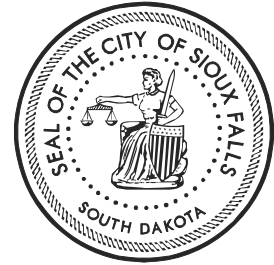


# Minutes

Tuesday, November 13, 2007



## Land Use Committee

5:03 p.m.  
Carnegie Town Hall  
235 W. 10<sup>th</sup> Street

Members Present: Bob Jamison, Bob Litz and Kermit Staggers

Staff Present: Denise D. Tucker, Assistant City Clerk

Guests: Council Members J. Pat Costello and De Knudson; Gary Colwill, City Attorney; Mike Cooper, Director of Planning and Building Services; Shawna Goldammer, with City Planning; April Schave, citizen (Whittier Neighborhood resident); Jonathan Ellis, Argus Leader

### 1. Call to Order

A. Committee Chair Bob Jamison called the meeting to order.

### 2. Approval of Minutes

A. A motion was made by Committee member Bob Litz and seconded by Committee member Kermit Staggers to approve the November 5, 2007 minutes. A voice vote was taken and all members said yes.

### 3. Discussion

#### A. Deferred Discussion on a Video Lottery Ordinance

- Committee Chair Bob Jamison said there was a request from the original sponsor to defer, the ordinance, indefinitely. A motion was made by Committee member Bob Litz to defer the ordinance indefinitely, which was seconded by Committee member Staggers. Jamison called for a voice vote. All committee members voted yes.

#### B. Discussion of Home Occupation Ordinance

1.



1260\_001.pdf

2.



1261\_001.pdf

3.



1262\_001.pdf

1. Proposed ordinance
2. List of other cities Home Occupation ordinances
3. City Home Occupations Information

## MINUTES - Land Use Committee

November 13, 2007 at 5:33 p.m.

Page 2

- Jamison turned over leading the Home Occupation ordinance discussion to Mike Cooper, Director of Planning and Building Services. Cooper said they are working with the Whittier Neighborhood on a number of issues.
- Cooper said that April Schave brought a proposal, of the ordinance, to the Planning Department. He said the primary modification would be to allow accessory buildings to be used. Cooper said this is not a formal recommendation but a proposal.
- Schave explained that she has a home-based floral design business and she is currently working under the guidelines of the ordinance. She said she started her business in her home and things have shifted to her garage. Schave applied for a license but was told she couldn't get a variance or conditional use permit. She said it was easier for her to do this process (submitting the proposal) than to put her business back into her home.
- Cooper said there has been a Home Occupation ordinance for many years. He said when there is a home occupation in a dwelling the home has to be the primary use. He said there are a number of provisions in the ordinance. Complaints surrounding the ordinance have primarily been about noise.
- Shawna Goldammer, with Planning Department, said the problem is when people have their business in a garage.
- Cooper offered to look at other cities and their Home Occupation ordinances for language to change their ordinance.
- Litz said he is in favor of the ordinance and believes that there is a city out there that has a model they could use.
- Knudson said she is supportive of the ordinance and said that Schave has done a lot of research on what other communities have done. Schave presented a listing of 10 other communities and their ordinances.
- Litz made a motion to allow the Planning Department to move forward and explore the possibilities of the ordinance. Stagers seconded the motion. A voice vote was taken and they all voted yes.
- Goldammer said a zoning amendment would be needed. Cooper said his office would correspond with the committee through email.
- Jamison said the next Land Use Committee meeting would be December 10, 2007, at 3:00 p.m.

#### 4. Open Discussion

A. There was none.

#### 5. Adjournment at 5:35 p.m.

A. A motion was made by Committee member Litz and seconded by Committee member Stagers to adjourn. Jamison called for a voice vote. All committee members voted yes.

Denise D. Tucker  
Assistant City Clerk

1<sup>st</sup> Reading: \_\_\_\_\_

2<sup>nd</sup> Reading: \_\_\_\_\_

3<sup>rd</sup> Reading: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

Date Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY CREATING CHANGES IN THE HOME OCCUPATION ORDINANCE.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

Section 15.49.040 A – L of the Revised Ordinances of Sioux Falls, SD is hereby amended to read as follows:

15.49.040—Home Occupations. Home Occupations are those secondary uses allowed on a premises in conjunction with the following:

- A. The occupation must be conducted within a dwelling unit and/or one existing enclosed accessory structure.
- B. The occupation must be clearly incidental and secondary to the principal use of the dwelling structure for dwelling the structure's purposes. And in no way shall overtake the primary use of that structure.
- C. Only members of the immediate family residing on the premises may be employed by or participate in the home occupation. Employees that work at an offsite location and do not come to your home are allowed.
- D. The entrance to the space devoted to such occupation must be from within the building. The nature of the home occupation must be kept out of sight from public view. i.e. such as open garage doors.
- E. ~~There can be no evidence other than the nameplate referred to in F below that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a~~

~~swelling.~~ One non illuminated nameplate which size is not more than one square foot in area, can be attached to the structure.

