

ORDINANCE NO. 2018 - 14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ENACTING CHAPTER 5.38, AND AMENDING SECTIONS 5.04, 17.18, AND 17.54, AND DELETING CHAPTER 17.98 OF THE SOUTH JORDAN CITY MUNICIPAL CODE REGARDING HOME OCCUPATIONS.

WHEREAS, Utah Code § 10-9a-102 grants the City Council of the City of South Jordan (the “City Council”) authority to enact ordinances that it considers necessary or appropriate for the use and development of land in the City of South Jordan (the “City”), including the City’s aesthetics; and

WHEREAS, South Jordan City Municipal Code currently has home occupation regulations and provisions in Chapter 17.98; and

WHEREAS, The City has determined that these regulations would be better suited in Chapter 5; and

WHEREAS, The City has determined that changes regarding exemptions to a home occupation license, transferability of a license, and license renewal should also be made to comply with updates in Utah State Code; and

WHEREAS, The City Councils finds it is in the best interest of the health, safety, and welfare of the City of South Jordan to amend the City’s Municipal Code as detailed in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Adoption. The City Council hereby adopts the amendments of City Code as shown in Exhibit A through Exhibit E, and as listed below:

SECTION 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS 17 DAY OF July, 2018 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	X	---	---	---
Bradley Marlor	X	---	---	---
Donald Shelton	X	---	---	---
Tamara Zander	X	---	---	---
Jason McGuire	X	---	---	---

Mayor: *Dawn R. Ramsey*
Dawn R. Ramsey

Attest: *Emma M. West*
Recorder



Approved as to form:
[Signature]
Office of the City Attorney

EXHIBIT A

The following sections and subsections of Chapter 5.04 (Business Licenses Generally) are amended as shown:

5.04.010: DEFINITIONS:

For the purpose of this title, the following terms shall have the meanings prescribed in this section:

BUSINESS: Any occupation or enterprise involved in the manufacture or sale of products or goods at wholesale or retail, or the rendering of service to or for another person for compensation. It does not include the acts of employees rendering service to employers.

BUSINESS LICENSE OFFICIAL: The city employee designated by the city manager to manage the business licensing function.

CONTINGENT BUSINESS LICENSE: A license permitting a business to operate while complying with specific requirements determined by the business license official at the time of issuance.

EMPLOYEE: The operator, owner or manager of said place of business and any persons employed by such person in the operation of said place of business in any capacity, and also any salesperson, agent or independent contractor engaged in the operation of said place of business in any capacity.

ENGAGE IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his or her employer under any contract of personal employment.

~~**HOME OCCUPATION:** For the purposes of this chapter, the definition of "home occupation" in section 17.98.010: "Definition And Purpose", of this code is adopted by reference.~~

LICENSEE: A person to whom the city has granted a business license.

PERSON: Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

PLACE OF BUSINESS: Each separate location at which the licensee engages in business within the city.

TEMPORARY BUSINESS LICENSE: A license for a business that is located at a site which has been approved by the city for no more than sixty (60) days, unless otherwise approved consistent with section 17.18.030.080, "Temporary Use Regulations", of this code.

5.04.030: EXEMPTIONS TO LICENSE:

A. A person is not subject to the requirements of this chapter and is not required to obtain a license under this chapter to conduct a business if:

1. The receipts of the business, when conducted by a religious, charitable, fraternal, educational, military, or governmental organization, are appropriated for the purposes and objects for which such organization is formed, and no person directly or indirectly derives a profit therefrom; or
2. The business has a lack of contacts, i.e., no service is provided or product sold within the city more frequently than four (4) times a year; or
3. The business is specifically exempted from municipal business licensing and fees by the laws of the United States or the state of Utah; or
4. The person is acting as a trustee, receiver, or other public officer pursuant to judicial order or supervision; or
5. The business is a fruit or vegetable stand that sells produce grown solely on the seller's property which is located in the city; or
6. The person conducting the business is under the age of eighteen (18) and is conducting the business as a part time hobby or occupation and is not engaged in such activities as the principal means of that person's support; or
7. The business consists of mere delivery in the city of goods or trade services purchased at a regular and licensed place of business outside the city, not including, however, mobile food vendor businesses; or
8. The business is an approved vendor at a city sponsored event; or
- 9. The business is a type of home occupation as described in Chapter 5.38 that does not require a license; or**
- 10. The combined offsite impact of a home occupation business and the primary residential use does not materially exceed the offsite impact of the primary residential use alone as per Section 10-1-203(7) of the Utah State Code.**

B. Any person not required to obtain a license as provided in this section shall comply with all other requirements of this code.

