



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/01/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Josephine County Plan Amendment
DLCD File Number 004-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, October 12, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Dave Wechner, Josephine County
Jon Jinings, DLCD Community Services Specialist
Josh LeBombard, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

SEP 24 2012

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **JOSEPHINE COUNTY**

Local file number: **n/a**

Date of Adoption: **9/12/2012**

Date Mailed: **9/21/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: **4/30/2012**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Text Amendments to:

Article 92 - Home Occupations; Article 11 - Definitions - New definitions as they relate to Article 92; Article 62.020.E - Care Providers and Dwellings and Article 101.220.E - Care Providers and Dwellings to allow residential occupancy of businesses in Rural Commercial and Rural Industrial Zones; Articles 61, 64, 65, 67, and 68 for consistency with Article 92

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **0**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 004-12 (19323) [17178]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Department of Land and Conservation District (DLCD)

Local Contact: **David Wechner**

Phone: (541) 474-5421 Extension: 5428

Address: **700 NW Dimmick St Suite C**

Fax Number: 541-474-5422

City: **Grants Pass**

Zip: **97526-**

E-mail Address: **dwechner@co.josephine.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.



Josephine County, Oregon

PLANNING OFFICE

700 NW Dimmick, Suite C / Grants Pass, OR 97526

(541) 474-5421 / Fax (541) 474-5422

E-mail: planning@co.josephine.or.us

DEPT OF

SEP 24 2012

LAND CONSERVATION
AND DEVELOPMENT

September 21, 2012

Plan Amendment Specialist/DLCD
635 Capitol Street NE Suite 150
Salem OR 97301-2540

DLCD/Josh LeBombard

Re: Article 92 ~ Home Occupations; Article 11 – Definitions; Article 62.020.E and 101.220.E – Residential Occupancy of businesses in Rural Commercial and Rural Industrial Zones; Articles 61, 64, 65, 67, and 68 for consistency with Article 92

Enclosed are the following for the above referenced matter:

1. Copy of the *DLCD Notice of Adoption* dated 09/17/12;
2. Copy of Ordinance 2012-003; and
3. Copy of *Notice of Decision and Findings of Fact* signed and dated 07/31/2012.

Should you have questions, please contact our office.

Sincerely,

Anne Ingalls

Planning Specialist

Josephine County Planning Office

700 NW Dimmick, Suite C

Grants Pass OR 97526

541/474-5423

aingalls@co.josephine.or.us

Encs.: *As referenced in letter*

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR JOSEPHINE COUNTY
STATE OF OREGON

ORDINANCE NO. 2012-003

AN ORDINANCE AMENDING THE TEXT OF THE JOSEPHINE COUNTY RURAL LAND
DEVELOPMENT CODE (ORDINANCE 94-4) REGARDING HOME OCCUPATIONS AND
RESIDENTIAL USE IN COMMERCIAL ZONES

WHEREAS, the Board of County Commissioners directed the Planning Director to request an amendment to the Rural Land Development Code (RLDC) to provide specific standards and procedures for review and development of Home Occupations and Residential Use of properties in commercial zones; and

WHEREAS, the Planning Commission formed a Home Occupation sub-committee to review existing provisions of the RLDC and draft proposed amendments; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the RLDC, conducted a public hearing on June 11, 2012 regarding the proposed text amendments after required notice by publication, community advertisement, and mailing to interested persons, agencies and organizations; and

WHEREAS, after due consideration of the proposed ordinance and the testimony and evidence from those participating at the hearing, the Planning Commission proposed several specific text changes to the language of the Rural Land Development Code and voted 4-3 to approve the amendments; and

WHEREAS, written findings of approval were approved and signed by the Rural Planning Commission Chair and entered into the official record of the proceedings kept by the Planning Director; and

WHEREAS, notice of the Planning Commission's decision was given as required by law, and the decision having now become final without appeal; and

WHEREAS, this Board, having reviewed the record of the foregoing matters, find the approved ordinance advances the policies and purposes of the Josephine County Comprehensive Plan; and

NOW, THEREFORE, based upon all of the foregoing recitals, the Board does hereby adopt amendments to the text of the Josephine County Rural Land Development Code Articles 92, 11, 62.020, 101.220, 61, 64, 65, 67 and 68 as depicted in the attached *Exhibit A*.

Section 2. Affirmation

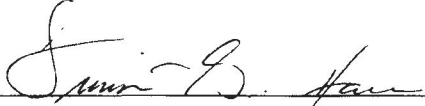
Except as specifically amended by the provisions of this Ordinance, the Comprehensive Plan (Ordinance 81-11) is hereby affirmed in all other respects.

