

ORDINANCE NO. 6550

AN ORDINANCE TO AMEND CHAPTER 15.03 ZONING DEFINITIONS OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA BY AMENDING AND RETITLING SECTION 15.03.340 "HOME OCCUPATION".

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

**SECTION 1.** That Chapter 15.03 Zoning Definitions of the 2020 Municipal Code of Council Bluffs, Iowa be and the same is hereby amended by retitling and amending Section 15.03.340 to be known as "Home-Based Business" and to read as follows:

**15.03.340 Home-Based Business**

Any business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of the residential property on which the business operates, as further specified in CBMC 15.24 and Iowa Code, Section 414.33.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

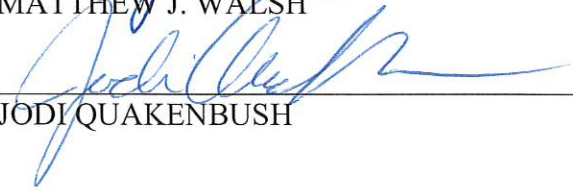
**SECTION 4. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED  
AND  
APPROVED

March 13, 2023.

  
MATTHEW J. WALSH Mayor

Attest:

  
JODIQUAKENBUSH City Clerk

First Consideration: 2-27-23  
Second Consideration: 3-13-23  
Public Hearing: 3-13-23  
Third Consideration: Waived

# Proof Of Publication

State of Iowa

Pottawattamie County

## NOTICE OF PUBLIC HEARING

### TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on the request to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, Home Occupation, and replace with Section 15.24.030, Home-Based Businesses; amend Section 15.02.130, Table 1, Violation and Penalty by replacing the term 'Home Occupation' with 'Home-based Business'; amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business'; and amend Section 15.24.020, Accessory Uses by changing 'Home occupation' to 'Home-based Business'.

You are further notified that the public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 13th day of March, 2023 in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.

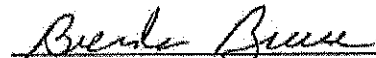
Jodi Quakenbush, City Clerk

2023 (3) 5-1 Sunday

I, (the undersigned) on my oath do solemnly that I am an authorized representative of CBN Daily Nonpareil, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

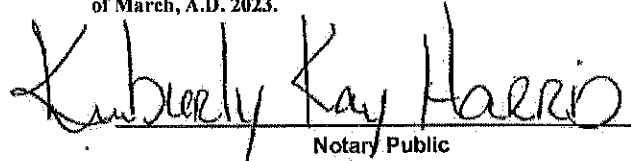
The attached notice was published in said newspaper 1 consecutive time(s) as follows:

The First publication thereof began on the 05th day of March, 2023.



Billing Representative

Sworn to and subscribed before me this 5th day  
of March, A.D. 2023.



Notary Public

State of Virginia  
County of Hanover  
My Commission expires \_\_\_\_\_

Kimberly Kay Harris  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. No. 356753  
Commission Exp. Jan. 31, 2025

CITY OF COUNCIL BLUFFS  
209 PEARL ST.  
COUNCIL BLUFFS, IA 51503

Publication Cost: \$41.02  
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E-mail

[jquakenbush@councilbluffs-ia.gov](mailto:jquakenbush@councilbluffs-ia.gov)

# Proof Of Publication

State of Iowa

Pottawattamie County

ORDINANCE NO. 6550

**AN ORDINANCE TO AMEND CHAPTER 15.03 ZONING DEFINITIONS OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA BY AMENDING AND RETITLING SECTION 15.03.340 "HOME OCCUPATION".**

**BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA**

**SECTION 1.** That Chapter 15.03 Zoning Definitions of the 2020 Municipal Code of Council Bluffs, Iowa be and the same is hereby amended by retitling and amending Section 15.03.340 to be known as "Home-Based Business" and to read as follows:

**15.03.340 Home-Based Business**

Any business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of the residential property on which the business operates, as further specified in CBMC 15.24 and Iowa Code, Section 414.23.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

