

## **MEMORANDUM**

To: Alex Meyerhoff, Interim City Manager  
Jeff Cutter, City Attorney

From: Joan Davenport, Community Development Director  
Sara Watkins, Senior Assistant City Attorney  
Joseph Calhoun, Planning Manager

Date: June 2, 2020 City Council Meeting Information

**Subject: Home Occupations**

### **Purpose of Memorandum:**

At the May 5, 2020 City Council meeting, staff was asked to provide information about the existing Home Occupation system and possible expansion of in-home businesses. This memo provides an over-view of the existing framework. Home Occupations have been permitted as accessory uses since the 1986 Urban Area Zoning Ordinance was adopted, and have been modified throughout the years as local conditions and community needs changed. The current zoning system attempts to balance the rights of an individual to operate the home business with the expectations of “reasonable enjoyment” of the neighborhood (a basic tenet of property law).

On occasion, a requested home occupation requires infrastructure which is not normal in a typical home. An example of this would be a “commercial grade kitchen” which the Health District requires under state law for production of food items. Part of the review process includes an analysis of any changes to the home required for the proposed use. New uses which require a grease trap, waste sampling port, significant increase of water consumption, or fire suppression requirements may deem a particular use not consistent with a typical home.

As the City Council reviews whether to expand in-home businesses, the Planning Commission and staff will need to research some of the uses which may have requirements that exceed a typical neighborhood or the existing infrastructure. It will be helpful if specific home occupation uses are identified for Planning Commission review.

### **Background:**

Home Occupations are permitted uses regulated by YMC § 15.04.120 of the Zoning Ordinance. The purpose and intent of Home Occupations is as follows:

15.04.120 A. Purpose. The conduct of business within a dwelling may be permitted in the residential districts...It is the intent of this section to:

1. Ensure the compatibility of home occupations with other uses permitted in the residential districts;
2. Maintain and preserve the character of residential neighborhoods; and,
3. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses

The zoning code contains a number of definitions associated with home occupations. A home occupation is generally defined as:

[T]he accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services in the home.

YMC 15.02.020. There are also definitions associated with home contractor, which allows contractors to have their business offices located in their home; business administration, which allows for a home office associated with a business in some situations; and taxicab operators, which allows a taxicab operator to use their home as their administrative office with conditions.

Home occupations, per YMC 15.04.120(A)(1) above, must be compatible with uses permitted in residential districts. Compatibility is defined as:

The characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation measures.

As with all permitted land uses in a particular district, the zoning ordinance states:

there are some uses that are consistent with the intent and character of the zoning district; some uses that may be consistent if careful site design neutralizes the adverse characteristics of the use or site; and other land uses that, regardless of the site design, are not consistent with the intent or character of the district.

YMC 15.04.010. The intent and character of residential districts, where home occupations are located, are outlined specifically in YMC 15.03.020(B)(single-family residential or R-1), (C)(two-family residential or R-2), and (D)(multi-family residential or R-3). Each of these district's intent and purpose statements excludes uses that are not compatible with the residential nature of the district.

The definitions regarding home occupations and the purpose and intent statements of the residential zoning districts guides the policy surrounding home occupation uses in the code.

#### Home Occupation Permitted Uses:

Generally speaking, uses other than residential use are not allowed in residential districts—especially true of the R-1 and R-2 districts. The R-3 district has more flexibility with regards to uses outside traditional residential uses. As referenced above, home occupation uses must be accessory to and compatible with the residential nature and allowed uses in the residential district. The City of Yakima currently allows several uses as Home Occupations. Typical uses include accountants, attorneys, short term rentals, business administration, home contractor, and daycares. The complete list of allowed Home Occupations is attached.

There are currently 438 active Home Occupation licenses in the City of Yakima.

### Home Occupation Conditions:

The conditions outlined in the zoning code that apply to all home occupations show that the use of a home for a home occupation should be such that neighboring properties are still able to use and enjoy their property without disruptions, excessive noise, or odor—in other words, home occupations should exist so that the average neighbor under normal circumstances wouldn't be affected in any way by a neighboring home occupation. The Yakima Municipal Code outlines 13 necessary conditions which are all required to be met in order to permit any Home Occupation.

1. Home occupation conducted inside a structure on which is established the primary residence of the practitioner.
2. Home occupation is incidental and subordinate to the residential function of the property.
3. No external alterations which change the character from a dwelling.
4. Portion of structure or facilities where the home occupation is sited must be designed to readily convert to residential use.
5. Business conducted in a manner that will not alter the normal residential character of the premises by use of color, materials, lighting and signs, or the emission of noise, vibration, dust, glare, heat, smoke or odors.
6. Home occupation does not generate materially greater traffic volumes.
7. No outside storage or display of any kind.
8. Home occupation does not require the use of electrical or mechanical equipment that would change the fire rating of the structure.
9. Home occupation does not require the use of electrical equipment that exceeds the FCC standards for residential use.
10. Home occupation does not increase water or sewer use.
11. A business license is purchased.
12. Home occupation is conducted only by immediate family members residing in the dwelling.
13. All stock in trade kept for sale on premises is produced by hand without the use of automated or production line equipment.