Section 3. Effective Date:

First reading by the Board of County Commissioners this 22nd day of August 2012.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 12th day of September 2012. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:



Simon Hare, Chair




Don Reedy, Vice-Chair

Absent at Signing

Harold Haugen, Commissioner

ATTEST:



Recording Secretary

APPROVED AS TO FORM:



Steven E. Rich, Legal Counsel

EXHIBIT A

Article 92 - HOME OCCUPATIONS

Ordinance 2012-003, Effective December 11, 2012

92.010 Purpose

It is the purpose of this Article to encourage citizens of the County to use their homes to engage in small-scale business ventures. Home Occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood nor be subjected to negative effects on property values by business activities on nearby parcels. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner or resident.

92.020 Authority

The provisions of this Code are intended to apply to residential and resource-zoned properties already occupied with a residential use. No person shall carry on a home occupation, or permit such use to occur on property, which that person owns or is in lawful control, contrary to the provisions of this Article. Home Occupations in resource zones are also subject to ORS 215.448.

92.030 General Definition and Criteria for Home Occupations

- A. Home Occupation means a business in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use. All Home Occupations shall be conducted in accordance with the following general criteria:
1. All business operations shall comply with the current noise ordinance and shall not produce offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.
 2. No construction of any structure that would not otherwise be allowed in the zone in which the Home Occupation is located may be established. (ORS 215.448(3)).
 3. No storage and/or distribution of toxic or flammable materials and spray painting/finishing operations that involve toxic or flammable materials, which in the judgment of the Fire Marshal and/or the Department of Environmental Quality (DEQ) pose a dangerous risk to the residence, its occupants, and/or surrounding properties are allowed. Those individuals who are engaged in home occupations shall submit to the Planning Office the DEQ Potential Site Hazards Checklist which pertains to all potentially toxic and/or flammable materials associated with the use.
 4. All parking and signage related to the Home Occupation shall be on-site, not in public right-of-way.
 5. Home Occupations shall be secondary to the residential use of the property.

6. All Home Occupations other than those deemed as exempt shall be administered as Type I, II or III, distinguished by the potential impacts they represent to nearby properties.
7. Type I, II and III Home Occupations require issuance of a Development Permit as final authorization.
8. Only the principal resident(s) of a residential property may undertake home occupations with non-resident employees as allowed by the Type of Home Occupation.
9. In the event the requirements of this Article conflict with other requirements contained in this code, the requirements of this Article shall govern.

92.040 Exempt Home Occupations

- A. Exempt Home Occupations are not subject to the permit process, and are defined by the following standards:
 1. Only the resident(s) of the property may undertake Exempt Home Occupations.
 2. No exterior signs that identify the property as a business location.
 3. No customers shall come to the property.
 4. Deliveries to the residence must be by postal package services only.
 5. One (1) business vehicle is allowed on-site.
 6. Storage of material related to the business is confined to the interior of the residence or accessory structure with no exterior indication of a business.
 7. The business shall not occupy more than 25% of the total combined square footage of structures on the property.
 8. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television, websites or other advertising media.
- B. No Development Permit will be required for Exempt Home Occupations, except that new structures or additions on-site are subject to Article 41.020.

92.050 Type I Home Occupations

- A. Type I Home Occupations require application review prior to issuance of a permit and are to be conducted in conformance with the following additional standards:
 1. Up to two (2) non-resident on-site employees or volunteers (including part-time employees).

2. Adequate on-site parking to accommodate residents, employees, business vehicles and customers.
3. One (1) non-illuminated exterior sign, not to exceed 6 square feet in size and setback 10 feet from property lines.
4. Customers and clients by appointment only.
5. Deliveries to the residence by postal package services only.
6. Two (2) business vehicles permitted on-site.
7. No outdoor storage or activities.
8. No large construction equipment or commercial vehicles (e.g. earth movers, dump truck, box truck, semi-truck, equipment trailers) in conjunction with the business to be on-site.
9. No major remodel or addition of equipment or appliances that would not be typical of the residential use is allowed (e.g. commercial kitchen, industrial drying oven, production machinery).
10. Operations shall be conducted weekdays during typical business hours.
11. Shall have adequate access for proposed business purposes.

B. Permit Procedures for Type I Home Occupations

1. An application for a Type I Home Occupation Permit shall be filed according to the application procedures of Article 22 for a ministerial permit.
2. The application shall identify the type of use and address the conditions contained in this Article and other applicable sections of this Code.
3. A Development Permit shall be issued as final authorization of an approved Type I Home Occupation.

92.060 Type II Home Occupations

- A. Type II Home Occupations require application review prior to issuance of a permit and shall be conducted in conformance with the following additional standards:
1. Up to four (4) non-resident on-site employees or volunteers (including part-time employees).
 2. Adequate on-site parking to accommodate residents, employees, business vehicles and customers.