- F. ~~There is used no sign which is attached to the building other than a nameplate. The sign shall not be illuminated and shall not be more than one square feet in area.~~ There can be no evidence other than the nameplate that will indicate from the exterior that the building is being utilized in part for any purpose other than that of the structure. Storage of equipment, tools, products and materials shall be concealed within the structure and kept from public view.
- G. Such occupations shall not require substantial internal or external alterations or involve construction features not customary ~~in a dwelling,~~ to the structure.
- H. Merchandise for sale cannot be set up for public viewing on the premises. No merchandise, including samples, can be sold on the premises.
- I. The business will generate no more than four (4) visits per day from clients or customers.
- J. ~~Materials that are combustible, toxic or consist of any animal or vegetable matter cannot be stored on the premises.~~ Combustible and toxic materials are limited to those that are normally used for the home and no more in quantity that is in storage for home use.
- K. Any process which ~~will~~ causes odor, dust, glare, noise, heat, or vibration which ~~would have~~ has a negative effect on adjacent properties ~~would~~ will not be allowed.
- L. A building permit shall be secured for all home occupations in conformance with the procedure outlined in Chapter 15.67. The permit is effective for as long as the home occupation is at the location and the home business doesn't change in character.

## Tucker, Denise

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**From:** April H. Schave [aprilflowershop@sio.midco.net]  
**Sent:** Wednesday, November 14, 2007 10:51 AM  
**To:** Litz, Bob; De Knudson; Staggers, Kermit; Jamison, Bob; Cooper, Mike; Goldammer, Shawna; Sorenson, Russ; Clerks  
**Subject:** Home Occ (clerks-Denise)

Hello,

In my research of other cities, I found some cities have their home occupations embedded in their ordinance and anyone wanting to hold a business in their home has to go before the council. This sounds like a lot of busy work so I didn't even suggest it.

Some cities have lists that allow or do not allow specific business to occupy the home. If you want to single out industries, mainly the 3 that get the most complaints. Automotive, Contractors, Landscapers. Are you comfortable that it will stand the test of time if we overlook an industry/service that becomes a neighborhood nuisance?

Addressing some of the topics brought up last night.

Line A. The word "existing" is used. This is in hopes that people can't build expressly for the purpose of a home based business, and hopefully avoid any Morton buildings, multiple sheds and the like. I would also hope this covers for anyone building new or reconstructing property that they would build for their private first use.

Line C. The ordinance does state that only family members can be employed, but the brochure states that off-site employees are allowed and that is why there are changes to Line C.

Line G also creates limits to inhibit anything out of the ordinary for residential property and hopefully avoid anything deemed industrial.

Do we want to change the wording from structure or accessory building and state specifically dwelling and garage.

Do we want to create percentages to ensure primary use and secondary use. I originally had stated a percentage but removed it for the existing home businesses and this would allow for discussion of what percentage is appropriate. I myself fall underneath 20% for both design space and office space.

Do we want to take the lead of the Peddlers License and that the Home Occupation application needs to be signed off by the Health Dept., Police Dept., and maybe include Bulding, and the Fire Dept. ? We could add leads to these in the Questionnaire to be routed to the correct dept.

Thanks  
April

## Tucker, Denise

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**From:** De Knudson [knudson1@sio.midco.net]  
**Sent:** Tuesday, November 13, 2007 9:36 PM  
**To:** Tucker, Denise; Owen, Debra; Kavanaugh, Kevin; Brown, Vernon; Beninga, Gerald; Costello, J. Pat; Goldammer, Shawna  
**Subject:** Fw: Home Occ. 10 example cities, can someone please cc Denise from city clerks and shawna. Thanks

----- Original Message -----

From: "Brett Schave" <schave@sio.midco.net>  
To: "Bob Litz" <blitz@siouxfalls.org>; "De Knudson" <knudson1@sio.midco.net>; "Mike Cooper" <mcooper@siouxfalls.org>; <kstagers@siouxfalls.org>; <bjamison@siouxfalls.org>; "Karen Venables" <kvenables@siouxfalls.org>; "Russ Sorenson" <rsorenson@siouxfalls.org>  
Sent: Tuesday, November 13, 2007 6:26 PM  
Subject: Home Occ. 10 example cities, can someone please cc Denise from city clerks and shawna. Thanks