As can be seen by the list, home occupations must be businesses that do not change the nature of the home, are incidental to the use of the home as a residence, can only be conducted by immediate family members residing in the dwelling (no employees that are not family members may participate), and cannot create noise, odor or dust abnormal to the residential character of the premises. These requirements fulfil the purpose and intent of allowing home occupations in limited situations so as to ensure that the home occupation is compatible with the surrounding neighborhood.

### **Amendment Process:**

The required process to amend YMC § 15.04.120 is outlined in YMC Chs. 15.23 and 16.10. This process includes the following actions:

1. Text amendment initiation by Council or Planning Commission;
2. SEPA Environmental Review;
3. Study Session(s) with Planning Commission;
4. Public review process and Planning Commission Public Hearing;
5. City Council Public Hearing to review the Planning Commission recommendation;

6. As an Ordinance change, it would become effective 30 days after publication.

Depending on the complexity of the text amendment(s), the amendment timeline generally ranges between 3 and 6 months.

## Exhibit A – YMC Title 15 Code Sections

### 15.02.020 Definitions.

“Home instruction” means the teaching of an art, hobby, skill, trade, profession or sport as a home occupation, except when otherwise prohibited. (See YMC Chapter [15.04](#), Table 4-2.)

“Home occupation” means the accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services in the home.

“Home occupation, business administration” means the accessory use of a dwelling as an administrative office for a licensed commercial business located in an approved commercial zoning district, or a home based Internet business that does not involve the resale of commercial goods. The home is used for phone calls, mail, completing paperwork, and work on a home computer associated with a business. This definition does not include manufacturing, sales not associated with an Internet business, repair or other services.

“Home occupation, home contractor” means the accessory use of a dwelling as, but not limited to, lawn care and/or snow removal services, building, electrical and plumbing, contractors’ offices for small businesses.

“Home occupation, taxicab operator” means the accessory use of a dwelling as an administrative office for a taxicab licensed under YMC Ch. 5.78. This use shall be limited to a maximum of two vehicles operated by immediate family members who reside in the home.

### 15.04.120 Home occupations.

A. Purpose. The conduct of a business within a dwelling may be permitted in the residential districts under the provisions of this section. It is the intent of this section to:

1. Ensure the compatibility of home occupations with other uses permitted in the residential districts; and
2. Maintain and preserve the character of residential neighborhoods; and
3. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

B. Table of Permitted Home Occupations. Table 4-2 titled “Table of Permitted Home Occupations” is incorporated as a part of this section. Each permitted home occupation listed in Table 4-2 is designated as a Class (1), (2) or (3) use for a particular residential zoning district. All permitted home occupations are subject to the standards of this title, including the specific conditions of subsection C of this section and the applicable review procedures of YMC Chapters [15.13](#), [15.14](#) and [15.15](#). Specific uses not permitted as home occupations are listed in subsection H of this section.

**Table 4-2. Table of Permitted Home Occupations**

	Zoning District				
	SR	R-1	R-2	R-3	B-1
Accountant	1	1	1	1	
Architect	1	1	1	1	
Artist, author, arts and crafts	1	1	1	1	
Attorney	1	1	1	1	
Barbershop, beauty parlor	2	2	2	2	
Short term rental*	1	1	1	1	
Business administration	1	1	1	1	
Cabinet, mill work, carpentry work	2				2
Catering service	2	2	2	2	2
Ceramics and sculpting	2	2	2	2	
Composer	1	1	1	1	
Day care, family home*	1	1	1	1	1
Dentist	1	2	2	2	
Dog grooming	2	3	3	3	3
Dressmaker, seamstress, tailor	1	1	1	1	
Engineer	1	1	1	1	
Food preparation*	1	2	1	1	1
Home contractor*	1	1	1	1	1
Home instruction* 1—5 students	1	1	1	1	1
6—8 students	2	2	2	2	2
Insurance agent	1	1	1	1	
Locksmith	1	2	2	1	1
Photographer (not including productions studio)	1	1	1	1	
Physician	1	2	2	2	
Product assemblage*	1	2	2	2	1
Massage therapy/spa*	1	1	1	1	1
Music teacher	1	1	1	1	
Production of small articles by hand without the use of automated or production line equipment	1	2	2	2	
Radio, television and small appliance repair	2	2	2	2	
Real estate agent	1	1	1	1	
Secretarial, phone answering, desktop publishing service*	1	1	1	1	
Small engine repair	2				

