



STAFF REPORT TO THE PLANNING COMMISSION

DATE: Regular Meeting of May 19, 2021

SUBMITTED BY: Forrest Ebbs, Community Development Director

SUBJECT: **Amendment to Antioch Municipal Code Regarding Home Occupation Use Permits (HOUP)**

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt the resolution recommending that the City Council adopt the ordinance repealing and replacing Section 9-5.901 of the Antioch Municipal Code regarding Home Occupation Use Permits (HOUP).

DISCUSSION

Section 9-5.901 of the Antioch Municipal Code regulates the operation of a home occupation, or home business. In the City of Antioch, a home may be used for a home business subject to a series of regulations that ensure that the business will not negatively impact the residential neighborhood. These regulations address noise, deliveries, signs, parking, use of garages, and other considerations that might change the residential character of the neighborhood.

Presently, the Code requires that a Home Occupation Use Permit (HOUP) be issued for each new home occupation. The HOUP is specific to a property and business and is not transferable. The process to issue a HOUP requires the submittal of an application with the applicant's signature and the property owner's signature (if different) along with a fee and copies of any pertinent licenses required for the business. The applicant must agree, as part of the application, to comply with all of the regulations pertaining to a HOUP. The Planning Division is then required to send written notices to adjacent homes informing them that the HOUP has been approved and offering contact information should a problem arise. The fee for this application is \$130 and is in addition to a business license. Neither a business license nor a HOUP is required for a home daycare, which are licensed and regulated by the State of California.

ANALYSIS

Staff is recommending significant changes to the Antioch Municipal Code to address several factors. First, there has been a significant rise in the number of home businesses since the current regulations were adopted in 1994. Home businesses are more accepted, and many are computer-based with no outside interaction or on-site

customers. This additional step and associated fee arguably serve as a deterrent to home businesses, which are an important part of our modern economy. Many small businesses now begin from the home with minimal financial resources but grow into freestanding successful businesses over time.

Second, the requirement to send a written notice imposes a substantial burden on City staff with minimal apparent benefit. Staff rarely receives complaints about home occupations and, when they do, it is not because a neighbor received a written notice. When complaints are received, it is generally because somebody is operating a non-permitted home business that would not be approved. For example, there have been instances where a resident operates a hauling business with multiple trailers from their home without a City business license or HOUP. In these cases, Code Enforcement orders the business to cease altogether. This step also requires the applicant to provide a list of adjacent addresses, which is complicated when it operates from an apartment building. The fee is required, in part, to cover the cost of sending these notices.

Finally, Planning staff are already required to review and approve all applications for business licenses in the City of Antioch. This allows staff to consider the location and proposed use of a property to ensure that it complies with the General Plan and Zoning Ordinance. The HOUP process duplicates this parallel process and introduces more complexity and cost, which are borne by small businesses.

Staff is proposing a new approach to home occupations that would align with the existing business license review process. The proposed changes are as follows:

1. A definition of Home Occupation is provided. Currently, the term is not defined.
2. The prohibition of manufacturing is eliminated. Many small businesses involve the assembly of crafts, clothing and other small goods for sale through web sites such as Etsy, eBay, and similar. If this manufacturing does not generate impacts to the neighborhood, it should not be objectionable or prohibited.
3. Any vehicles used as part of the home occupation must be owned by the applicant. The purpose of a home occupation is not to allow the storage of corporate fleet vehicles at a home. Further, all vehicles must be no larger than one-ton classification, and food trucks, utility trailers, cargo trailers, food trailers, or food carts are prohibited. Home occupations are not intended to be used for catering or food services and trailers occupy required parking spaces in addition to the one allowed vehicle, which is prohibited.
4. The list of prohibited uses is expanded to specifically include:
 - a. animal boarding, stables, kennels, and animal breeding, (except dog fanciers, those holding multiple pet permits, and those holding kennel permits, as authorized by the Antioch Municipal Code.)

- b. cabinet shops, furniture manufacturing, upholstery repair or similar uses, or similar uses requiring the use of electric saws, joiners, air compressors, and similar tools. Through experience, woodworking businesses create excessive noise for adjacent properties.
 - c. Industrial manufacturing
 - d. The use of any yard space or outside area for the home occupation. All home occupation businesses need to be conducted indoors.
 - e. Any use requiring hazardous chemicals or supplies not normally found at a residence. This would not preclude a pool service business.
 - f. Bicycle, lawn mower, or small engine repair or maintenance.
 - g. Welding, use of paint sprayers, compressors, etc.
 - h. Any other use determined by the Community Development Director to be inappropriate or incompatible within a residential neighborhood.
5. In lieu of a separate Home Occupation Use Permit, the operator and property owner, if different, would sign an affidavit as part of their business license verifying and committing to comply with the home occupation regulations. This would eliminate the additional step of applying for a HOUP, along with the fee. There would be no requirement to mail notices to adjacent property owners.

