

ORDINANCE NO. 09-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS ADDING ARTICLE 7 TO CHAPTER 9.3 OF TITLE 9 OF THE CLOVIS MUNICIPAL CODE AMENDING THE CITY'S ZONING ORDINANCE TO ADDRESS HOME OCCUPATIONS; AND MAKING OTHER CONFORMING AMENDMENT TO THE CITY'S ZONING ORDINANCE

THE CITY COUNCIL OF THE CITY OF CLOVIS DOES ORDAIN AS FOLLOWS:

SECTION 1. ADDITION OF ARTICLE 7 TO CHAPTER 9.3.

Chapter 9.3 of Title 9 of the Clovis Municipal Code is hereby amended by adding Article 7 to Chapter 9.3 and section 9.3.701 through 9.3.712 to read as follows:

ARTICLE 7: HOME OCCUPATIONS

9.3.701 – Intent and Purpose

9.3.702 – Applicability

9.3.703 – Permit Application

9.3.704 – Permitted Home Occupations

9.3.705 – Prohibited Home Occupations

9.3.706 – Operating Standards for All Home Occupations

9.3.707 – Additional Operating Standards for Small Home Occupations

9.3.708 – Additional Operating Standards for Large Home Occupations

9.3.709 – Permit Expiration and Revocation

9.3.710 – Inspections

9.3.711 – Pre-existing Home Occupations

9.3.701 Intent and Purpose

The purpose of this Article is to allow for the conduct of home occupations which are deemed subordinate to and compatible with surrounding residential uses. A home occupation represents a legal commercial enterprise conducted by an occupant(s) of the dwelling.

9.3.702 Applicability

The Home Occupation Permit is intended to allow for home occupations that are conducted within a dwelling located in a residential zoning district, and are clearly subordinate and secondary to the use of the dwelling and compatible with surrounding residential uses.

This ordinance establishes two categories of home occupation permits:

- A. Small Home Occupation – a resident utilizing one room of a dwelling for business purposes.
- B. Large Home Occupation – the use of two or more rooms in a dwelling for business purposes.

9.3.703 Permit Application

- A. Filing. An application for a Home Occupation Permit shall be submitted to the Finance Department Business License Division.
- B. Contents. The application shall be accompanied by detailed and fully dimensioned floor plans, and/or any other data/materials identified in the Department handout for Home Occupation Permit applications.
- C. Project review procedures. Following receipt of a completed application, the Director of Planning and Development Services (hereinafter referred to as “Director”) shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the purpose of this Article.
- D. Public notice not required. A public notice shall not be required for the Director’s decision on a Home Occupation Permit.
- E. Fees. A Home Occupation Permit fee, in compliance with the City’s Fee Schedule shall be collected when the application for a Home Occupation permit is submitted to the Department.
- F. Application review. The Director or designated member of staff shall review all applications and shall record the decision in writing with the findings on which the decision is based.
- G. Approval or Denial. The Director shall approve a Home Occupation Permit application if the Director finds that the proposed Home Occupation would:
 - 1. Be consistent with the General Plan, any applicable specific plan, and the development and design standards of the subject residential zoning district; and
 - 2. Be consistent with the home occupation criteria, guidelines, and standards of this Chapter and all other applicable Municipal Codes.

H. Appeals.

1. If the home occupation permit is denied, the applicant may file an appeal to the Planning Commission. The appeal must be submitted by the applicant within 15 days of the Director's decision.
 2. The appeal shall be in writing setting forth reasons for the appeal and shall be filed with the Planning Division, subject to a fee in compliance with the City's Fee Schedule.
 3. The decision on the appeal by the Commission shall be final with no further appeals.
- I.. Effective Date. The Home Occupation Permit shall become effective after the Director has signed the permit, or in cases involving review by the Commission, once the Commission has rendered a final decision.

9.3.704 Permitted Home Occupations

- A. Where permitted. Home Occupations are permitted in all residential zoning districts.
- B. Permitted Small Home Occupations. Certain business activities are deemed appropriate when conducted by the resident(s) of a dwelling in a manner subordinate to and compatible with the residential characteristics of the surrounding neighborhood and utilizing only one room in the dwelling. The following list presents examples of commercial uses that are subordinate to and compatible with residential activities:
1. Barber and Beauty services. A barber or beauty operator as sole proprietor;
 2. Computer repair and service. On-site repair and service;
 3. Consulting services. Consulting services whose function is one of rendering a service and does not involve the dispensation of goods or products;
 4. Drafting and Architectural services. Drafting, designing, architectural, and similar services, using only normal drafting and graphic equipment;
 5. Internet business. Internet based sales and services conducting all functions via the internet;
 6. Instructional lessons. The giving of health and fitness, music, self-defense, swimming, and similar lessons, on an individual (e.g., one-on-one) person basis;