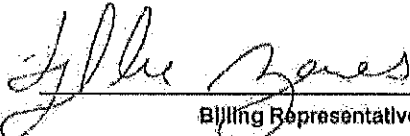
**SECTION 4. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED AND APPROVED March 13, 2023  
Matthew J. Walsh, Mayor  
Jodi Quakenbush, City Clerk  
2023 (3) 18-1 Saturday

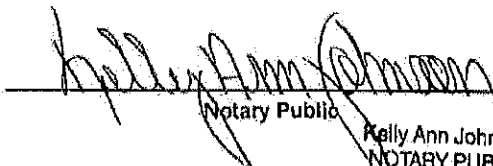
I, (the undersigned) on my oath do solemnly that I am an authorized representative of CBN Daily Nonpareil, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper 1 consecutive time(s) as follows:

The First publication thereof began on the 18th day of March, 2023.

  
Billing Representative

Sworn to and subscribed before me this 29th day  
of March, A.D. 2023.

  
Notary Public  
Kelly Ann Johnson  
NOTARY PUBLIC  
Commonwealth of Virginia  
Registration No. 8004299  
My Comm. Exp. March 31, 2026

State of Virginia  
County of Hanover  
My Commission expires \_\_\_\_\_

CITY OF COUNCIL BLUFFS  
209 PEARL ST.  
COUNCIL BLUFFS, IA 51603

Publication Cost: \$48.97  
Customer Number: 1003258  
Order Number: 0000359249

E-mail

jquakenbush@councilbluffs-ia.gov

**Council Communication**

Department: City Clerk  
Case/Project No.: ZT-23-001  
Submitted by: Christopher N. Gibbons, Planning  
Manager

Ordinances 6548, 6549 and 6550  
ITEM 4.A.

Council Action: 3/13/2023

**Description**

Amending the following sections of Title 15: Zoning of the Municipal Code for:

Ordinance 6548 to amend Chapter 15.24, Supplemental Use And Site Development Regulations, by amending Section 15.24.020 "Accessory Uses" and by amending and retitling Section 15.24.030 "Home Occupation."

Ordinance 6549 to amend Chapter 15.02, Administration and Enforcement, by amending Section 15.02.130 "Violation and Penalty."

Ordinance to 6550 amend Chapter 15.03, Zoning Definitions, by amending and retitling Section 15.03.340 "Home Occupation."

**Background/Discussion**

See attached staff report.

**Recommendation**

**ATTACHMENTS:**

Description	Type	Upload Date
Staff Report	Staff Report	2/17/2023
Attachment A: Copy of Iowa HF 2431	Other	2/17/2023
Attachment B: Proposed amendment to Section 15.24.030, Home Occupation	Other	2/17/2023
Attachment C: Proposed amendment to Section 15.02.130, Table 1, Violation and Penalty	Other	2/17/2023
Attachment D: Proposed amendment to Section 15.03.340, Definitions, Home Occupation	Other	2/17/2023
Attachment E: Proposed amendment to Section 15.24.020, Accessory Uses	Other	2/17/2023
Public Hearing Notice	Notice	2/17/2023
Ordinance 6548	Ordinance	2/22/2023
Ordinance 6549	Ordinance	2/22/2023
Ordinance 6550	Ordinance	2/22/2023

**City Council Communication**

<p>Department: Community Development</p> <p>CASE #ZT-23-001</p> <p>Applicant: Community Development Department</p>	<p>Ordinance No. _____</p>	<p>1<sup>st</sup> Consideration: 2/27/2023 2<sup>nd</sup> Consideration: 3/13/2023 3<sup>rd</sup> Consideration: 3/27/2023</p> <p>Planning Commission: 2/14/2023</p>
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**Subject/Title**

**Request:** Public hearing on the request of the City of Council Bluffs to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses*; amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term ‘Home Occupation’ with ‘Home-based Business’; amend Section 15.03.340 by changing the definition and terminology of ‘Home Occupation’ with ‘Home-based Business’; and amend Section 15.24.020, *Accessory Uses* by changing ‘Home occupation’ to ‘Home-based Business’.