CEQA

The proposed actions do not constitute a project under the California Environmental Quality Act (CEQA) as it can be reasonably found that the incidental use of existing residences for home businesses does not have the potential to create any impact on the environment.

SUMMARY

In summary, staff recommends changes to the home occupation approval process to streamline and promote home businesses that do not impact residential neighborhoods, while preserving regulatory provisions that allow for enforcement of noncompliant home businesses.

Staff recommends that the Planning Commission adopt the resolution recommending that the City Council adopt an ordinance repealing and replacing Section 9-5.901 of the Antioch Municipal Code as described.

ATTACHMENTS

- A. Resolution with Exhibit 1 (Draft Ordinance)
- B. Antioch Municipal Code Section 9-5.901 – Existing and Proposed

ATTACHMENT A

Resolution with Exhibit 1 (Draft Ordinance)

**PLANNING COMMISSION
RESOLUTION NO. 2021-****

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH
RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ORDINANCE
REPEALLING AND REPLACING SECTION 9-5.901 OF THE ANTIOCH MUNICIPAL
CODE REGARDING HOME OCCUPATIONS**

WHEREAS, Section 9-5.901 of the Antioch Municipal Code establishes the regulatory requirements for the permitting and operation of a home occupation in the City of Antioch;

WHEREAS, Home-based businesses, or home occupations, are an important part of the local economy and enable the development and operation of many small businesses, contributing to employment while eliminating commuting and its associated environmental impacts;

WHEREAS, a streamlined and efficient approval process will further promote the establishment and success of home occupations while preserving staff resources for other essential services;

WHEREAS, the proposed changes are not considered a project under the California Environmental Quality Act under the general rule that the incidental use of an existing residence for a home occupation does not have the potential to impact the environment;

WHEREAS, the Planning Commission duly gave notice of public hearing as required by law; and

WHEREAS, the Planning Commission on May 19, 2021, duly held a public hearing, received and considered evidence, both oral and documentary.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby find that the public necessity, convenience, and general welfare require such changes.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Antioch does hereby **RECOMMEND** that the City Council adopt an ordinance repealing Antioch Municipal Code Section 9-5.901 and replace it with the text contained in the draft ordinance attached hereto as Exhibit 1.

* * * * *

I HEREBY CERTIFY the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 19th day of May 2021.

RESOLUTION NO. 2021-**

MAY 19, 2021

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AYES:

NOES:

ABSTAIN:

ABSENT:

Forrest Ebbs
Secretary to the Planning Commission

EXHIBIT 1

ORDINANCE NO. 2021-**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH TO REPEAL AND REPLACE ANTIOCH MUNICIPAL CODE SECTION 9-5.901 REGARDING HOME OCCUPATIONS

The City Council of the City of Antioch does ordain as follows:

SECTION 1:

The City Council determined on #####, that, the repeal and replacement of Antioch Municipal Code Section 9-5.901 does not constitute a project under the California Environmental Quality Act under the general rule that the incidental use of an existing residence for a home occupation does not have the potential to impact the environment.

SECTION 2:

At its regular meeting of May 19, 2021, the Planning Commission recommended the City Council adopt the Ordinance to repeal and replace Antioch Municipal Code Section 9-5.901 regarding home occupations.

SECTION 3:

The City Council finds that the public necessity, convenience, and general welfare require such changes to promote the efficient approval and appropriate operation of home occupations to foster economic development.

SECTION 4:

The replacement text shall read as follows:

§ 9-5.901 HOME OCCUPATION USE PERMITS.

- (A) Definition. A home occupation is a commercial or other activity conducted in a home by the resident thereof which activity is clearly incidental and secondary to the use of the home as a residence and which exhibits no external evidence of the activity and will not change the residential character of the dwelling.
- (B) *Requirements.* Home occupations are permitted within residential units, subject to the following restrictions:
 - (1) The home occupation shall be incidental and subordinate to the use as a residence.
 - (2) The appearance of the structure in no way shall be altered, nor shall the home occupation be conducted in a manner which would cause the residence to differ from its original residential character, either by the use

