

Title VII CITIES, TOWNS AND VILLAGES

Chapter 71

Effective - 28 Aug 2022

71.990. Home-based business, use of residential dwelling — limitations on restrictions by political subdivisions — reasonable regulations permitted. — 1. As used in this section, the following terms mean:

(1) **"Goods"**, any merchandise, equipment, products, supplies, or materials;

(2) **"Home-based business"**, any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.

2. Any person who resides in a residential dwelling may use the residential dwelling for a home-based business unless such use is restricted by:

(1) Any deed restriction, covenant, or agreement restricting the use of land; or

(2) Any master deed, bylaw, or other document applicable to a common-interest ownership community.

3. Except as prescribed under subsection 4 of this section, a political subdivision shall not prohibit the operation of a no-impact, home-based business or otherwise require a person to apply for, register for, or obtain any permit, license, variance, or other type of prior approval from the political subdivision to operate a no-impact, home-based business. For the purposes of this section, a home-based business qualifies as a no impact, home-based business if:

(1) The total number of employees and clients onsite at one time does not exceed the occupancy limit for the residential dwelling; and

(2) The activities of the business:

(a) Are limited to the sale of lawful goods and services;

(b) May involve having more than one client on the property at one time;

(c) Do not cause a substantial increase in traffic through the residential area;

(d) Do not violate any parking regulations established by the political subdivision;

(e) Occur inside the residential dwelling or in the yard of the residential dwelling;

(f) Are not visible from the street; and

(g) Do not violate any narrowly tailored regulation established under subsection 4 of this section.

4. A political subdivision may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for the purpose of:

(1) Protecting the public health and safety, including regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, and noise control; or

(2) Ensuring that the business activity is compliant with state and federal law and paying applicable taxes.

5. No political subdivision shall require a person, as a condition of operating a home-based business, to:

(1) Rezone the property for commercial use;

(2) Obtain a home-based business license; or

(3) Install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with no more than two dwelling units.

6. Whether a regulation complies with this section is a judicial question.

(L. 2022 H.B. 1662)

Title VII CITIES, TOWNS AND VILLAGES

Chapter 89

Effective - 28 Aug 2022

89.500. Home-based work — limitation on zoning restrictions. — 1. As used in this section, the term "**home-based work**" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

- (1) Prohibit mail order or telephone sales for home-based work;
- (2) Prohibit service by appointment within the home or accessory structure;
- (3) Prohibit or require structural modifications to the home or accessory structure;
- (4) Restrict the hours of operation for home-based work; or

(5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.

3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant, or agreement restricting the use of land nor any master deed, by law or other document applicable to a common interest ownership community.

(L. 2022 H.B. 1662)

Chapter 29 City Code of Ordinances - Unified Development Code

Use-Specific Standards

(kk) Accessory and temporary uses of land and buildings: Home occupation. This use is permitted if compatible with the residential character of the neighborhood, however, in order to promote peace, quiet and freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas all home occupations must meet the following additional standards:

- (1) A home occupation shall be incidental to the use of a dwelling unit for residential uses. No person other than a person residing at the dwelling unit shall be directly involved with or work in the home occupation. If the home occupation employs persons to work at other locations, the dwelling unit shall not be used as an assembly point for any employees who may work at sites outside of the dwelling;
- (2) No alteration of the residential appearance of the premises shall be made, including the creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the home occupation;
- (3) No more than twenty (20) percent of the total floor area of the dwelling unit and garage shall be devoted to the home occupation. A garage shall not be used for a home occupation if such use has the effect of eliminating required parking;
- (4) The home occupation shall be conducted entirely within the dwelling unit or garage and no stock in trade shall be displayed or visible outside, or stored outside of any building, and no raw materials, tools or appliances or waste products shall be stored outside of any building;
- (5) Signs may be used for identification or advertisement of the home occupation but such signs must be attached flat to the structure, may not be larger than one square foot and may not be illuminated;

- (6) Direct sales to the public shall not be conducted on the premises, provided that off-site orders previously made may be filled on the premises;
- (7) The use shall not generate traffic in volumes greater than would normally be expected in a residential neighborhood. For purposes of this section, the normal volume of traffic generated by a single-family dwelling shall be defined as twelve (12) vehicle trips to and/or from the dwelling unit per twenty-four-hour period. The use shall not use commercial or business vehicles to deliver finished products from the dwelling unit. All parking necessarily generated by the use shall be off the street in accordance with section 29-4.3(f) of this chapter;
- (8) The use shall not produce noise, obnoxious odors, vibrations, glare, fumes or electrical interference detectable to normal sensory perception outside the structure;
- (9) No toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials may be used or stored on the site; and
- (10) All persons desiring to have a home occupation must first present appropriate plans to the building regulations supervisor detailing how the dwelling will be used or altered to accommodate the use. Thereafter, whenever any permit or license is to be renewed, the dwelling may be inspected to determine how it has been altered to accommodate the use.

(II) ***Accessory and temporary uses of land and buildings: Home occupation with non-resident employees.*** This use shall be subject to the standards listed for all home occupations in subsection (kk) above; except that the home occupation may be carried out by occupants of the dwelling unit as well as by one full-time forty-hour individual or two (2) one-half-time (not more than twenty (20) hours each) individuals who do not reside in the dwelling unit. In addition, the board may allow that not more than forty (40) percent of the total floor area of the dwelling unit and garage area shall be devoted to the home occupation. A conditional use permit for a home occupation shall expire three (3) years from the date of approval, after which a new conditional use permit may be requested.