

1 **BILL NO. 2014-8**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE TO UPDATE THE
4 STANDARDS APPLICABLE TO HOME OCCUPATION PERMITS; ELIMINATE THE EXCEPTION
5 FROM THE HOME OCCUPATION PERMIT REQUIREMENT FOR EDUCATIONAL ACTIVITIES,
6 INCLUDING MUSIC LESSONS, TUTORING AND RELIGIOUS INSTRUCTION; ESTABLISH
7 PARAMETERS FOR COTTAGE FOOD OPERATIONS TO BE CONDUCTED AS A HOME
8 OCCUPATION; AND PROVIDE FOR OTHER RELATED MATTERS.

9 Proposed by: Flinn Fagg, Director of Planning

Summary: Updates the standards applicable to
home occupation permits; eliminates the
exception from the home occupation permit
requirement for educational activities, including
music lessons, tutoring and religious instruction;
and establishes parameters for cottage food
operations to be conducted as a home occupation.

11 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS
12 FOLLOWS:

13 SECTION 1: Ordinance No. 6289 and the Unified Development Code adopted as Title
14 19 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended as set forth
15 in Sections 2 through 6, inclusive, of this Ordinance. The amendments are deemed to be amendments to
16 both Ordinance No. 6289 and the Unified Development Code adopted as Title 19.

17 SECTION 2: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
18 10, is hereby amended to indicate that home occupations are allowable in each of the zoning districts
19 described in Table 2. In order to reflect the amendment, the letter "H" shall be added to the columns for the
20 P-O, O, C-1, C-2, C-PB, C-M and M Zoning Districts.

21 SECTION 3: Title 19, Chapter 12, Section 70, is hereby amended by amending the entry
22 for the use "Home Occupation" so that the description of the use reads as follows:

23 **Description:** An income producing activity conducted [in a residential zone] from a residential dwelling
24 unit pursuant to LVMC 19.16.180.

25 SECTION 4: Title 19, Chapter 16, Section 180, is hereby amended to read as follows:

26 **19.16.180 Home Occupation Permit**

1 A. Purpose

2 The purpose of this Section is to provide for a Home Occupation Permit to allow limited types of income
3 producing activities [within residential zoning districts.] conducted from a residential dwelling unit. A
4 home occupation is an incidental or secondary use so located that the average neighbor, under normal
5 circumstances, would not be aware of its existence. Except as otherwise provided in this Section and Title,
6 no [residentially zoned parcel] residential dwelling unit may be used for the purpose of conducting any
7 business or income producing activity except as allowed by means of a Home Occupation Permit.

8 B. [Exceptions

9 No Home Occupation Permit shall be required for educational activities, including but not limited to music
10 lessons, academic tutoring or religious instruction, provided that no more than two students are present at
11 any one time and the use complies with the requirements of this Section.

12 C.] Authority

13 The Director or, upon appeal, the Planning Commission, shall have the authority to approve, approve with
14 conditions, or deny a Home Occupation Permit. In approving a Home Occupation application, the Director
15 (or if applicable, the Planning Commission) may impose conditions, stipulations or restrictions as are
16 deemed necessary to ensure that the activity will be consistent with the intent of this Section.

17 [D.] C. Application

18 An application for a Home Occupation Permit shall be filed with the Director. The application shall
19 contain sufficient information and detail to enable the Director to determine the appropriateness of issuing a
20 permit under this Section. If the Home Occupation is to be conducted by the tenant of property which is
21 leased or rented, the tenant shall obtain written authorization from the property owner or property manager
22 and submit the authorization with the Home Occupation Permit application.

23 [E.] D. Process and Review

24 Within 30 days after receipt of a complete application, the Director shall approve, approve with conditions,
25 or deny the application.

26 [F.] E. Decision and Notice of Decision

1. The Director shall approve a Home Occupation Permit if the Director finds that:

a. The proposed Home Occupation is compatible with the existing residential uses on the property and surrounding properties; and

b. The proposed Home Occupation will conform to the Operational Standards and requirements contained in this [subchapter.] Section.

2. The Director shall provide written notice of the decision, which shall include the reasons for the decision and, if the decision is to approve the Home Occupation Permit, any modifications, conditions or limitations that the Director may impose. The notice shall be provided to the owner or the owner's agent.

