

Home Occupation Ordinance

Traditionally, in zoning, certain occupational uses termed "home occupations" have been allowed in dwelling units. Such uses have been allowed largely on the basis that such uses are incidental to the use of the premises as a residence, that the nature of home occupational uses is such that they are compatible with or even "belong" in the home, or that home occupational uses are of a highly professional nature involving the use of mental rather than physical capabilities and are therefore compatible with residential uses.

Based on the previous paragraph, it is difficult to discern exactly which home based businesses are to be permitted in residential subdivisions. It is recognized, in Sidney, that certain limited home occupational uses can be useful to both the general community as well as the resident-proprietor. Also recognized is the difficulty of writing an ordinance dealing with home occupations in a "middle-of-the-road" fashion, which is neither discriminatory nor arbitrary. It is hoped that both the citizens and the courts will recognize these difficulties; that the former will not abuse the privileges granted within the following test and that the latter will aid in the enforcement of the sometimes seemingly arbitrary restrictions necessary to preserve residential character in an expedient manner.

With the above in mind, it is the intent and purpose of this section to provide for home occupations in residential subdivisions subject to the following restrictions.

The conduct of home occupations in residential units may be permitted under the following provisions:

- 1) See definition of Home Occupation.
- 2) Home occupations shall be carried on wholly within the principle building or within a building or other structure accessory to it.
- 3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants; no more than thirty (30) percent of the total existing floor area or volume, whichever is greater, shall be used for operating the home occupation.
- 4) There shall be no visible evidence of the operation of such home occupation other than one (1) sign, unless such sign is otherwise prohibited by this ordinance; and a home occupation shall in no extent be carried on in a manner that alters the residential character of the structure, lot or neighborhood. There shall be no outside storage or display of materials or products or equipment or vehicles, nor any window display of any of the same.
- 5) The sign for a home occupation shall be limited to property owner "Name" sign with the street number and name clearly denoted. The "Name" sign may include the type of occupation. The sign shall be non-illuminated and no larger than four (4) square feet. See Sidney sign ordinance for additional details.
- 6) No traffic shall be generated by such home occupation in greater volumes than would ordinarily be expected in the neighborhood, and

any need for parking generated by the operation of the home occupation shall be met off the street in other than what is the required front yard; the burden of proof shall be on the applicant.

7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot if the home occupation is conducted in a detached one family home dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual, or audible interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises; and

8) The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

9) A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than two (2) employees who are not residents of the dwelling unit.

10) Planning Board approval shall be required for any applicant.

11) All residential subdivisions created after 3/24/12 shall only be allowed to have home occupations.

Effective Date: March 24, 2012