5.04.100: TRANSFERABILITY:

~~A. Transfer to Other Person Prohibited: No person may assign or transfer, either directly or indirectly, a license granted or issued by the city to any other person, and such a license shall not survive the sale of substantially all of the equity interest(s) of a corporate or other licensee.~~ **Business licenses are not transferrable.**

~~B. Transfer Of Location: A licensee to whom the city has issued a license based on a definite location that was specified in the corresponding business license application may, except as hereinafter provided, request that the city transfer said license for the sole purpose of transacting or carrying on the same business that was described in the application to some other definite location in the city. The licensee shall submit a transfer application to the business license official fifteen (15) days in advance of the proposed transfer. The business license official may, in his or her discretion after reviewing reports furnished by city staff, deny or grant the transfer application according to the above limitations. No change in location shall be permitted without full compliance with the building and zoning requirements and all other applicable laws.~~

5.04.210: ISSUANCE AND RENEWAL OF LICENSE:

Upon full compliance with this section and any other section relating to specific licenses, the business license official shall issue or renew a license to the person making application for a license or a license renewal, respectively.

A. Application Form: All applications regarding a business license shall be submitted to the business license official. All applications shall be completed in full and shall include all required supporting documents and information.

B. Background and Fingerprints: All applicants who are required to provide a criminal history are required to provide it from the state of their current driver's license, state ID card or work visa.

C. Misrepresentation: It is unlawful to knowingly misrepresent a material fact in applying for a business license either orally or in writing. A violation of this section is grounds for refusing, revoking or suspending a license, and is a class B misdemeanor.

D. Investigation: The business license official and/or authorized city staff may investigate or inspect any business for which a license is sought prior to issuance of a license. In the case of certain regulatory licenses, inspection may be required or enabled by other provisions of this title. If the investigation or inspection reveals any unlawful activity by the applicant, the license may be denied.

E. Fee: The applicant shall pay the fee, together with any required penalty, set for the license applied for, which fee shall be established by the city fee schedule.

F. Renewals: ~~The business license official shall send a renewal form and fee statement to each business known to be presently operating and required to be licensed, in order to facilitate license renewal.~~ A business is responsible for renewing their business license **no sooner than 30 days and no later than** ~~on or before~~ the date of expiration.

G. Grounds for Denial: The grounds set forth elsewhere in this title for revocation of a license shall also be grounds for denial of a license in the first place. Specifically, no license shall be issued to a business violating, causing, or contributing to a violation of title 17 and section 16.26.040, "Parking Ratios", of this code.

H. Other Requirements: Other provisions of this title may set forth additional requirements for issuance of certain regulatory licenses.

I. Certificates: A license certificate issued under the signature of the mayor and seal of the city shall be made available upon issuance of a license pursuant to this title.

J. Appeal to City Manager: Any person aggrieved by the action of the business license official ~~in refusing to issue a license shall have the right to appeal to the city manager.~~ The appeal shall be made in the same manner as provided in subsection 5.04.220-B, "Appeal", of this chapter, ~~except as otherwise provided for home occupations, which appeals shall be made consistent with section 17.98.060 "Application Appeal Procedure", of this code to the planning commission.~~

5.04.220: REVOCATION OR SUSPENSION OF LICENSES ~~OTHER THAN HOME OCCUPATIONS:~~

A. Grounds: The licensee shall operate the business in conformity with the ordinances of the city and all other applicable laws. The business license official may suspend or revoke any business or regulatory license issued pursuant to this title for a period of time not to exceed one year beginning fourteen (14) calendar days after serving, or causing to be served, a written finding of a violation or conviction of the licensee, operator, agent or any person to the licensee personally or by mailing a copy of the written finding to the licensee at his or her last known physical address. In addition to the other grounds of suspension or revocation of a license found in this title, the business license official shall base the written finding on any of the following violations which occurred in conjunction with the operation of a licensed business:

1. A violation of or a conviction for violating any ordinance regulating or governing the business under which the license was granted.
2. A violation of or conviction for violating any city ordinance or law of the state which affects the health, welfare or safety of its residents including, but not limited to, a public nuisance.
3. A violation of or conviction for violating an ordinance which resulted from the operation of the business.
4. Any material misrepresentation or fraud perpetrated on the city through application for, or operation of, the business.
5. Without limiting the generality of the foregoing, it is specifically provided that a license issued pursuant to this title may be revoked or suspended if the licensee violates, causes, or contributes to a violation of the city's zoning regulations applicable to the licensee's place of business.

B. Appeal: ~~Any suspension or revocation of a business license may be appealed to the city manager. Such appeal shall be filed with the city recorder's officer, in writing, within fourteen (14) calendar days after the business license official serves the written finding of the suspension or revocation. The city shall provide the licensee reasonable notice of the time and place of the hearing, together with notice of the nature of charges or complaint against the licensee or premises sufficient to reasonably inform the licensee and enable him or her to answer such charges and complaint. The city shall serve such notice upon the licensee personally or by mail with a copy of the notice to the licensee at his or her last known physical address. A record of the hearing shall be made by an electronic recording. A licensee shall have the right to appear at the hearing in~~

person, by counsel or both, present evidence, present argument on the licensee's behalf, cross examine witnesses and in all proper ways defend the licensee's position. The city manager shall make a ruling and decision based on the evidence presented at the hearing and shall issue a written order or decision within ten (10) business days, and may impose such sanctions as he or she deems proper based on the evidence presented at the hearing. All orders entered by the city manager shall be final. If the city manager institutes a sanction of suspension or revocation of a license, the sanction shall apply to the licensee, the licenses issued by the city and to the premises in question for the full term of the imposed sanction.