- of colors, materials, construction, lighting, or signs. There shall be no outside display or storage of goods or materials.
- (3) There shall be no significant interior physical alteration associated with the use of the dwelling for a home occupation.
 - (4) The use of a garage for the purpose of a home occupation shall not decrease the amount of enclosed off-street parking required for the residence.
 - (5) The occupation shall not create any noise, vibration, fumes, odors, dust, or electrical interference which is detectable to the normal senses:
 - (a) Off the lot if the occupation is conducted in a single-family dwelling unit; or
 - (b) Outside the dwelling unit if the occupation is conducted in other than a single-family dwelling unit.
 - (6) There shall be no excessive use of, or unusual discharge into, any one or more of the following utilities: water, sewers, electrical, garbage, or storm drains.
 - (7) Employees working or meeting at the site shall be limited to persons who reside in the unit and one nonresident, inclusive of all home occupation use permits issued for the premises.
 - (8) Delivery vehicles shall be limited to those types of vehicles which typically make deliveries to single-family neighborhoods, such as the United States Postal Service, United Parcel Service, pickup trucks, and light vans.
 - (9) Not more than one commercial vehicle, which shall be owned by the occupant of the home, shall be permitted, inclusive of all home occupations for the premises, the maximum payload size thereof not exceeding one-ton classification. No food trucks, utility trailers, cargo trailers, food trailers or food carts shall be permitted.
 - (10) No customers or clients shall be permitted to visit the home at any time in conjunction with the home occupation, however, in-home music lessons, academic tutoring, or similar uses, shall be allowed for no more than six students total in any 24 hour period.
 - (11) The operator of a home occupation shall have received permission from the property owner, if applicable, for use of the property prior to initiation of the home occupation.
 - (12) All actions associated with the home occupation shall occur within a building located on the site.
 - (13) The operator of a home occupation shall comply with all applicable federal, state, and local regulations pertaining to the home occupation, including local health regulations.
- (C) *Prohibited uses.* Inappropriate home occupations shall include, but not be limited to, the following and similar types of uses:
- (1) Beauty parlors, barber shops and haircut salons.
 - (2) Retail sales.
 - (3) Restaurants.
 - (4) Funeral chapels, funeral homes, and taxidermists.

- (5) Stables, kennels, animal boarding, and animal breeding, except dog fanciers, those holding multiple pet permits, and those holding kennel permits, as authorized by the Antioch Municipal Code.
 - (6) Veterinary clinics.
 - (7) Mechanical and automobile repair and servicing.
 - (8) Cabinet shop, furniture manufacture, upholstery repair or similar uses requiring the use of electric saws, joiners, air compressors and similar tools.
 - (9) Industrial manufacturing of any kind.
 - (10) Repair of large appliances, internal combustion engines, automobiles or motorcycles at the home.
 - (11) The use of yard space or any activity outside the main or accessory building which is not normally associated with a residential use.
 - (12) Any use involving storage of hazardous chemicals or supplies not normally found at a private residence.
 - (13) Bicycle, lawn mower or small engine repair or maintenance.
 - (14) Welding, use of paint sprayers, compressors, etc.
 - (15) Other uses which the Community Development Director determines to be inappropriate or incompatible within a residential neighborhood.
- (D) Home Occupation Affidavit
- (1) Prior to initiation of a Home Occupation, the operator, and also the property owner, if different, shall sign and submit an affidavit verifying and committing to continued compliance with the requirements identified in division (B) of this section. The applicant shall furthermore verify they have complied with all applicable federal, state and local regulations pertaining to the home occupation.
 - (a) A business license shall not be issued for a home occupation until and unless the signed home occupation affidavit is received.
 - (2) More than one home occupation may be allowed per household, provided each application can meet the requirements stipulated in division (B) of this section.
- (E) *Enforcement.* Operation or initiation of a home occupation in violation of these provisions shall be subject to enforcement as prescribed in Chapter 1 of the Antioch Municipal Code.
- (F) *Transferability.* A home occupation use permit is not transferrable to another individual, business, or site. An existing home occupation may be changed by applying for a new business license under the requirements of this chapter.

(Ord. 897-C-S, passed 10-25-94; Am. Ord. 2062-C-S, passed 2-26-13, Am. Ord.#####)

SECTION 4:

This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage

and adoption in a newspaper of general circulation printed and published in the City of Antioch.

* * * * *

I HEREBY CERTIFY that the forgoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Antioch, held on the #####, 2021, and passed and adopted at a regular meeting thereof, held on the ####, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor of the City of Antioch

ATTEST:

City Clerk of the City of Antioch

ATTACHMENT B

Antioch Municipal Code Section 9-5.901 – Existing and Proposed

EXISTING

§ 9-5.901 HOME OCCUPATION USE PERMITS.