7. Salespersons. The home office of a salesperson when all sales are made by written order with no commodities or displays on the premises;
 8. Secondary business offices. Secondary business offices where the business has its principal office, staff, and equipment located elsewhere; and
 9. Television, radio, and appliance repair. Off-site repair and service with parts available off-site.
- C. Permitted Large Home Occupations. Certain business activities are deemed appropriate when conducted by the business operator of a dwelling in a manner subordinate to and compatible with the residential characteristics of the surrounding neighborhood and utilizing two or more rooms of the dwelling. The following list presents examples of business uses that are subordinate to and compatible with residential activities:
1. Group Housing Situations. Group housing situations as defined in Article 6 of Chapter 9.3 of Title 9 of the Clovis Municipal Code.

9.3.705 Prohibited Home Occupations

The following list presents example commercial uses that are not subordinate to or compatible with residential activities, are suitable only in nonresidential zoning districts, and are therefore prohibited as Home Occupations:

- A. Adult business;
- B. Businesses which entail the breeding, grooming, harboring, raising, or training of dogs, cats, or other animals on the premises, to include kennels and boarding used for these animals;
- C. Carpentry and cabinet making (does not prohibit a normal wood-working hobby operation);
- D. Construction business (Does not include secondary business offices where the business has its principle office, staff, and equipment located elsewhere;
- E. Dance club/night club;
- F. Food preparation;
- G. Fortune telling (Psychic);
- H. Landscaping business (Does not include secondary business offices where the business has its principal office, staff, and equipment located elsewhere);

- I. Lawn mower and small engine repair;
- J. Home occupations that become detrimental to the public health, safety and welfare, or constitute a nuisance; or if the use is found to be in violation of any law, ordinance, regulation, or statute;
- K. Massage parlors;
- L. Medical and dental offices, clinics, and laboratories;
- M. Mini-storage;
- N. Plant nursery (Excepting agriculturally zoned properties in the R-A Zone District);
- O. Retail sales of merchandise stored and/or displayed within the property;
- P. Storage of equipment, materials, and other accessories to the construction and service trades;
- Q. Tattoo parlors; to include body piercing and permanent make-up;
- R. Vehicle repair (body or mechanical), upholstery, automobile detailing (e.g., washing, waxing, etc.) and painting. (This does not prohibit "mobile" minor repair or detailing at the customer's location utilizing a personal, non-commercial vehicle);
- S. Vehicle sales;
- T. Welding and machining; and
- U. Yard sales (as a commercial business);

9.3.706 Operating Standards for All Home Occupations

This Section provides locational and operational standards for the conduct of home occupations which are subordinate to and compatible with surrounding residential uses. Home occupations shall comply with all of the following operating standards:

- A. Incidental and subordinate uses. The home occupation shall be subordinate to and compatible with surrounding residential uses.
- B. Not alter appearance of dwelling. The home occupation shall not alter the appearance of the dwelling, nor shall the conduct of the home occupation be recognized as serving a nonresidential use (either by color, construction, lighting, materials, signs, sounds or noises, vibrations, etc.), excepting one wall-mounted sign referenced within this Subsection.

- C. Business License required. A home occupation shall not be initiated until a current Business License is obtained in compliance with Municipal Code Section 3.1.101 (Business Licenses). Immediately following the effective date of an approved Home Occupation Permit, the applicant shall obtain a Business License.
- D. No display or storage. Except as allowed by these standards there shall be no display, distribution, or storage of merchandise, materials, or supplies on the premises.
- E. No sale of products. There shall be no sales of products or services not produced on the premises (other than ancillary products needed for on-site service and repair).
- F. Only one sign allowed. Only one wall-mounted sign, not exceeding one (1) square foot in area, and only indicating the address and name of the resident or the home occupation shall be allowed.
- G. No advertising. There shall be no commercial advertising which identifies the home occupation by street address.
- H. One-ton truck. Only one vehicle, owned by the operator of the home occupation, which is no larger than a one-ton truck may be used by the occupant(s) directly or indirectly in connection with a home occupation. The vehicle shall be stored within an entirely enclosed garage.
- I. Use of commercial vehicles. The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises in a manner different from normal residential usage, except for FedEx, UPS, or USPS-type home deliveries/pick-ups.
- J. Use of commercial/residential trailers. Trailers used in conjunction with the home occupation shall be stored within an entirely enclosed garage or in the side or rear yard, behind a five to six-foot solid fence or wall.
- K. No encroachment. The home occupation shall not encroach into any required parking, setback, or open space areas.
- L. No mechanical equipment. There shall be no use or storage of material or mechanical equipment not recognized as being part of a normal household or hobby use.
- M. No utilities or community facilities. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential or agricultural purposes.