[G.] F. Operational Standards

1. In order to approve a Home Occupation Permit, the Director (or if appealed, the Planning Commission) must be satisfied that the proposed Home Occupation can and will comply with the following operational standards:

a. Only the occupants of the dwelling unit shall be engaged in the business activity approved for the Home Occupation Permit;

b. No employees shall report to work or be dispatched from the property;

c. There shall be no transacting of business or offers to transact business with customers or clients who have come to the property[;], with the following exceptions:

i. Educational activities, including without limitation music lessons and academic tutoring, by appointment only, and provided that no more than two students are present at any one time; and

ii. A cottage food operation, subject to the following:

(A) Except as permitted as part of a garage or yard sale under Subsubparagraph (B) below, no more than two customers may be present on the property at any one time;

(B) The outdoor sale of food items may occur with no restriction on the number of customers present, but only in accordance with the garage or yard sale provisions of LVMC 19.12.020(B)(1);

d. There shall be no signage or other advertising of any kind, whether on the property or

1 elsewhere, which advertises the address or physical location of the property or identifies the existence of a
2 Home Occupation on the property. A home telephone number or a post office box may be advertised by
3 any medium other than on-site signage;

4 e. No [motor vehicle repair, paint or body work;] repair, painting or body work pertaining to
5 motor vehicles or trailers; sales of vehicles by a vehicle dealer as defined in NRS Chapter 482; commercial
6 preparation of food for service on the premises; business related to or involving explosives, ammunitions or
7 weapons; beauty parlor or barber shop; or ambulance or related emergency services shall be permitted as a
8 Home Occupation;

9 f. A Home Occupation shall not create pedestrian, automobile or truck traffic in excess of the
10 normal amount associated with residential uses in the district;

11 g. A Home Occupation shall be conducted exclusively within the main dwelling or within an
12 accessory structure which has been approved for the Home Occupation Permit, except for horticultural
13 activities;

14 h. No more than one vehicle, with a maximum capacity of one-ton, shall be used in connection
15 with a Home Occupation Permit;

16 i. The number of on-site parking spaces shall not be reduced to less than two;

17 j. There shall be no outdoor storage or use of any toxic chemicals or hazardous materials of any
18 type or in any amount not normally found in a residential structure;

19 k. There shall be no electrical or mechanical equipment which is not normally found in a
20 residential structure, and no equipment found on the premises shall cause a change in the fire safety or
21 occupancy classification of the dwelling unit; and

22 l. No Home Occupation shall create or cause noise, dust, light, vibration, gas, fumes,
23 toxic/hazardous materials, smoke, glare, electrical interference or other hazards or nuisances.

24 2. The following uses are uses that normally may be permitted by means of Home Occupation Permit if
25 they can be conducted in compliance with the Operational Standards in Paragraph (1) of this Subsection.

26 This is not a comprehensive list but should be used to establish appropriate types of uses for Home

- 1 Occupations.
- 2 a. 800 and 900 number telephone services;
- 3 b. Accounting, bookkeeping, tax preparation or related services;
- 4 c. Appraisal, real estate or related services;
- 5 d. Architectural, engineering, general contractor or related professional services;
- 6 e. Artist, artisans, hobbyists, jeweler or related services;
- 7 f. Computer based businesses, desktop publishing, drafting or related services;
- 8 g. Consulting or related services;
- 9 h. Employment services;
- 10 i. Financial investment, brokerage or related services;
- 11 j. Handicrafts, gift basket assembly, floral, ceramics or related services;
- 12 k. Health fitness training services;
- 13 l. Home improvement and repair services;
- 14 m. Incidental office and telephone uses;
- 15 n. Information services;
- 16 o. Insurance services;
- 17 p. Interior design and decorating services;
- 18 q. Legal, court reporting or related services;
- 19 r. Mail order and catalog services;
- 20 s. Mobile serve businesses;
- 21 t. Network marketing services;
- 22 u. Janitorial, maintenance and repair services;
- 23 v. Party planning services;
- 24 w. Photography, video or related services;
- 25 x. Secretarial, typing, answering or related services;
- 26 y. Tailoring and sewing services;

- z. Teaching or related services with a maximum of two students at any one time;
- aa. Travel services;
- bb. Vending machine businesses; [and]
- cc. Writers, authors or related professionals~~[.]; and~~
- dd. Cottage food operations.

3. Any Home Occupation Permit which is found to be similar to those enumerated in this Subsection and which, in the opinion of the Director, is compatible with the intent of this Section, may be approved or approved with conditions. If the Director determines that a proposed Home Occupation would be detrimental to the public health, safety and welfare or injurious to the existing land uses on the property or to the surrounding properties, or does not substantially conform to the Operational Standards contained in this Section, the Director shall deny the Home Occupation Permit.

[H.] G. Appeal of Director's Action

If the applicant is aggrieved by the Director's decision, or any conditions attached thereto, the applicant may appeal the decision to the Planning Commission by written request within 10 days after the date of decision by the Director. The appeal must be filed with the Department. The appeal hearing shall be scheduled as soon as is reasonably possible, and appropriate notice of the hearing shall be provided. The Planning Commission may affirm, reverse or modify the Director's decision. Notice of the Planning Commission's decision shall be provided to the applicant or the applicant's agent, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

[I.] H. Optional Treatment of Appeal

The Director or Planning Commission may require that an appeal filed pursuant to Subsection [(H)] (G) be heard as a public hearing item. The requirement for a public hearing must be based upon a determination that, in the instance of that particular application, the public interest will best be served by providing notice and an opportunity to be heard to surrounding property owners. In such event, the Director shall process the application in accordance with the standards and procedures for Special Use Permit applications.