- > 1. Des Moines, Iowa
- > 134-1326 (10) Not more than one-half of the area of one floor level of
- > the dwelling or accessory building shall be used for such business,
- > including the storage of materials or products.
- >
- > 2. Sioux City
- > a) Iowa
- > 25.90 Home Occupations (5) The home occupation shall be conducted
- > entirely within the principal dwelling unit or in a permitted building
- > accessory thereto, and in no event shall such use be apparent from any
- > public way.
- > b) Nebraska
- > 130-141 Home Occupation
- > Conducted wholly within the primary structure or existing accessory
- > building on the premises.
- >
- > 3. Mount Pleasant, Iowa
- > Sec 19.02.050 General Regulations (i)>1. (e)
- > The home occupation shall be conducted entirely within the principal
- > dwelling unit or in a permitted building accessory thereto: and in no
- > event shall such use be apparent from any public way.
- >
- > 4. St. Joseph, Missouri
- > Section 31-051 pg. 56-59
- > pg. 58 c.2. The home occupation shall be conducted entirely within the
- > principal residential building or in a permitted accessory building.
- >
- > 5. Columbia, Missouri
- > Chapter 29 zoning Section 29-6 District R-1 one-family dwelling
- > district.
- > 3) No more than twenty (20) percent of the total floor area of the
- > dwelling unit and garage shall be devoted to the home occupation. A
- > garage shall not be used for a home occupation if such use has the
- > effect of eliminating required parking.
- > 4) The home occupation shall be conducted entirely within the dwelling
- > unit or garage and no stock in trade shall be displayed or visible
- > outside, or stored outside of any building, nor shall any raw
- > materials, tools, appliances or waste produced be stored outside of any
- > building.
- >
- > 6. Fort Worth, Texas
- > Sec 5.116B. Home Occupations
- > A) The use is conducted entirely within:

- > a) the principal dwelling unit and attached garage: and/or
- > b) one accessory building.
- > Such use is limited to the members of the family or other residents
- > residing in the dwelling unit and one additional employee. Employees
- > that do not visit the home as part of their job are excluded from this
- > provision.

>  
>  
> 7. Cincinnati, Ohio  
> 1419-17

> The home occupation including accessory storage is conducted entirely  
> within the dwelling unit or within an accessory building.

>  
> 8. Burlington, Vermont  
> Sec. 12.1.6

> The home occupation shall be conducted entirely within an existing  
> dwelling unit and/or one enclosed accessory structure.

>  
> 9. Birmingham, Alabama

> Zoning ordinance updated>General Regulations> 31

> Any occupation or activity which is clearly incidental to the use of  
> the premises for dwelling purposes and which is carried on wholly  
> within a main building or accessory building by a member of a family  
> residing on the premises.

>  
> 10. Anaheim, California

> Code Section 18.92.110

> An occupation incidental to and subordinate to the principal  
> residential use and located on the same lot with such residential use.

>  
>  
>  
>

### **What is a home occupation?**

According to the Zoning Ordinance of the City of Sioux Falls, a "home occupation" constitutes an accessory occupational use **conducted entirely within a dwelling unit** by its inhabitants, which is clearly incidental to the residential use and does not change the residential character of the site.

### **Who can have a home occupation?**

Home occupations are allowed in any residence. This provides an opportunity for the residents of any house or apartment to operate a business from their home if they meet the conditions for a home occupation.

### **Can I have a business in my garage?**

No. The ordinance limits home occupations to be entirely within the dwelling unit.

### **Can I have employees?**

No. Home occupations are limited to residents of the home. Employees that work at an off-site location and do not come to your home are allowed.

### **Can I sell a product?**

Home occupations are limited to service businesses and specifically

exclude any on-premise display, purchase or sale of commodities. A maximum of four visits per day is allowed for deliveries, etc. If you want to sell or distribute a product, that activity must take place away from your home at a location zoned to allow commercial uses or by mailing or delivering the product to the customer.

### **How much parking must I provide?**

Most residences are required to have a minimum of one off-street parking space. You may need more for your home occupation business. You must comply with the zoning standards for the residential district for parking spaces. The zoning ordinance limits the amount of paving you can have on your lot. If your business requires a large amount of parking and it overflows into the street, you will have changed the residential character of the home and should be looking for a commercial location.

### **Can I keep a pickup truck or van at my home?**

If the vehicle meets the definition of a personal passenger vehicle, it can be parked at the home just like any other personal vehicle. A personal passenger vehicle is any car, pickup truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal passenger travel and has not been externally altered with features not customary to personal usage.

### **What kind of advertising can I use?**

You may have up to a one (1) square foot, nonilluminated sign attached to the wall of your residence. No yard signs are permitted.

### **Do I need any permits or licenses?**

The City of Sioux Falls requires a zoning permit for home occupations. The permit is effective for as long as the home occupation is at that location and doesn't change in character. If you make any structural changes, replumb or rewire your home for the business use, you must also take out appropriate building permits and be inspected by the Building Services Department.