1. Parties Entitled to Appeal: Any person adversely affected by a final decision of the business license official, may appeal the decision to the city manager. The city manager may designate the appeal to a designee. If the licensee is not the appellant, the licensee may choose to be a part of an appeal.

2. Time to File Appeal: The city manager may only consider appeals properly filed pursuant to this section within ten (10) calendar days of the date the disputed final written decision was issued.

3. Application: Appellants shall file their appeals in writing by submitting an appeal application to the city recorder. The city manager may only consider an appeal if the appellant submitted a complete application within the time period provided in subsection 2 of this section. An appeal application is complete if it includes: (i) payment of applicable fees, including those shown on the current year city fee schedule; and (ii) a written statement that concisely identifies the alleged error that is the grounds for appeal.

4. Notice of Hearing: After receiving an appeal application from the city recorder, the city manager shall fix a reasonable time and place for hearing the appeal during a public meeting. Thereafter, the city recorder shall publish an agenda at city hall and on the city's website and give notice to the parties.

5. Response and Representation: Prior to the hearing, the appellee or co-appellee may submit to the city recorder a response to the appeal application that the city recorder shall give to a hearing officer and appellant. At the hearing, the parties may appear in person or by agent or attorney.

6. Hearing and Decision: The city recorder shall keep minutes of the appeal hearing and documents. The city manager shall file with the city recorder a written decision on each appeal that reverses or affirms, in whole or in part, the decision being appealed. The city recorder shall notify the parties of the city manager's decision by mail within ten (10) days of the decision's effective date. If the city manager institutes a sanction of suspension or revocation of a license, the sanction shall apply to the licensee, the licenses issued by the city and to the premises in question for the full term of the imposed sanction.

C. Hearing Officer: The city manager may appoint a hearing officer and the hearing officer shall have the power and authority to call, preside at and conduct hearings to consider the suspension, revocation, denial or approval of licenses issued by the city, including the power to examine witnesses and receive evidence. At the conclusion of any hearing held by a hearing officer to

~~consider the status of a license, the hearing officer shall furnish to the city manager written findings of fact supported by the evidence presented. Such findings, conclusions and order shall be advisory to the city manager and shall have no force or effect until or unless adopted by the city manager. The hearing officer's recommendations shall not preclude the taking of further evidence or further review by the city manager, if so directed.~~

DC. Subsequent License Application: It is unlawful for any person who has had a license suspended, revoked or denied to reapply for or obtain a license which has been suspended, revoked or denied during the time that the license has been revoked, suspended or denied, unless the contingent reason for the suspension, revocation, and/or denial has been fully corrected and the applicant is fully compliant with all city codes and regulations.

EXHIBIT B

The following sections and subsections of Chapter 5.38 (Home Occupations) are enacted as shown:

Chapter 5.38 **HOME OCCUPATIONS**

5.38.010: DEFINITION AND PURPOSE:

5.38.020: REQUIREMENTS:

5.38.030: PRESCHOOLS – ADDITIONAL REQUIREMENTS:

5.38.040: PROHIBITED ACTIVITIES AS A HOME OCCUPATION BUSINESS:

5.38.050: HOME OCCUPATION BUSINESS LICENSE APPLICATION:

5.38.060: HOME OCCUPATION APPLICATION REVIEW PROCEDURE:

5.38.010: DEFINITION AND PURPOSE:

Unless otherwise defined in this chapter, definitions in Title 17.08 shall apply.

A home occupation is any business or income producing activity conducted from a residential property. The home occupation provisions are intended to provide opportunities for minor in-home businesses which do not require the facilities of or have the impacts of larger concerns. Many types of businesses are allowed; provided, that they meet all of the provisions of this chapter. Home occupations do not include occasional baby sitting at the dwelling which would not be classified as a daycare or preschool operation. Home occupations are considered accessory uses in residential and agricultural zones. Garage or yard sales are not considered home occupations but may be held no more than four (4) calendar days per year. Sales of night crawlers gathered from the subject property, lemonade stands and similar occasional activities related to the subject premises are not considered home occupations. Temporary signage may be used to advertise yard sales, night crawlers, lemonade stands and similar occasional sales activities, provided it does not create a nuisance, is not placed on the public right of way and provided it is removed by seven o'clock (7:00) P.M. each day and upon conclusion of the activity. Home occupations will have no significant impact on the neighborhoods in which they are located and are considered to be secondary and incidental to and compatible with residential use.

5.38.020: REQUIREMENTS:

The following requirements shall apply to any home occupation:

A. The following home occupations are required to obtain and maintain a current city business license and meet all requirements of title 5 of this code. All other home occupations may operate without a city business license, but must comply with the remainder of this Chapter, as well as all applicable local, state, and federal laws.