(A) *Requirements.* Home occupation use permits may be issued by the Zoning Administrator or his designee provided the proposed home occupation meets the requirements set forth in this section.

(1) The home occupation shall be incidental and subordinate to the use as a residence as determined by the Zoning Administrator.

(2) The appearance of the structure in no way shall be altered, nor shall the occupation be conducted in a manner which would cause the residence to differ from its original residential character, either by the use of colors, materials, construction, lighting, or signs. There shall be no outside display or storage of goods or materials.

(3) There shall be no significant interior physical alteration associated with the use of the dwelling for a home occupation.

(4) The use of a garage for the purpose of a home occupation shall not decrease the amount of off-street parking required for the residence.

(5) The occupation shall not create any noise, vibration, fumes, odors, dust, or electrical interference which is detectable to the normal senses;

(a) Off the lot if the occupation is conducted in a single-family dwelling unit; or

(b) Outside the dwelling unit if the occupation is conducted in other than a single-family dwelling unit.

(6) There shall be no excessive use of, or unusual discharge into, any one or more of the following utilities: water, sewers, electrical, garbage, or storm drains.

(7) Employees working or meeting at the site shall be limited to persons who reside in the unit and one nonresident, inclusive of all home occupation use permits issued for the premises.

(8) Delivery vehicles shall be limited to those types of vehicles which typically make deliveries to single-family neighborhoods, such as the United States Postal Service, United Parcel Service, pickup trucks, and light vans.

(9) There shall be no manufacturing of any kind, except for arts, crafts, and hobbies.

(10) There shall be no repair of large appliances, internal combustion engines, automobiles or motorcycles at the home.

(11) Not more than one commercial vehicle shall be permitted, inclusive of all Home Occupation Use Permits issued for the premises, the maximum size thereof not exceeding one ton.

(12) Food preparation shall comply with the Cal. Gov't Code § 51035 and requirements of the Health Department.

(13) Home occupation use permits apply to a specific site and owner and shall not be transferrable to different persons or to different locations.

(14) No customers or clients shall be permitted to visit the home at any time in conjunction with the home occupation, however, in-home lessons shall be allowed for no more than six students in any 24 hour period.

(B) *Prohibited uses.* Inappropriate home occupations shall include, but not be limited to, the following and similar types of uses:

(1) Beauty parlors, barber shops and haircut salons.

(2) Retail sales.

(3) Restaurants.

(4) Funeral chapels, funeral homes, and taxidermists.

(5) Stables, kennels, and animal breeding, except dog fanciers as authorized by the code.

(6) Veterinary clinics.

(7) Mechanical and automobile repair and servicing.

(8) Any business that may cause customers or clients to visit the home, with the exception of in-home lessons for six or fewer students in any 24-hour period.

(C) *Application.*

(1) Applications for home occupation use permits shall require both the applicant's and the property owner's signatures and shall be accompanied by a fee as specified by resolution. Proof of any licenses/registrations required by the home occupation shall be submitted with the application. The applicant shall furthermore agree to comply with all applicable federal, state and local regulations pertaining to the home occupation.

(2) Issuance of a home occupation use permit shall be an administrative action. The applicant must agree to comply with all of the requirements for a home occupation and sign a statement to that effect. Once the application is completed, the Zoning Administrator or his/her designee may issue the home occupation use permit. No public hearing shall be required, unless the Zoning Administrator's decision is appealed, as provided for in division (E) of this section.

(3) Notices will be sent out to adjacent homes informing them that a home occupation use permit has been issued and include information on who they can contact if there are any problems.

(4) More than one home occupation use permit may be allowed per household, provided each application can meet the requirements stipulated in division (A) of this section.

(D) *Transferability.* A home occupation use permit is not transferrable to another individual or site. An existing home occupation may be changed by reapplying for a new home occupation use permit under the requirements of this chapter.

(E) *Appeals.* In the event a home occupation use permit is denied, the applicant may appeal in writing to the Planning Commission. Such appeal shall be accompanied by the fee specified by resolution.

(F) *Revocation.* The Zoning Administrator may revoke or suspend any home occupation use permit if the provisions of this code have been violated.

(Ord. 897-C-S, passed 10-25-94; Am. Ord. 2062-C-S, passed 2-26-13)

PROPOSED

§ 9-5.901 HOME OCCUPATION USE PERMITS.