The South Dakota Department of Revenue will want to know about your home occupation business for a sales tax license, and personal service businesses may have to be inspected by the City Health Department. You may want to hire an attorney to assist you in meeting all the legal requirements for a small business.

### **For more information, please call:**

City Zoning Division ..... 367-8254

City Health Department ..... 367-8760

City Building Services  
Division ..... 367-8670

# HOME OCCUPATION QUESTIONNAIRE

Answer the following questions, continue your answers on another sheet if necessary.

Applicant Information	Property Information
Name _____	Business Name _____
Address _____	Business Location _____
City, State & Zip Code _____	City, State, & Zip Code _____
Phone Number _____	Phone Number _____

1. What will be your hours of operation? \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ days per week.
2. Briefly describe what you are marketing (i.e., woodworking, telephone solicitation, crafts, tutoring, etc.).  
\_\_\_\_\_
3. What is the maximum number of visitors you expect to generate from the proposed home occupation in any 24-hour period? \_\_\_\_\_
4. List or describe in detail the type of equipment, vehicles, and materials used in the performance of this occupation:  
\_\_\_\_\_
5. In what location of the property did you propose to operate your business? (i.e., basement, garage, backyard, bedroom, etc.) \_\_\_\_\_
6. Explain any physical alterations that you propose:  
\_\_\_\_\_
7. Will individuals other than members of the immediate family residing on the premises be employed in the home occupation? \_\_\_\_\_
8. If you've answered "yes" to question 7 above, briefly summarize the duties and extent to which individuals residing elsewhere are involved in the home occupation.  
\_\_\_\_\_
9. Will any merchandise be sold on the premises? \_\_\_\_\_
10. State any additional information that may aid in determining whether the proposed use fits the definition of a home occupation.  
\_\_\_\_\_

***I do hereby affirm that the above answers and statements are true and accurate to the best of my knowledge and I agree to operate the home occupation as proposed herein within the context and parameters as indicated in these answers and statements, as well as in conformance with Chapter 15.49.040 of the 1983 Revised Zoning Ordinances of the City of Sioux Falls. (For your convenience, Chapter 15.49.040 has been reprinted on the back of this application.)***

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**15.49.040—Home Occupations.** Home Occupations are those secondary uses allowed on a premises in conjunction with the following:

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- B. The occupation must be clearly incidental and secondary to the principal use of the dwelling for dwelling purposes.
- C. Only members of the immediate family residing on the premises may be employed by or participate in the home occupation.
- D. The entrance to the space devoted to such occupation must be from within the building.
- E. There can be no evidence other than the nameplate referred to in F below that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.
- F. There is used no sign which is attached to the building other than a nameplate. The sign shall not be illuminated and shall not be more than one square foot in area.
- G. Such occupations shall not require substantial internal or external alterations or involve construction features not customary in a dwelling.
- H. No merchandise, including samples, can be sold on the premises.
- I. The business will generate no more than four (4) visits per day from clients or customers.
- J. Materials that are combustible, toxic, or consist of any animal or vegetable matter cannot be stored on the premises.
- K. Any process which will cause odor, dust, glare, noise, heat, or vibration which would have a negative effect on adjacent properties would not be allowed.
- L. A building permit shall be secured for all home occupations in conformance with the procedure outlined in Chapter 15.67.

## § 9. Home Occupations

Historically, single-family homes have been used by their occupants for a variety of occupational uses such as beauty parlors, dressmaking, laundries, and day care. Zoning limits single-family homes to residential uses and to those uses that are customarily associated with residential use and are incidental and subordinate to that residential use—accessory uses. Does this mean that a single-family homeowner can conduct a particular business in a particular neighborhood as an accessory use, or is the occupational use prohibited?

In some communities, this question is answered on a case-by-case basis without benefit of any special regulations. The zoning authorities examine the proposed occupational use and determine whether it is customary, incidental, and subordinate to the residential use. Other municipalities define "home occupations" more specifically in their zoning laws, requiring homeowners to conform their occupational uses to those definitions. Some adopt a list of permitted occupational uses of homes, while others prohibit a specific list of occupations.

A typical definition of "home occupation" reads as follows: "An occupation, profession, activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood."

Permitting occupations to be conducted in single-family zoned neighborhoods honors expectations of homeowners that such uses have been permitted historically and are within the bundle of rights purchased with the single-family home. Zoning restrictions limiting the occupational use of homes recognize that residential districts must be protected from home occupations that are out of character with the neighborhood and are not uses that homeowners expect to be affected by when they purchase a home in a single-family area. One of the original purposes of zoning is to separate uses that are inconsistent with one another into distinct zoning districts.