1. In-home child or adult care and preschool businesses;

2. Businesses that have customers/clients coming to the home; and

3. Any business that is required by another government agency to obtain a city business license.

B. Any business that wishes to be issued a City home occupation business license, even though not otherwise required to by this ordinance is required to apply under the provisions of this Chapter and pay fees as determined on the City's fee schedule.

C. Home occupations shall comply with Section 17.18.040 (Impact Control Measures), with the exception that Subsections F (Additional Notice) and G (Residential Protection Area) shall not apply.

D. Home occupations shall maintain the residential character of the dwelling by complying with the following requirements:

1. The combined area of all home occupation activities, including operation, office space, and storage space shall occupy not more than thirty-five (35%) of the floor area of the primary dwelling or one thousand (1,000) square feet, whichever is less. The home occupation shall not occupy any area within the garage.

2. No business displays or advertising shall be visible from the exterior of the premises, except as permitted in section 16.36.050 of Title 16.

3. Business activities involving pedestrian or vehicular traffic shall be conducted only between the hours of seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M.

4. Business activities shall be conducted entirely within habitable building space of a dwelling unit or accessory building, except that activities may be conducted outdoors that are limited to children's play (daycare uses), recreational instruction (swimming, tennis, etc.), and animal or horticulture activities in an Agricultural Zone.

5. Home occupations shall not receive or generate more than twelve (12) one-way vehicle trips per day, including but not limited to customer/client visits and deliveries. Vehicular traffic from business related visitors/customers and deliveries shall not exceed that which normally and reasonably occurs for a home in the neighborhood and shall be conducted so that the neighbors will not be significantly impacted by its existence. The receipt or delivery of merchandise, goods, or supplies shall be limited to vehicles with a gross vehicle weight rating (GVWR) of 19,500 (class 5) pounds or less.

E. More than one home occupation may be associated with a residential dwelling, provided that all home occupations associated with a residential dwelling shall collectively comply with the regulations of this Section. Only one home occupation shall be licensed to conduct home childcare per dwelling unit.

F. The sale and distribution of goods conducted onsite is prohibited, except that goods may be sold on site that are incidental and secondary to a service of the home occupation.

G. Space utilized for a home occupation shall have been properly permitted and shall have been issued a certificate of occupancy by the City.

H. No more than one vehicle used with the home occupation and complying with provisions for vehicle storage of the zone in which the home occupation is located may be stored at the residence. Said vehicle shall be stored in a garage or at least six feet (6') behind the front or street side building lines of the dwelling.

I. One trailer may be used in association with a home occupation in accordance with the following standards:

- 1. An open or enclosed trailer with a body length of twenty-four (24) feet or less, excluding the tongue.**
- 2. Materials/equipment shall not be stored outside of the trailer.**
- 3. Trailer parking must comply with all residential trailer parking requirements.**
- 4. The trailer must be well maintained and must not present negative impacts for adjacent neighbors including, but not limited to odors, dust, or parking location.**
- 5. A site plan shall be included with all business license applications indicating where the trailer will be stored outside of the front yard.**

J. The home occupation business shall be owned by and carried on only by a bona fide resident of the home. Employees of home occupations shall consist only of members of the family residing in the dwelling or other individuals whose activities are conducted away from the residence. Family as defined in Chapter 17.08.

K. A home occupation business license shall not be issued unless and until all other federal, state, county, local and other public agency license requirements to conduct said home occupation are met.

5.38.030: PRESCHOOLS – ADDITIONAL REQUIREMENTS:

Preschools for up to eight (8) students may be conducted as home occupations in accordance with provisions of this Chapter with the following and other conditions as determined by the City Council:

Maximum two (2) sessions per day and maximum four (4) sessions per week. Sessions shall be a maximum three (3) hours in length.

Students' ages shall be three (3), four (4), or five (5) years old.

Days and hours of operation shall be provided for review.

All life safety and building codes shall be met and a building permit, if necessary, shall be obtained for remodeling.

All other requirements of this chapter and other local, state and federal laws shall be met.

5.38.040: PROHIBITED ACTIVITIES AS A HOME OCCUPATION BUSINESS:

The following activities, including any similar activities, are prohibited in association with home occupations:

Mortuary, crematorium, columbarium, mausoleum, or funeral home.

Animal husbandry, kennels, animal hospitals, or veterinary services.

Clinic, dental office, medical office, chiropractic office, or hospital.

Junk yard, auto wrecking yard, salvage yard, or parking facility.

Storage, service, repair (including body work or spray finishing), sales, or rental of the following: automobiles, recreational vehicles, watercraft, aircraft, ATV or other motorized vehicles that are not registered to a resident of the dwelling.

Fitness or health spa facility.

Fabrication shops such as welding, woodworking, spray finishing and so forth.

Use of specified chemicals, pesticides and flammable/combustible materials, and including any other process or business where current, adopted Building and Fire Codes would require an Operational Permit.