- N. No hazards or nuisances. The use shall not create or cause dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, or vibration that can or may be considered a hazard or nuisance.
- O. Fire safety. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.
- P. Pedestrian or vehicular traffic. Generation of pedestrian or vehicular traffic or parking demand in excess of that customarily associated with the residential zoning district in which it is located shall not be allowed.
- Q. Permit nontransferable. A Home Occupation Permit shall not be transferable.
- R. Only one home occupation. Only one home occupation may be allowed in any dwelling.
- S. Property owner's authorization required. For rental property, the property owner or property management's written authorization for the proposed use shall be obtained and submitted with the application for a Home Occupation Permit.

9.3.707 Additional Operating Standards for Small Home Occupations

Small Home Occupations shall comply with the following additional operating standards:

- A. No outside employees. Only the occupant(s) of the dwelling may be engaged in the home occupation.
- B. Location of home occupation. The home occupation shall be confined completely to one room located within the main dwelling. It shall not occupy more than 25 percent of the gross area of the ground level floor. Garages or other enclosed accessory structures shall not be used for home occupation purposes, except for the storage of incidental office supplies where two parking spaces are maintained. Horticulture or other agricultural activities may be conducted outdoors, but only within the rear one-third of the subject parcel.
- C. Patron limit. The transaction of business at the dwelling shall be limited to eight (8) patrons or customers for any calendar day. This provision shall not be construed to limit the business transacted by the operator of the home occupation solely by means of telephone or mail, or similar means of communications, or while away from the site of the home occupation.
- D. Visitation. Visitation and deliveries incidental to the home occupation shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, 8:00 a.m. to 6:00 p.m., on Saturdays, and there shall be no business activity permitted on Sunday.

9.3.708 Additional Operating Standards for Large Home Occupations

Large Home Occupations shall comply with the following additional operating standards:

- A. Group Housing Ordinance. Large Home Occupations shall operate in compliance with Article 6 of Chapter 9.3 of Title 9 of the Clovis Municipal Code, Group Housing Ordinance.

9.3.709 Permit Expiration and Revocation

- A. Discontinuance or cessation. Home Occupation Permits shall immediately expire upon discontinuance or cessation of use for a period of 30 consecutive days of the home occupation.
- B. Revocation of permit.
 1. The Director or the Director's designee may revoke a Home Occupation Permit for noncompliance with the provisions of this Article or for failure to comply with applicable laws pertaining to use of the property. The revocation of a Home Occupation Permit shall be effective upon delivery of written notice to the permittee.
 2. The permittee may appeal to the Commission the revocation within 15-days of the Director's decision.
 3. The appeal shall be in writing setting forth the reasons for the appeal and be filed along with associated fees, with the Planning Division.
 4. Absent an immediate health, safety or welfare concern, the revocation shall be stayed pending an appeal to the Commission.
 5. The Commission's decision shall be final with no further appeals.

9.3.710 Inspections

The Director or the Director's designee shall have the right to inspect the premises subject to a Home Occupation Permit to verify compliance with this Division and the conditions set forth in granting the permit.

9.3.711 Pre-existing Home Occupations

All pre-existing permitted home occupations shall conform to the requirements of this Division before or upon renewal of the annual business license. All pre-existing non-

permitted home occupations shall conform to the requirements of this Division within sixty days (60) of the effective date of this Division.

SECTION 2. REPEAL OF EXISTING HOME OCCUPATION DEFINITION.

Section 9.3.104.2 of Article 1 of Chapter 9.3 of Title 9 of the Municipal Code pertaining to specific definitions in the City's zoning ordinance is amended to read as follows:

H8. HOME OCCUPATION. See Article 7 of Chapter 9.3.

SECTION 3. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance.

SECTION 4. EFFECTIVE DATE.

This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

APPROVED: June 1, 2009



Mayor Pro Tem



City Clerk

The foregoing Ordinance was introduced at a regular meeting of the City Council held on June 1, 2009, and was adopted at a regular meeting of said Council held on June 15, 2009 by the following vote, to wit:

AYES: Councilmembers Flores, Magsig, Whalen
NOES: Councilmember Ashbeck
ABSENT: Mayor Armstrong
ABSTAIN: None

Dated: June 15, 2009



City Clerk