**Background**

The Community Development Department is proposing to amend several sections of Title 15: *Zoning* of the Council Bluffs Municipal Code relative to ‘Home-Based Businesses’. The proposed text amendments are in response to the State of Iowa passing House File (HF) 2431 in June 2022, which established new legislation for operating a home-based business (see Attachment A).

Under Section 414.33 of HF 2431, home-based businesses are allowed by-right to:

1. Sell lawful goods and services inside of a residential dwelling and within the yard of the residential property, as long as the business activity is secondary to the use of property and is not visible from an adjacent property or street; and
2. Employ on-site employees who do not reside on the residential property

*Note: A home-based businesses cannot generate on-street parking or cause a substantial increase in traffic through a residential area. Additionally, a home-based business is prohibited from selling alcoholic beverages or illegal drugs, operating or maintaining a structured sober living home, creating or selling pornography, providing nude or topless dancing, or operating any other adult-oriented businesses, as per HF2431.*

Under HF 2431, cities in Iowa **cannot** require the following of a home-based business:

1. Apply, register, or obtain any permit, license, variance, or other type of approval;
2. Rezone a residential property for a commercial use;
3. Install fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units

Cities may establish reasonable regulations for home-based business for the following purposes only:

1. Protect public health and safety (including rules related to fire or building codes, health/sanitation, transportation/traffic control, solid/hazardous waste, pollution, and noise control);

2. Ensure the business is secondary to the primary residential use of the property, and is compatible with the residential use of the property and surrounding area; and
3. Compliance with state and federal laws (including paying applicable taxes).

*Note: HF 2431, does **not** supersede any deed restrictions, covenants, or agreement restricting the use of land, nor does it supersede any master deed, bylaw, or other document applicable to a common interest ownership community (i.e. condo association).*

The Community Development Department proposes the following amendments to Title 15: Zoning of the Municipal Code in order to bring all applicable home-based business zoning regulations into conformance with HF 2431:

1. Repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses* (see Attachment B);
2. Amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business' (see Attachment C);
3. Amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business' (see Attachment D); and
4. Amend Section 15.24.020, *Accessory Uses* by changing the term 'Home occupation' to 'Home-based Business' (see Attachment E).

All City Departments and local utilities were notified of the proposed text amendment. No comments in opposition of the request were received.

### **Recommendation**

The Community Development Department recommends approval to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses*; amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business'; amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business'; and amend Section 15.24.020, *Accessory Uses* by changing 'Home occupation' to 'Home-based Business', in order to bring all applicable home-based business zoning regulations into conformance with Iowa HF 2431.

### **Public Hearing**

Staff speaker for the request:

1. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

The City Planning Commission recommended approval to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses*; amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business'; amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business'; and amend Section 15.24.020, *Accessory Uses* by changing 'Home occupation' to 'Home-based

Business', in order to bring all applicable home-based business zoning regulations into conformance with Iowa HF 2431.

VOTE: AYE – Bass, Halm, Hutcheson, Knauss, Opperman, Rew, Stroebele and Van Houten. NAY – None.  
ABSTAIN – None. ABSENT – Bailey, Rater and Scott. VACANT - None Motion: Carried.

**Attachments**

Attachment A: Copy of Iowa HF 2431

Attachment B: Proposed amendment to Section 15.24.030, *Home Occupation*

Attachment C: Proposed amendment to Section 15.02.130, Table 1, *Violation and Penalty*

Attachment D: Proposed amendment to Section 15.03.340, *Definitions, Home Occupation*

Attachment E: Proposed amendment to Section 15.24.020, *Accessory Uses*

Prepared by: Christopher N. Gibbons, Planning Manager, Community Development Department

Attachment A



KIM REYNOLDS  
GOVERNOR

**OFFICE OF THE GOVERNOR**

ADAM GREGG  
LT GOVERNOR

June 14, 2022

The Honorable Paul Pate  
Secretary of State of Iowa  
State Capitol  
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

House File 2431, an Act relating to the regulation of home-based businesses, including food establishments and home food processing establishments, and providing civil penalties.

The above House File is hereby approved on this date.

Sincerely,

A handwritten signature in black ink that reads "Kim Reynolds".