Massage therapy or other alternative healing and energy healing businesses, with the exception that a home occupation business license may be issued if the applicant is the only person employed in said operation and he/she has obtained any required license(s) from the State of Utah.

Commercial stables.

Restaurant.

Depository and/or non-depository financial institution.

General retail sales.

Self-storage units.

Any business where the number of vehicular stops or visits would exceed 12 one-way trips per day.

5.38.050: HOME OCCUPATION BUSINESS LICENSE APPLICATION:

The following items shall be submitted to the city business licensing office when applying for a home occupation business license:

A. Application forms as provided by the city and the associated fee as determined by the city council.

B. Description of the nature of the home occupation and information as requested in the application.

C. Sketch of the site plan of the property and the floor plan of the dwelling and the area to be devoted to the home occupation with dimensions and area calculations.

D. List of materials and equipment to be used.

E. Hours of operation and the number of customers/visitors and deliveries to be made each day.

F. Other government approvals required for conducting the home occupation.

G. Proposed remodeling needed to conduct the home occupation and whether a city building permit will be required.

H. Signed affidavit by the applicant that all requirements and conditions of the city will be followed.

5.38.060: HOME OCCUPATION APPLICATION REVIEW PROCEDURE:

The city business licensing office and other city departments will review the home occupation business license application and may approve the application if all requirements are met.

EXHIBIT C

The following sections and subsections of Chapter 17.18 (Uses) are amended as shown:

17.18.030.030: RESIDENTIAL USE REGULATIONS:

A. General Residential Use Regulations:

1. There shall be no open storage of trash, debris, used materials or commercial goods or wrecked or neglected materials, equipment or vehicles. Containers or enclosures containing said items shall not be located in a front yard area, except for temporary use as needed for construction or disposal.

2. Home occupations may be licensed in an approved residential dwelling and according to the provisions of chapter ~~17.98~~5.38, "Home Occupations", of ~~this~~ title 5.

~~3. Garage or yard sales are not considered home occupations but may not be held more than four (4) calendar days per year. Sales of night crawlers gathered from the subject property, lemonade stands and similar occasional commercial activities related to the subject premises are not considered home occupations. Temporary signage may be used to advertise yard sales, night crawlers, lemonade stands and similar occasional commercial sales activities, provided it does not create a nuisance, is not placed on the public right of way, and provided it is removed by seven o'clock (7:00) P.M. each day and upon conclusion of the commercial activity.~~

~~4~~3. Farm animals may be allowed as regulated in sections 17.130.020, "Residential Chickens Floating Zone", and 17.130.040, "Farm Animal Floating Zone", of this title.

~~5~~4. Household pets may be allowed as regulated by title 6, "Animals", of this code.

B. Specific Regulations By Residential Use:

1. Group Living Uses: All group living uses (community residential facility, dormitory, institutional facility) shall require site plan review according to title 16, chapter 16.24, "Site Plan Review", of this code and shall be located no closer than one-half (1/2) mile to another group living facility of the same use, unless otherwise approved by the planning commission with a conditional use permit pursuant to section 17.18.050 of this chapter.

a. P-O zone: Community residential facility uses shall not exceed two (2) stories.

b. R-M zone: Community residential facility uses shall not exceed sixteen (16) occupants and shall be located on a legal lot or parcel with frontage and access to a collector or arterial street.

2. Institutional Facility: Excluding temporary emergency shelter as determined necessary by the city, institutional facility uses shall be located no closer than one mile from any elementary/secondary education use or any other institutional facility use.

3. Live-Work:

a. Where allowed, live-work units shall be specifically indicated on, and approved with, an associated subdivision or site plan. Live-work units are not allowed in an existing development, unless the subdivision or site plan is amended.

b. Allowed nonresidential uses shall be established with the approval of the project and shall be consistent with other nonresidential uses allowed in the associated zone. The following activities are prohibited: sexually oriented businesses; uses involving animals on site; vehicle service and repair; welding/woodworking; storage or distribution of flammable liquids and hazardous materials beyond that normally associated with a residential use; drive-through and other uses and activities that are not compatible with residential uses due to potential adverse health or safety affects from dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts.

c. The floor area of the nonresidential use shall not exceed fifty percent (50%) of the total floor area of the unit.

d. Employees may only consist of the residents of the dwelling and not more than one additional nonresident person.

e. Each nonresidential use shall comply with all requirements of this code.

f. The exterior of live-work units shall be designed to be compatible with surrounding residential uses.

g. One wall sign may be allowed. The sign shall not exceed five percent (5%) of the facade of the unit and shall comply with all other requirements of title 16, chapter 16.36 of this code.

h. Garage and/or exterior areas shall not be used for the nonresidential use, except that a garage area may be used to park one (1) vehicle related to the nonresidential use.

4. Neighborhood Residential Facility: Neighborhood residential facility uses shall comply with title 5, chapter 5.62, "Residential Facilities", of this Code.