[J.] I. Transfer of Permits

1 A Home Occupation permit shall not be transferable to:

2 1. Another address, or

3 2. Any person other than the applicant, a family member residing in the home, or a legal entity in which
4 the applicant or resident family member has a controlling interest.

5 [K.] J. Expiration

6 Home Occupation Permits not exercised within one year after approval shall be void without further action
7 unless a greater time limit is specified in the approval. Home Occupation uses which cease for more than 6
8 months shall be void without further action.

9 [L.] K. Revocation or Modification

10 1. Notice and Hearing. Upon proper notice to, and an opportunity to be heard by, the permit holder, the
11 Director may revoke or modify a Home Occupation permit if the Director determines one or more of the
12 following:

13 a. That the Home Occupation is not in compliance with one or more of the Operational Standards of
14 this [Subchapter;] Section;

15 b. That the Home Occupation Permit was obtained by misrepresentation or fraud;

16 c. That the Home Occupation is being conducted in violation of any statute, ordinance, law or
17 regulation.

18 2. Appeal and Notice of Decision. The Director's decision may be appealed in the same manner as the
19 initial denial of a Home Occupation Permit, in accordance with Subsection [(H).] (G). The provisions of
20 Subsection [(I)] (H) shall not apply to the appeal, except that the Director [and the] or the Planning
21 Commission may provide notice and opportunity to be heard to surrounding property owners.

22 SECTION 5: Title 19, Chapter 18, Section 20, is hereby amended by amending the
23 definition of the term "Home Occupation" to read as follows:

24 **Home Occupation.** An income producing activity conducted [in a residential zone] from a residential
25 dwelling unit pursuant to LVMC [19.16.170.] 19.16.180.

26 SECTION 6: Title 19, Chapter 18, Section 20, is hereby amended by adding thereto the

1 following term, together with its corresponding definition:

2 **Cottage Food Operation.** An operation which manufactures or prepares a food item by any manner or
3 means whatever for sale, or which offers or displays a food item for sale, if each such food item is:

4 1. Sold on the private property of the natural person who manufactures or prepares the food item or at a
5 location where the natural person who manufactures or prepares the food item sells the food item directly to
6 a consumer, including, without limitation, a farmers' market, flea market, swap meet, church bazaar, garage
7 or yard sale or craft fair, by means of an in-person transaction that does not involve selling the food item by
8 telephone or via the Internet; and

9 2. Sold to a natural person for his or her consumption and not for resale.

10 ⇨ As used in this definition, "food item" means any of the following: Nuts and nut mixes; candies; jams,
11 jellies and preserves; vinegar and flavored vinegar; dry herbs and seasoning mixes; dried fruits; cereals,
12 trail mixes and granola; popcorn and popcorn balls; or baked goods that are not potentially hazardous
13 foods; do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes; and
14 do not require time or temperature controls for food safety.

15 SECTION 7: For purposes of Section 2.100(3) of the City Charter, Sections 19.12.010,
16 19.12.070, 19.16.180 and 19.18.020 are deemed to be subchapters rather than sections.

17 SECTION 8: The Department of Planning is authorized and directed to incorporate into
18 the Unified Development Code the amendment set forth in Sections 2 to 6, inclusive, of this Ordinance.

19 SECTION 9: If any section, subsection, subdivision, paragraph, sentence, clause or
20 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
21 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
22 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City
23 of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph,
24 sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections,
25 subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

26 SECTION 10: All ordinances or parts of ordinances or sections, subsections, phrases,

1 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983
2 Edition, in conflict herewith are hereby repealed.

3 PASSED, ADOPTED and APPROVED this _____ day of _____, 2014.

4 APPROVED:

5
6 By _____
CAROLYN G. GOODMAN, Mayor

7 ATTEST:

8 _____
9 BEVERLY K. BRIDGES, MMC
City Clerk

10 APPROVED AS TO FORM:

11 Val Steed 1-6-14
12 Val Steed, Date
Deputy City Attorney

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1 The above and foregoing ordinance was first proposed and read by title to the City Council on the _____
2 day of _____, 2014, and referred to a committee for recommendation, the committee
3 being composed of the following members _____;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2014, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council as first
7 introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED: _____

12
13 By _____
CAROLYN G. GOODMAN, Mayor

14 ATTEST: _____
15
16 BEVERLY K. BRIDGES, MMC
City Clerk

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