted By:
ZONING TEXT AMENDMENT— HOME OCCUPATIONS	◆ RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and an ordinance has been prepared for Council to consider amendments to Section 2.02.155, Section 2.02.156, and Section 7.10 of the Zoning Ordinance regarding Home Occupations.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing has been scheduled for Council to consider amendments to Section 2.02.155, Section 2.02.156, and Section 7.10 of the Zoning Ordinance regarding home occupations.

Home occupations have become increasingly popular as technology enables more and more people to work from computers and mobile devices in remote locations. Planning staff believes the zoning code needs to be modernized to reflect these advances in technology and provide an effective and efficient planning process to accommodate the trend.

In summary, the revisions seek to clarify the definition of "Home Occupation" and enhance existing code requirements related to home occupations and licensing. For example, Home Occupation II (Minor) permits would no longer require a resident to gather signatures of approval from neighbors within 200 feet. Also, the lists of uses defining specific home occupations have been replaced with generic performance standards or categories. According to the Home Based Business Council, over 200 potential home occupations have been identified. It is not possible to list them all in the code. Therefore, instead of regulating based on the type of business, the City would instead regulate based on necessary parking, number of employees, and other mitigating factors.

Attached is a red-lined copy of Section 2.02.155, Section 2.02.156, and Section 7.10 of the Zoning Ordinance with the proposed amendments.

The Planning Commission held public hearings on April 16, 2009, and May 21, 2009, and recommended approval.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Section 2.02.155. Section 2.02.155 of Ordinance No. 848 is hereby amended to read as follows:

2.02.155 **HOME OCCUPATION** shall mean an "in-home" or "home-based" business, industry, or service (not including uses defined as Adult Entertainment Establishment) operating from within a residential dwelling, or within an accessory structure in a residential zoning district. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property. Home Occupations shall satisfy the standards set forth in Section 7.10 of the City's Zoning Ordinance.

- 2.02.155.01 **Home Occupation I (Major)** shall include Home Occupations that include on-site sales or services (at least 3 days per week) and/or one part-time or full-time employee that does not reside on the premises.
- 2.02.155.02 **Home Occupation II (Minor)** shall include Home Occupations in which an office in the home is used for telecommuting and/or deriving other income or sales,. Minor Home Occupations shall also include all home-based craftmaking or cooking for retail sales (occurring less than three days a week.) **(Ordinance No. 879, 11-19-02)**
- 2.02.155.03 Occupations defined as Home Occupation II are exempt from a conditional use permit. All home occupations (I and II) are required to have a Home Occupation License. **(Ordinance No. 879, 11-19-02)**

SECTION 2. Amendment of Section 2.02.156. Section 2.02.156 of Ordinance No. 848 is hereby amended to read as follows:

2.02.156 **HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation. Such license shall include (but not limited to) the following:

- 2.02.156.01 Application fee in accordance with Master Fee Schedule. **(Ordinance No. 879, 11-19-02)**
- 2.02.156.02 *For major Home Occupations requiring a Conditional Use Permit, a minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address.* **(Ordinance No. 879, 11-19-02)**
- 2.02.156.03 A Conditional Use Permit is required for Home Occupation I uses, except Child Care Homes. **(Ordinance No. 879, 11-19-02)**

SECTION 3. Amendment of Section 7.10. Section 7.10 of Ordinance No. 848 is hereby amended to read as follows:

Section 7.10 Home Occupations

The following are the minimum standards required for a Home Occupation:

- 7.10.01 *No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two (2) square foot in area attached flat against the building located on local or collector streets. However, four (4) square feet in area attached flat against the building located on arterial streets.*
- 7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.10.03 *No more than twenty-five percent (25%) of the home, not to exceed four hundred (400) square feet, can be used for the home occupation, except for Child Care Home. This percentage is inclusive of any detached accessory buildings used for the Home Occupation.*
- 7.10.04 Home occupations shall employ no more than one full-time or part-time employee on-site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

- 7.10.05 Unless expressly permitted by a Conditional Use Permit, No retail sales are permitted from the site other than incidental sales related to services provided.
- 7.10.06 No exterior storage is permitted.
- 7.10.07 Additional off-street parking may be required for the business.
- 7.10.08 *If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.*
- 7.10.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 7.10.10 *Home Occupation License shall be required.*
- 7.10.11 *Conditional use permit is required, except for Home Occupation II uses and Child Care homes.*
- 7.10.12 *Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.*
- 7.10.13 All fees shall be paid in accordance with the Master Fee Schedule.
- 7.10.14 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R.R.S. 1943, Sec. §71-1911. (*Ordinance No. 884, 11-19-02*)

SECTION 4. Repeal of Section 2.02.155, Section 2.02.156, and Section 7.10 as Previously Enacted. Section 2.02.155, Section 2.02.156, and Section 7.10 of Ordinance No. 848 as previously enacted is hereby repealed.

SECTION 5. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 6. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 16th DAY OF JUNE 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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Deleted: art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/mechanical), instruction (music, consulting, wholesale/catalogue sales, personal service (Beauty/barber/massage/tattoo), shops, renting of rooms for residential purposes, and other similar uses. (Ordinance No. 879, 11-19-02)

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Deleted: This includes business offices for services such as construction, repair and cosmetic services/sales rendered at other locations, internet business, and other similar uses

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(Ordinance No. 884, 11-19-02)

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Deleted: <#>There shall not be a stock of goods or material on the premises in excess of one hundred twenty (120) square feet of the area of the home occupation, none of which shall be of a flammable or hazardous nature.¶

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