Kim Reynolds  
Governor of Iowa

cc: Secretary of the Senate  
Clerk of the House

1. ~~"Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.~~

2. ~~"Department" means the department of inspections and appeals.~~

1. "Department" means the department of inspections and appeals.

2. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.

3. "Home bakery food processing establishment" means a business on the premises of a residence in which prepared homemade food is created items are produced for sale or resale, for consumption off the premises, if the business has gross annual sales of prepared food of less than thirty-five fifty thousand dollars. However, "home bakery food processing establishment" does not include a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.

4. "Prepared food" means soft pies, bakery products with a custard or cream filling, or baked goods that are a time/temperature control for safety food. "Prepared food" does not include baked goods that are not a time/temperature control for safety food, including but not limited to breads, fruit pies, cakes, or other pastries that are not a time/temperature control for safety food. "Homemade food item" means a food that is produced and, if packaged, packaged at a home food processing establishment. "Homemade food item" includes food that is not time/temperature control for safety food, but does not include such food if produced and sold under section 137F.20. "Homemade food item" does not include unpasteurized fruit or vegetable juice, raw sprout seeds, foods containing game animals, fish or shellfish, alcoholic beverages, bottled water, packaged ice, consumable hemp products, food that will be further processed by a food processing plant, time/temperature control for safety food packaged using a reduced oxygen packaging method, milk or milk products regulated under chapter 192, and meat, meat food products, poultry, or poultry products regulated under chapter 189A,

the food fails to meet standards adopted for such food by the department.

3. An application for a license under this chapter shall be made upon a form furnished by the department and shall contain the items required by ~~it~~ the department according to rules adopted by the department.

4. The department shall regulate, license, and inspect ~~home bakeries according to standards adopted by rule~~ food processing establishments in a manner that is consistent with this chapter.

5. The department shall provide for the periodic inspection of a ~~home bakery~~ food processing establishment. The inspector may enter the ~~home bakery~~ food processing establishment at any reasonable hour to make the inspection. The department shall inspect only those areas related to preparing food for sale.

6. The department shall regulate and may inspect food prepared at a ~~home bakery according to standards adopted by rule~~ food processing establishment in a manner that is consistent with this chapter. The inspection may occur at any place where ~~the prepared food~~ a homemade food item is created, transported, or stored for sale or resale.

7. A home food processing establishment shall affix or label a homemade food item with all of the following information:

a. Information to identify the name of the home food processing establishment.

b. The common name of the food.

c. The ingredients of the homemade food item in descending order of predominance.

d. The net quantity of contents.

e. For refrigerated time/temperature control for safety foods, an expiration date based on food safety.

f. The following statement: "This product was produced at a home food processing establishment." If the homemade food item contains one or more major food allergens, an additional allergen statement must be included on the label identifying each major allergen contained in the food by the common name of the allergen.

8. The department may adopt rules under chapter 17A to administer this chapter.

person under this chapter if any of the following occurs:

1. The person's home ~~bakery~~ food processing establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.

2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.

3. The person conducts an activity constituting a criminal offense in the home ~~bakery~~ food processing establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

Sec. 8. Section 137F.1, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "*Cottage food*" means the production and sale of food produced at a private residence other than time/temperature control for safety food as provided in section 137F.20 and food for resale that is not time/temperature control for safety food. "*Cottage food*" includes home-processed and home-canned pickles, vegetables, or fruits that have a finished equilibrium pH value of four and six-tenths or lower or a water activity value of eighty-five hundredths or less for which each batch has been measured by a pH meter or a water activity meter and each container that is sold or offered for sale contains the date the food was processed and canned. "*Cottage food*" does not include any of the following:

- a. Milk or milk products regulated under chapter 192.
- b. Meat, meat food products, poultry, or poultry food products regulated under chapter 189A.

Sec. 9. Section 137F.1, subsection 8, paragraphs d, e, and f, Code 2022, are amended to read as follows:

d. Premises ~~which~~ that are a home ~~bakery~~ pursuant to food processing establishment as defined in chapter 137D.

e. Premises where a person operates a farmers market, if unpackaged time/temperature control for safety foods are not sold or distributed from the premises.

f. Premises of a residence in which food ~~that is not a time/temperature control for safety food is sold for consumption off the premises to a consumer customer, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food~~ is produced

manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of the residential property on which the business operates.