5. Single-Family, Attached: Lots or parcels may be occupied by only one (1) single-family dwelling unit as the primary dwelling.

a. R-M Zone: Single-family, attached uses may only be approved as part of a development agreement approved by the City Council.

6. Single-Family, Detached: Lots or parcels may be occupied by only one (1) single-family dwelling unit as the primary dwelling. Accessory dwelling units may be permitted according to the provisions of section 17.130.030, "Accessory Living Unit Floating Zone", of this title.

17.18.030.070: ACCESSORY USE REGULATIONS:

A. General Accessory Use Regulations:

1. Accessory uses and buildings are permitted only in conjunction with the regulations of this Code and only when commonly and customarily associated with and incidental and secondary to allowed and approved primary uses.

2. When more than one accessory use is associated with a primary use, the accessory uses shall cumulatively remain incidental and secondary to the allowed uses.

B. Specific Regulations By Use Type:

1. Residential accessory uses and buildings may include, but are not limited to, ~~home occupations~~, accessory living units, yard sales, caretakers, garages, sheds, swimming pools, recreational equipment, gardens and greenhouses.

2. Commercial, industrial and public accessory uses and buildings may include, but are not limited to, parking lots, terraces and properly screened utility and loading areas. The following activities, commonly associated with allowed commercial uses, may be conducted as accessory uses only in conformance with an approved conditional use permit: drive-through facility, car wash and outdoor speaker or public address system.

a. BH-MU zone: Drive-through facilities on lots or parcels adjacent to a right of way shall be screened with landscaping and/or fencing to a height of not less than two feet (2') and not more than four feet (4') above the right of way sidewalk or driving surface of the drive-through, whichever is higher.

b. C-C and C-F zones: One electronic vending machine (e.g., food, beverage, kiosks, etc.) may be located outside of the building of an established business if the building has a minimum main level footprint or floor area of five thousand (5,000) square feet and a minimum facade width of fifty (50) linear feet. One additional outdoor electronic vending machine may be allowed for every additional ten thousand (10,000) square feet of main level floor area. All outdoor vending machines shall be located adjacent to the building and within fifty feet (50') of the building's main entrance. Electronic vending machines shall not exceed fifteen (15) square feet in area and no more than seven feet (7') high. Electronic vending machines shall not impede or obstruct vehicular and/or designated pedestrian pathways or access.

c. MU zone: Drive-through facilities shall be located at the rear of the structure.

d. Outdoor storage shall only be allowed in association with plant nursery, vehicle repair, retail, or industrial uses and when located within sale/storage yards shown on an approved site plan and screened from view by a six foot (6') fence or wall. Sales/storage yards shall comply with yard area requirements of the applicable zone. Sales/storage yards require a conditional use permit when associated with vehicle repair or retail uses.

3. The sale and distribution of fuel, not otherwise classified as a gas station, from aboveground tanks may be allowed as an accessory use in commercial and industrial zones and shall require the following: a conditional use permit, be located one thousand feet (1,000') from the property line of a residential zone, and be set back from any adjacent public right of way the same distance as the primary building on the site.

4. Agricultural accessory uses may include, but are not limited to, barns, garages, silos, sheds, stables, paddocks, greenhouses, windmills, wells and water storage facilities.

a. Agricultural Zones: Produce stands not exceeding one per legal lot or parcel and shall be no more than three hundred (300) square feet are allowed as an accessory use for selling produce grown on the premises.

b. R-1.8 Zone: Animal husbandry and horticulture is allowed as an accessory use to an approved single-family, detached primary use in the R-1.8 zone and as regulated in section 17.130.040, "Farm Animal Floating Zone", of this title.

EXHIBIT D

The following section and/or subsection of Chapter 17.54 (Redwood Road Mixed Use (MU) Zones) is amended as shown:

17.54.030: USES:

Uses may be conducted in the MU zones only in accordance with the following regulations:

A. Only allowed permitted, conditional or accessory uses as set forth in this chapter may be conducted in the MU zones. A conditional use permit must be obtained prior to the establishment of a conditional use. Sexually oriented businesses are prohibited in the MU zones.

B. All uses established in the MU zones shall be conducted within completely enclosed buildings, except those uses deemed, through conditional use approval, to be customary “outdoor” uses such as recreation, garden nursery, lumberyards or other similar uses.

C. Accessory uses and buildings are permitted in the MU zones only in conjunction with allowed permitted and conditional uses. Accessory uses include, but are not limited to, parking areas, utility and loading areas and other buildings and activities which are incidental and subordinate to the permitted or conditional use on the premises. Accessory buildings in residential developments shall meet requirements for residential zones found elsewhere in this title.