**Table 4-2. Table of Permitted Home Occupations**

	Zoning District				
	SR	R-1	R-2	R-3	B-1
Taxicab operator*	1	1	1	2	1
Wedding service	2	2	2	2	2
Unclassified home occupation	See YMC <a href="#">15.04.120</a> (G)				
NOTES:					
* Refers to definition in YMC Chapter <a href="#">15.02</a> .					
1 = Type (1) Permitted Home Occupation					
2 = Type (2) Review and Approval by the Administrative Official Required					
3 = Type (3) Review, Public Hearing and Approval by the Hearing Examiner Required					
χ = Not Permitted					

C. Necessary Conditions. Home occupations are permitted as an accessory use to the residential use of a property only when all the following conditions are met:

1. The home occupation is conducted inside a structure within property on which is established the primary residence of the practitioner(s). For the purpose of administering this section, "primary residence" shall be defined as the residence where a person or persons resides for the majority of the calendar year;
2. The home occupation is incidental and subordinate to the residential functions of the property. No action related to the home occupation shall be permitted that impairs reasonable residential use of the dwelling;
3. There are no external alterations to the building which change its character from a dwelling;
4. The portion of the structure or facilities in which a home occupation is to be sited must be so designed that it may be readily converted to serve residential uses;
5. The business is conducted in a manner that will not alter the normal residential character of the premises by the use of color, materials, lighting and signs, or the emission of noise, vibration, dust, glare, heat, smoke or odors;
6. The home occupation does not generate materially greater traffic volumes than would normally be expected in the residential neighborhood; the frequency of deliveries should be comparable to that of a single-family home without a home business;
7. There is no outside storage or display of any kind related to the home occupation;

8. The home occupation does not require the use of electrical or mechanical equipment that would change the fire rating of the structure;
9. The home occupation does not require the use of electrical equipment that exceeds FCC standards for residential use;
10. The home occupation does not increase water or sewer use so that the combined total use for the dwelling and home occupation is significantly more than the average for residences in the neighborhood;
11. A business license is purchased where required;
12. The home occupation is conducted only by immediate family members residing in the dwelling;
13. All stock in trade kept for sale on the premises is produced on site by hand without the use of automated or production line equipment.

In granting approval for a home occupation, the reviewing official may attach additional conditions to ensure the home occupation will be in harmony with, and not detrimental to, the character of the residential neighborhood. Any home occupation authorized under the provisions of this title shall be open to inspection and review at all reasonable times by the building and enforcement official for purposes of verifying compliance with the conditions of approval and other provisions of this title.

D. **Materials and Storage.** The storage of equipment, materials, or goods shall be permitted in connection with a home occupation provided such storage complies with the following standards:

1. All equipment, materials, or goods shall be stored completely within the space designated for home occupation activities and not visible from the public right-of-way.
2. Only those materials or goods that are utilized or produced in connection with the home occupation may be stored within the dwelling unit or accessory building.
3. All flammable or combustible compounds, products, or materials shall be maintained and utilized in compliance with fire code.
4. The frequency of home deliveries should be comparable to that of a single-family home without a home occupation associated with the residence.
5. A home occupation permit application (including a site plan) shall be supplied to and approved by the city of Yakima planning division prior to operation of any home occupation.

E. **Nameplates.** Only one nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation (e.g., John Jones, Accountant). The nameplate shall be attached to the dwelling, but shall not exceed two square feet in area or be illuminated.

F. **Application Fee and Review Period.** Application for a home occupation shall be made in accordance with the provisions of YMC Chapter [15.11](#), except as noted, and shall be accompanied by the appropriate filing fee. The administrative official may waive part or all of the requirements for a site plan for Class (1) home occupations.

G. Unclassified Home Occupation—Review by the Hearing Examiner. Home occupations not listed in Table 4-2 shall be reviewed by the hearing examiner in accordance with the provisions of YMC Chapter [15.22](#); provided, any unclassified home occupation permitted after review and decision by the hearing examiner in a particular district shall be allowed only as a Class (2) or (3) use.

H. Home Occupations Not Permitted. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations and impair the use and value of a residentially zoned area for residential purposes. Therefore, the uses listed below shall not be permitted as home occupations:

1. Auto repair;
2. Antique shop or gift shop;
3. Kennel;
4. Veterinary clinic or hospital;
5. Painting of vehicles, trailers or boats;
6. Large appliance repair including stoves, refrigerators, washers and dryers;
7. Upholstering;
8. Machine and sheet metal shops;
9. Martial arts school;
10. Taxidermist;
11. Two-way radio and mobile telephone system sales and service;
12. Vehicle sign painting (except for the application of decals).

I. Denial of Application for a Home Occupation. An application for a home occupation shall be denied if the administrative official finds that either the application or record fails to establish compliance with the provisions of this chapter. When any application is denied, the administrative officer shall state the specific reasons and cite the specific provisions and sections of this title on which the denial is based.

J. Parking. The administrative official shall determine parking requirements for home occupations, as provided by YMC [15.06.040\(B\)](#). This determination may be guided by, but not restricted by, the standards of YMC Chapter [15.06](#).