*c.* "No-impact home-based business" means a home-based business for which all of the following apply:

(1) The total number of on-site employees and clients does not exceed the county occupancy limit for the residential property.

(2) The business activities are characterized by all of the following:

(a) The activities are limited to the sale of lawful goods and services.

(b) The activities do not generate on-street parking or a substantial increase in traffic through the residential area.

(c) The activities occur inside the residential dwelling or in the yard of the residential property.

(d) The activities are not visible from an adjacent property or street.

2. The use of a residential property for a home-based business is a permitted use. However, this subsection does not supersede any of the following:

*a.* A deed restriction, covenant, or agreement restricting the use of land.

*b.* A master deed, bylaw, or other document applicable to a common interest ownership community.

3. A county shall not prohibit a no-impact home-based business or otherwise require a person to apply, register, or obtain any permit, license, variance, or other type of prior approval from the county to operate a no-impact home-based business.

4. A county may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for any of the following purposes:

*a.* The protection of the public health and safety, including rules and regulations related to fire or building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, or noise control.

*b.* Ensuring that the business is all of the following:

(1) Compatible with residential use of the property and

in the yard of the residential property.

(d) The activities are not visible from an adjacent property or street.

2. The use of a residential property for a home-based business is a permitted use. However, this subsection does not supersede any of the following:

a. A deed restriction, covenant, or agreement restricting the use of land.

b. A master deed, bylaw, or other document applicable to a common interest ownership community.

3. A city shall not prohibit a no-impact home-based business or otherwise require a person to apply, register, or obtain any permit, license, variance, or other type of prior approval from the city to operate a no-impact home-based business.

4. A city may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for any of the following purposes:

a. The protection of the public health and safety, including rules and regulations related to fire or building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, or noise control.

b. Ensuring that the business is all of the following:

(1) Compatible with residential use of the property and surrounding residential use.

(2) Secondary to the use of the property as a residence.

(3) Complying with state and federal laws and paying applicable taxes.

c. Limiting or prohibiting the operation of a home-based business for the purposes of selling alcoholic beverages or illegal drugs, operating or maintaining a structured sober living home, creating or selling pornography, providing nude or topless dancing, or operating any other adult-oriented business.

5. A city shall not require as a condition of operating a home-based business that the property be rezoned for commercial use or that the business owner install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units.

6. In any proceeding alleging that a city regulation

## Attachment B

### 15.24.030 Home-Based Business Occupation

A home-based business occupation shall be subject to the following requirements:

- A. A home-based business occupation shall be conducted entirely within the residential dwelling, or the yard of the residential property, or principal building with the total number of on-site employees and clients not to exceed the legal occupancy limit for the residential property, and may not employ any individuals other than residents of the dwelling;
- B. A home-based business is limited to the sale of lawful goods and services, does not generate on-street parking or a substantial increase in traffic through the residential area, and is not visible from an adjacent property or street.
- ~~B.C.~~ Such use shall be incidental and secondary to the residential use of the dwelling, and shall not change the residential character nor interfere with the surrounding residential use;
- D. The use of a residential property for a home-based business does not supersede any of the following:
  - a. A deed restriction, covenant, or agreement restricting the use of land
  - b. A master deed, bylaw, or other document applicable to a common interest ownership community.
- ~~C.E.~~ No signs, radio, television, newspaper, handbill or other similar types of advertising are permitted linking the address of the premises with the home-based business occupation;
- ~~D.F.~~ A home occupation shall be limited to performance of services only and no commodity shall be sold on the premises other than incidental sales related to the services provided;
- G. The operation of a home-based business for the purposes of selling alcoholic beverages or illegal drugs, operating or maintaining a structured sober living home, creating or selling pornography, providing nude or topless dancing, or operating any other adult-oriented business is strictly prohibited.
- ~~E.H.~~ There shall be no exterior storage of equipment, vehicles, trailers, goods or materials used in a home-based business occupation that is visible from an adjacent property or street; to the extent that it appears to be consistent with the underlying zone;
- ~~F.I.~~ There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line;
- ~~G.J.~~ Adequate off-street parking for all vehicles, including the residents, customer, client or other business-related visitor vehicles shall be provided at the location where the home-based business occupation is being conducted;
- H.K. \_\_\_\_\_ The following businesses are not compatible with residential use and shall not be considered home-based businesses occupations:
  - ~~1.~~ Repair of any internal combustion engine or vehicle repair, including detailing, painting, body or mechanical or upholstery;
  - ~~2.1.~~ Vehicle towing and/or wrecking service, storage of motorized vehicles and equipment, including but not limited to automobiles, trucks, recreational vehicles and boats, or any other business deemed to be a commercial use under this chapter;
  - 2. The storage of any solid waste, toxic chemicals, hazardous waste, oils, solvents or any other substance that violates any chapter regulating the health and safety of the public.