D. There shall be no open storage of trash, debris, used, wrecked or neglected materials, equipment or vehicles in MU zones. No commercial materials, goods or inventory may be stored in open areas in MU zones, except for temporary display items which are removed daily and which may be located only on private property no closer than ten feet (10') from any public right of way. No more than twelve (12) small party balloons and six (6) weatherproof placards, each not exceeding two feet (2') square per business, may be attached to the displays and shall be removed daily with the displays. All other signs and devices are prohibited. Outdoor storage of inventory or products such as firewood, water softener salt, garden supplies and building materials is permitted only in screened areas approved for such purpose with site plan review.

E. No vehicle, boat or trailer, or parts thereof, which is in a wrecked, junked, dismantled, inoperative or abandoned condition, attended or not, may be parked or stored in MU zones for longer than seventy two (72) hours unless stored within a completely enclosed building or opaque fence enclosure which completely obscures said vehicle or parts from public view. No more than two (2) such vehicles may be so stored on a lot in MU zones. No commercial vehicles such as earthmoving or material handling equipment, semitrucks or trailers or any commercial truck, trailer or vehicle may be stored in MU zones for longer than seventy two (72) hours, except in conjunction with an approved use or approved development or construction activities on the property.

F. Watercraft, trailers, campers, motor homes and other utility or recreational vehicles shall be stored within lawfully constructed buildings or behind the front line of the main building on the lot or parcel in an MU zone, except that said vehicles may be stored temporarily in front or street side yards for no longer than seventy two (72) hours. Recreational and utility vehicles may be stored permanently in the street side yard of a corner lot only if stored completely behind the front

line of the main building and at least eight feet (8') from the street right of way line and if enclosed with a six foot (6') high solid vinyl or masonry fence. Travel trailers, campers and motor homes may not be occupied as living quarters in MU zones, except that a vehicle owned by a guest of the resident may be stored and occupied in the required front yard or side yard of the permanent dwelling for no more than seven (7) days per calendar year.

G. Home occupations may be licensed in any residence in MU zones according to provisions of chapter ~~17.98~~5.38 of ~~this~~ title 5. ~~Home occupation day care or schooling not exceeding six (6) attendees may only be allowed with a conditional use permit.~~

H. Religious activities may be allowed in MU zones with approval of a conditional use permit.

EXHIBIT E

The following sections and/or subsections of Chapter 17.98 (Home Occupations) are deleted as shown:

Chapter 17.98 HOME OCCUPATIONS

~~17.98.010: DEFINITION AND PURPOSE:~~

~~17.98.020: RESTRICTIONS:~~

~~17.98.030: PRESCHOOLS:~~

~~17.98.040: APPLICATION:~~

~~17.98.050: APPLICATION REVIEW PROCEDURE:~~

~~17.98.060: APPLICATION APPEAL PROCEDURE:~~

~~17.98.070: REVOCATION:~~

~~17.98.010: DEFINITION AND PURPOSE:~~

~~A home occupation is any business or income producing activity conducted from a residential property. The home occupation provisions are intended to provide opportunities for minor in-home businesses which do not require the facilities of or have the impacts of larger concerns. Many types of businesses are allowed; provided, that they meet all of the provisions of this chapter. Home occupations do not include occasional baby sitting at the dwelling which would not be classified as a daycare or preschool operation. Home occupations are considered accessory uses in residential and agricultural zones. Garage or yard sales are not considered home occupations but may be held no more than four (4) calendar days per year. Sales of night crawlers gathered from the subject property, lemonade stands and similar occasional activities related to the subject premises are not considered home occupations. Temporary signage may be used to advertise yard sales, night crawlers, lemonade stands and similar occasional sales activities, provided it does not create a nuisance, is not placed on the public right of way and provided it is removed by seven o'clock (7:00) P.M. each day and upon conclusion of the activity. Home occupations will have no significant impact on the neighborhoods in which they are located and are considered to be secondary and incidental to and compatible with residential use.~~

~~17.98.020: RESTRICTIONS:~~

~~The following restrictions shall apply to any home occupation:~~

~~A. All home occupations are required to obtain and maintain a current city business license and meet all requirements of title 5 of this code.~~

~~B. All home occupations shall comply with federal, state and local laws and ordinances.~~

~~C. Home occupations shall not involve the unauthorized use of hazardous or annoying substances or processes nor shall they create any hazardous or offensive odors, noises, fumes, gases, dust, radiation, glare, electrical interference, vibrations, heat, wastes, pathogens or any other harmful substances or effects.~~

~~D. Home occupations shall be conducted entirely within the primary dwelling unit and may not occupy, with either goods, materials, equipment or activities, garage area, or lot area, except that home occupation activities which could occur in the primary dwelling may occur in habitable space of a fully enclosed and properly permitted accessory building associated with a single family residential dwelling. Training activities such as swimming, tennis and horseback riding or daycare or preschool activities may be conducted outdoors; provided, that no nuisance is created. Home occupations may not occupy more than thirty five percent (35%) of the floor area of the main building or one thousand (1,000) square feet, whichever is less.~~

~~E. Home occupations shall not receive or generate more than a total of six (6) customers, visitors, vehicle round trips and/or deliveries per day except for approved preschools. Tractor/trailer rigs may not be brought to the residence.~~