- (A) Definition. A home occupation is a commercial or other activity conducted in a home by the resident thereof which activity is clearly incidental and secondary to the use of the home as a residence and which exhibits no external evidence of the activity and will not change the residential character of the dwelling.
- (B) *Requirements.* Home occupations are permitted within residential units, subject to the following restrictions:
- (1) The home occupation shall be incidental and subordinate to the use as a residence.
 - (2) The appearance of the structure in no way shall be altered, nor shall the home occupation be conducted in a manner which would cause the residence to differ from its original residential character, either by the use of colors, materials, construction, lighting, or signs. There shall be no outside display or storage of goods or materials.
 - (3) There shall be no significant interior physical alteration associated with the use of the dwelling for a home occupation.
 - (4) The use of a garage for the purpose of a home occupation shall not decrease the amount of enclosed off-street parking required for the residence.
 - (5) The occupation shall not create any noise, vibration, fumes, odors, dust, or electrical interference which is detectable to the normal senses:
 - (a) Off the lot if the occupation is conducted in a single-family dwelling unit; or
 - (b) Outside the dwelling unit if the occupation is conducted in other than a single-family dwelling unit.
 - (6) There shall be no excessive use of, or unusual discharge into, any one or more of the following utilities: water, sewers, electrical, garbage, or storm drains.

- (7) Employees working or meeting at the site shall be limited to persons who reside in the unit and one nonresident, inclusive of all home occupation use permits issued for the premises.
 - (8) Delivery vehicles shall be limited to those types of vehicles which typically make deliveries to single-family neighborhoods, such as the United States Postal Service, United Parcel Service, pickup trucks, and light vans.
 - (9) Not more than one commercial vehicle, which shall be owned by the occupant of the home, shall be permitted, inclusive of all home occupations for the premises, the maximum payload size thereof not exceeding one-ton classification. No food trucks, utility trailers, cargo trailers, food trailers, or carts shall be permitted.
 - (10) No customers or clients shall be permitted to visit the home at any time in conjunction with the home occupation, however, in-home music lessons, academic tutoring, or similar uses, shall be allowed for no more than six students total in any 24 hour period.
 - (11) The operator of a home occupation shall have received permission from the property owner, if applicable, for use of the property prior to initiation of the home occupation.
 - (12) All actions associated with the home occupation shall occur within a building located on the site.
 - (13) The operator of a home occupation shall comply with all applicable federal, state, and local regulations pertaining to the home occupation, including local health regulations.
- (C) *Prohibited uses.* Inappropriate home occupations shall include, but not be limited to, the following and similar types of uses:
- (1) Beauty parlors, barber shops and haircut salons.
 - (2) Retail sales.
 - (3) Restaurants.
 - (4) Funeral chapels, funeral homes, and taxidermists.
 - (5) Stables, kennels, animal boarding, and animal breeding, except dog fanciers as authorized by the Antioch Municipal Code.

- (6) Veterinary clinics.
 - (7) Mechanical and automobile repair and servicing.
 - (8) Cabinet shop, furniture manufacture, upholstery repair or similar uses requiring the use of electric saws, joiners, air compressors and similar tools.
 - (9) Industrial manufacturing of any kind.
 - (10) Repair of large appliances, internal combustion engines, automobiles or motorcycles at the home.
 - (11) The use of yard space or any activity outside the main or accessory building which is not normally associated with a residential use.
 - (12) Any use involving storage of hazardous chemicals or supplies not normally found at a private residence.
 - (13) Bicycle, lawn mower or small engine repair or maintenance.
 - (14) Welding, use of paint sprayers, compressors, etc.
 - (15) Other uses which the Community Development Director determines to be inappropriate or incompatible within a residential neighborhood.
- (D) Home Occupation Affidavit
- (1) Prior to initiation of a Home Occupation, the operator, and also the property owner, if different, shall sign and submit an affidavit verifying and committing to continued compliance with the requirements identified in division (B) of this section. The applicant shall furthermore verify they have complied with all applicable federal, state and local regulations pertaining to the home occupation.
 - (a) A business license shall not be issued for a home occupation until and unless the signed home occupation affidavit is received.
 - (2) More than one home occupation may be allowed per household, provided each application can meet the requirements stipulated in division (B) of this section.
- (E) *Enforcement* Operation or initiation of a home occupation in violation of these provisions shall be subject to enforcement as prescribed in Chapter 1 of the Antioch Municipal Code.

(F) *Transferability.* A home occupation use permit is not transferrable to another individual, business, or site. An existing home occupation may be changed by applying for a new business license under the requirements of this chapter.

(Ord. 897-C-S, passed 10-25-94; Am. Ord. 2062-C-S, passed 2-26-13, Am. Ord.#####)