3. Any business that violates any chapter regulating nuisance, noise, pollution, health and/or sanitation. Any other use as determined by the director, which is not incidental or compatible with residential activities;

H.L. Home occupations shall comply with all applicable municipal, state and federal regulations and shall submit all applicable taxes to any applicable authority, and licensing requirements.

**15.02.130 Violation And Penalty**

The city may take any or all of the actions listed in this section in response to any violation of this title. The remedies and penalties provided for violations of this title shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

- A. Enforcement. This title shall be enforced by the community development director or his or her designee. The community development director or his or her designee may secure the assistance of the city attorney to seek an injunction, abatement, municipal citations or other appropriate action to enjoin, abate, or stop any violation of this title. At times, the aid of the police department may be sought to enforce this title. The property owner charged with the violation may be held responsible for any legal expenses incurred by the city.
- B. Fines. Fines for violation of this title shall be set forth as per the adopted schedule of civil penalties stated in CBMC 1.95 Municipal Infraction Citation Process.
- C. Notification. The community development director or his/her designee shall, upon determination of any violation of this title, notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it; and specifically shall order the discontinuance of any illegal use of land, buildings, or structures, order removal of illegal buildings, structures, additions, or alterations; order discontinuance of illegal work being done; or take any other action authorized by this title to insure compliance with, or to prevent violation of its provisions, and in particular, shall, when appropriate, recommend to the city attorney the institution of legal or equitable actions that may be required for the enforcement of this title. The city shall use the following letters as forms of written notification:
  - 1. Letter #1: Voluntary Compliance Request Letter. The city shall issue a voluntary compliance request letter to the property owner of record and any other responsible party citing the violation of this title. This letter will be mailed to the property's tax address as well as the physical street address. Each violation falls into one of four tiers. Table 1: Violation-Tier Categories outlines the type of violations and the corresponding tier. The voluntary compliance request letter shall state that the violation be removed within the time set forth in Table 2: Timeframes to Remedy Violations. This letter shall serve as the first notice of violation.
  - 2. Letter #2: Second Notice of Violation. The City shall issue a second notice of violation letter to the property owner of record and any other responsible party citing the violation of this title if the violation was not remedied within the timeframe specified in Letter #1: Voluntary Compliance Request Letter. This letter will be mailed to the property's tax address as well as the physical street address. The letter shall reiterate the sending of the first notice of violation and that the violation must be removed within the time set forth in Table 2.
  - 3. Letter #3: Citation for Municipal Infractions. The city shall cite the property for municipal infractions if the violation was not remedied within the time frame specified in Letter #2: Notice of Violation. The fines for municipal infractions shall be as set forth in CBMC 1.95.020 "Violations, penalties and alternative relief". The citation shall be served in accordance with the methods listed in CBMC 1.95.030 "Civil citations".