~~F. No more than one vehicle used with the home occupation and complying with provisions for vehicle storage of the zone in which the home occupation is located may be stored at the residence. Said vehicle shall be stored in a garage or at least six feet (6') behind the front or street side building lines of the dwelling.~~

~~G. Home occupations shall not cause excessive demands on city services.~~

~~H. Employees of home occupations shall consist only of members of the family residing in the dwelling or other individuals whose activities are conducted away from the residence.~~

~~I. No display of merchandise or advertising shall be visible from the street or neighboring properties, except as permitted in section 16.36.050 of this code.~~

~~J. The exteriors of dwellings may not be altered from a residential character as a result of or to enhance a home occupation.~~

~~K. Home occupations involving pedestrian or vehicle traffic shall be conducted only between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M.~~

~~L. More than one home occupation may be conducted on a property; provided, that these regulations are followed as though there were only one occupation on the property.~~

~~M. Retail sales may not be conducted as a home occupation, except if incidental to another service performed by the operator. Otherwise, goods may not be distributed or disbursed at the residence.~~

~~N. Meetings held for the purpose of marketing, taking orders or training may be held at the residence; provided, that no violations of this chapter occur.~~

~~O. The city may place additional restrictions on a home occupation relating to hours of operation, parking, traffic or other matters as it deems necessary to mitigate impacts on the neighborhood and the city in general.~~

17.98.030: PRESCHOOLS:

~~Preschools for up to six (6) students may be conducted as home occupations in accordance with provisions of this chapter without a conditional use permit. Preschools for seven (7) to a maximum of twelve (12) students may be conducted as home occupations with approval of a conditional use permit/concept plan with the following and other conditions as determined by the city council:~~

~~A. Maximum two (2) sessions per day and maximum four (4) sessions per week. Sessions shall be a maximum three (3) hours in length.~~

~~B. Students' ages shall be three (3), four (4) or five (5) years old.~~

~~C. Days and hours of operation shall be provided for review.~~

~~D. All life safety and building codes shall be met and a building permit, if necessary, shall be obtained for remodeling.~~

~~E. All state licensing requirements will be met.~~

~~F. All other requirements of this chapter and other local, state and federal laws shall be met.~~

17.98.040: APPLICATION:

~~The following items shall be submitted to the city business licensing office in applying for a home occupation business license:~~

~~A. Application forms as provided by the city and the associated fee as determined by the city council.~~

~~B. Description of the nature of the home occupation and information as requested in the application.~~

~~C. Sketch of the site plan of the property and the floor plan of the dwelling and the area to be devoted to the home occupation with dimensions and area calculations.~~

~~D. List of materials and equipment to be used.~~

~~E. Hours of operation and the number of customers, vehicle trips and deliveries to be made each day.~~

~~F. Other government approvals required for conducting the home occupation.~~

~~G. Proposed remodeling needed to conduct the home occupation and whether a city building permit will be required.~~

~~H. Signed affidavit by the applicant that all requirements and conditions of the city will be followed.~~

~~I. Mailing labels and postage for owners of properties within three hundred feet (300') of the lot or parcel and within the same subdivision plat (if applicable) on which the home occupation is proposed.~~

17.98.050: APPLICATION REVIEW PROCEDURE:

The city business licensing office shall mail a written notice informing the neighboring property owners within three hundred feet (300') and within the same subdivision plat of the proposed home occupation. The city business licensing office and other city departments will review the home occupation business license application and may approve the application if all requirements are met and if no additional information conflicting with the provisions of this chapter has been filed within fourteen (14) days of the mailing.

17.98.060: APPLICATION APPEAL PROCEDURE:

If city staff finds that certain conditions cannot be met, that the proposed home occupation is not appropriate or is inconsistent with the definition and purpose of this chapter, the application shall be denied. The city business licensing office shall provide written notice of city staff's decision to the applicant and to all individuals who provided written responses to the original notice.

The applicant, or an affected neighbor may appeal staff's decision for a public hearing before the planning commission within fourteen (14) days of the decision rendered by staff. The decision of the planning commission may be appealed to the city council within fourteen (14) days of the planning commission decision. Costs of notification for the planning commission and/or city council meetings shall be borne by the appellant. The planning commission or city council may place conditions on the approval of the home occupation business license application pertaining to the conduct of the business, subject to chapter 17.84 of this title.

17.98.070: REVOCATION:

A home occupation may be commenced only upon completion of all plan improvements as stipulated in the accompanying approval. The home occupation will be conducted in conformance with approved plans and conditions. Application to amend a home occupation license may be requested by following the application procedures in this chapter. A home occupation license may be revoked by the city council, after a public hearing, if requested by the property owner or if it is shown that one or more of the following conditions exist:

- A. The use is conducted prior to completion of all required improvements and conditions.
- B. The use is established or conducted contrary to any of the approved plans or conditions.
- C. The use is conducted contrary to local, state, or federal laws.
- D. The use is creating a nuisance or hazard