The community development department has specified four tiers of zoning code violations. Each type of zoning code violation falls into a tier based on the intensity of the violation and amount of time needed for remediation. The following table shows the violations that fall under each of the four tiers:

Table 1: Violation Tiers

<u>Tier 1 Violation</u>	<u>Tier 2 Violation</u>	<u>Tier 3 Violation</u>	<u>Tier 4 Violation</u>
<ul style="list-style-type: none"> <li>• <u>Temporary Sign</u></li> <li>• <u>Nonpermanent Outdoor Lighting</u></li> <li>• <u>Parking where conforming parking space is available on site</u></li> <li>• <u>Storage Container</u></li> <li>• <u>Occupying a recreational vehicle</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Permanent Sign</u></li> <li>• <u>Permanent Outdoor Lighting</u></li> <li>• <u>Fence</u></li> <li>• <u>Parking where conforming parking space is not available on site</u></li> <li>• <u>Landscaping</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Home <del>Occupation-based</del> business</u></li> <li>• <u>Illegal Structure</u></li> <li>• <u>Illegal Use</u></li> <li>• <u>Building material /architectural design when located within a Corridor Design Overlay or on a property with an approved development plan</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Any violation that poses to be an emergency or threat to public health and safety</u></li> </ul>

Table 2: Timeframes to Remedy Violations

<u>All notice of violation letters shall be sent to the property owner and/or other responsible party for all violations. The property owner shall be the party subject to citation if the violation is not remedied within the amount of time as set forth in this table.</u>				
<u>Notice Type:</u>	<u>Tier 1 Violation</u>	<u>Tier 2 Violation</u>	<u>Tier 3 Violation</u>	<u>Tier 4 Violation</u>
<u>Letter 1: Voluntary Compliance Request/Notice</u>	<u>Ten (10) business days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation</u>	<u>Thirty (30) days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation</u>	<u>Sixty (60) days from the date of the letter to remedy the violation before receiving Letter 2: Second Notice of Violation</u>	<u>In situations where a violation is considered to be an emergency or is a threat to public health and safety, enforcement action shall be taken immediately by the Community Development Director or his/her designee.</u>
<u>Letter 2: Second Notice of Violation</u>	<u>Five (5) business days from the date of the letter to remedy the violation before receiving Letter 3: Citation for Municipal Infractions</u>	<u>Fifteen (15) days from the date of the letter to remedy the violation before receiving Letter 3: Citation for Municipal Infractions</u>	<u>Thirty (30) days from the date of the letter to remedy the violation before receiving Letter 3: Citation for Municipal Infractions</u>	
<u>Letter 3: Citation for Municipal Infractions</u>	<u>A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.</u>	<u>A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.</u>	<u>A citation shall be served in accordance with Section 1.95.030 on the next business day following the expiration date in Letter 2: Second Notification of Violation.</u>	

- D. Multiple Violations. Multiple violations that occur on the same property shall be reviewed and enforced separately in accordance with Tables 1 and 2.
- E. Repeat Violations. Violations of the same type that occur on a property within a twenty-four (24) month period where the owner of the property remains the same shall be considered repeat violations. The property owner or other responsible party shall be notified of the violation following the schedule designated in Table 2.
- F. Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this title, the city, in addition to other remedies, may institute any proper action or proceeding, including an action to enjoin such unlawful erection, construction, reconstruction, alteration, repair, conversion maintenance, or use, in the name of the city of Council Bluffs, to restrain, correct, or abate such violations, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business or use in or about said premises. More specifically, the community development department shall have the following remedies and powers to enforce this title:
1. Deny/Withhold Permits. The city may deny and withhold permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements until the alleged violation related to such property use, or development is corrected. The provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.
  2. Permits Approved with Conditions. Instead of withholding or denying a permit or other authorization, the city may grant such authorization subject to the condition that the violation be corrected prior to occupancy or final approval.
  3. Citation for Municipal Infractions. The city may cite the property for a municipal infractions as set forth in CBMC 1.95 Municipal Infraction Citation Process.
  4. Revoke of Approvals or Permits.
    - a. Any permit issued by administrative approval is subject to revocation. Any permit issued by a decision-making body is subject to revocation after notice and a public hearing by said decision-making body. A permit is subject to revocation, after the responsible party has been provided an opportunity to remedy the violation within the time set forth in Table 2, when it is determined that either:
      1. There is a material departure from the approved plans, specifications, or conditions of approval;
      2. There is a violation of any provision of this title;
      3. The development approval or permit was obtained by false representation; and
      4. The development approval or permit was issued in error.
    - b. Written notice of the revocation shall be served upon the property owner of record, the owner's agent, the applicant, or other person to whom the permit was issued or such notice may be posted in a prominent location at the place of the violation. No work or construction shall proceed after the service of the revocation notice.
  5. Revoke Licenses. The city may revoke applicable licenses issued pursuant to city code. Revocation of licenses shall be processed according to applicable procedures adopted for this purpose by the applicable city department or entity.
  6. Stop Work Order. With or without revoking permits, the community development director or his or her designee may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this title or a provision of a permit or other form of authorization issued pursuant to this title. The stop work order shall specify the title provisions being violated. After any such order has been served, no work shall process on any building, other structure, or tract of land covered by such order, except to correct

such violation or comply with this order. The stop work order may be issued at the same time as a notice of initial violation or subsequent to such notice.

7. Injunctive Relief. The city may initiate injunction proceedings or other appropriate legal action in any court of competent jurisdiction against any person who fails to comply with any provision of this title or any requirement or condition imposed pursuant to this title. In any court proceeding in which the city seeks a preliminary injunction, it shall be presumed that a violation of this title is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the title violation unless the violation is enjoined; and that there is no plan and adequate remedy at law for the subject title violation.
8. Abatement. The city may seek a court order in the nature of mandamus, abatement, injunction or other action to abate or remove a violation or to otherwise restore the premises to the condition that existed before the violation.
9. Administrative Extension of Time.
  - a. An administrative extension of time may be granted to the property owner and/or other responsible party by the community development director at his/her discretion for remedying violations that require paving, landscaping, or the removal or altering of illegal structures where seasonal weather conditions make remedying impractical.
  - b. If the property owner and/or other responsible party are actively pursuing the remedy of an identified zoning violation, a stay of all enforcement action may be granted by the community development director or his/her designee. A stay of action shall not exceed ninety (90) days.
  - c. An administrative extension of time or stay of enforcement action shall not be granted for a Tier 4 violation.
10. Other. The city may take any other action permitted by Iowa law.

(Ord. No. 6012, § 2, 10-27-2008; Ord. No. 6378, § 1, 1-28-2019)

## Attachment D

### Section 15.03.340 Home ~~Occupation-Based Business~~

~~Any activity operated for pecuniary gain in or directed from a residential dwelling and carried on by the inhabitants therein, and no others, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character of the lot on which the home occupation is located or of the surrounding neighborhood business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of the residential property on which the business operates, as further specified in CBMC 15.24 and Section 414.33 of the Iowa Code.~~

## Attachment E

### 15.24.020 Accessory Uses

Unless otherwise permitted, only one principal structure or use is permitted per lot. Unless otherwise prohibited or restricted, a permitted principal use also allows uses, buildings and structures incidental to the permitted use, if located on the same site or building lot. The accessory use and/or structures or buildings shall not be established or erected prior to the establishment or construction of the principal permitted use of the building, structure or land and shall be subordinate, incidental to and compatible with the character of the principal permitted use. The following types of accessory uses shall be permitted in residential districts, subject to the site development regulations for the zoning district in which it is located, unless otherwise provided in these regulations:

1. Fencing, subject to CBMC 15.24.040;
2. Garage sales, limited to six days during any calendar year;
3. Garage, and off-street parking for personal vehicles, subject to CBMC 15.23;
4. Greenhouse, for personal, noncommercial use only;
5. Home ~~occupation~~ -based business, subject to CBMC 15.24.030 and Section 414.33 of the Iowa Code;
6. Radio and communications receiving antenna and tower, subject to CBMC 15.24.080;
7. Swimming pool, including a bath house, tennis court or other recreational facilities commonly accessory to a dwelling and used only by the residents and nonpaying guests;
8. Tool, storage shed, gazebo, patio, and similar building and structures for personal noncommercial use only;
9. Structures for the shelter of household pets, for personal noncommercial use;
10. Garden, residential household and garden, institutional/organizational.