3. One (1) exterior sign, not to exceed 12 square feet in size and setback 10 feet from property lines.
4. 'Drop in' customers and clients are allowed, including small groups of customers or classes.
5. Any commercial pick-up and deliveries other than postal/package services are limited to two (2) per day.
6. Up to four (4) business vehicles permitted on property.
7. Incidental retail sales associated with the permitted home occupation are allowed.
8. Storage of materials on-site to be screened from view of neighboring properties by a solid fence, adequate vegetation, or other structures.
9. Outdoor activities on-site to be screened from view of neighboring properties by a solid fence, adequate vegetation or other structures and setbacks may be employed to mitigate potential impacts to adjacent properties.
10. Large equipment and commercial vehicles only if screened from view of neighboring properties or garaged.
11. Hours of operation as allowed by conditions of approval.
12. Type II Home Occupations are subject to the Site Plan Review standards of Section 42.050.A.
13. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales may have up to four (4) vehicles on-site to be worked on or for sale. Inside storage or screening required.

B. Permit Procedures for Type II Home Occupations

1. Type II Home Occupations require Site Plan Review per Article 42, filed according to the application procedures of Article 22.040 for a quasi-judicial permit.
2. The application shall identify the type of use and address the conditions contained in this Article and other applicable sections of this Code.
3. Review will require public notice as required by Article 32.
4. The Planning Office will conduct a site visit as a part of the review.
5. The Planning Director may apply conditions to the approval of Type II Home Occupation permits to ensure compliance with the requirements of this Article.
6. A Development Permit shall be issued as final authorization of an approved Type II Home Occupation.

92.070 Type III Home Occupations

- A. Any proposed Home Occupation exceeding the standards of Type I or II Home Occupations shall either be reviewed as a Conditional Use Permit, subject to Article 45; or, must be conducted as a use in commercial or industrial zones, to include the following:
 - 1. Retail Sales.
 - 2. Large scale manufacturing.
 - 3. Business operations requiring hazardous materials.
 - 4. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales for more than four (4) vehicles on-site at a time.
 - 5. Bed & Breakfast Inns subject to special standards contained in Section 92.110.
- B. Uses listed in Section 92.080.A may not be reviewed as a Type III Home Occupation.
- C. Type III Home Occupations shall be conducted in conformance with the standards of Section 92.030.
- D. A Development Permit shall be issued as final authorization of an approved Type III Home Occupation.

92.080 Prohibited Uses

- A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as Home Occupations and must be established in commercial or industrial zones:
 - 1. Junk and salvage operations.
 - 2. Storage and/or sale of fireworks.
 - 3. Mobile home sales.
 - 4. Vehicle wreckers and/or recyclers.

92.090 Similar Permitted and Outright Uses

- A. Agriculture, farming and farm use, as these uses are defined in Section 11.030 of this Code are outright uses in farm and forest zones and are permitted uses with criteria in residential zones (Section 61.050). Farm stands require standards only review in farm zones (Section 64.035.F) and are permitted uses in residential zones. Forest product propagation or harvesting is an outright use in farm and forest zones and a permitted use in residential zones.
- B. Short-term sales from a residence shall not be deemed to fall under the regulations for home

occupations and are allowed outright. Such sales shall not exceed four (4) days in duration and occur more than ten (10) times in any given calendar year. Examples of such uses are typically known as: yard or garage sales, estate sales, auctions, beverage stands, rummage and craft sales.

92.100 Revocation of Home Occupation Permits

A. Grounds for Revocation

If a Home Occupation fails to maintain the standards of this code or the permit issued by the County, the Planning Director may revoke a Home Occupation permit according to the revocation procedures outlined in Article 41, or require re-application to a higher Type.

92.110 Special Standards for the Operation of Bed & Breakfast Inns

A. A bed and breakfast inn operating from a residentially developed property will be reviewed as a Type III Home Occupation and shall be operated according to the following special standards:

1. The inn must be located in a residence or accessory living quarters.
2. The operator of the inn must live on the premises and continue to use part of the main dwelling as a residence.
3. Outward modification of the structure shall be made only if such changes are compatible with the character of the neighborhood and the intent of the zone, and in all cases, the changes shall maintain the residential character of the structure.
4. The inn shall be limited to a maximum of ten (10) individual guests and five (5) bedrooms.
5. The inn shall be compatible with the neighborhood in terms of access and the proximity to structures and the operation shall be screened from view from adjoining lots or parcels.
6. One (1) on-premise sign not to exceed 12 square feet and setback 10 feet from property lines.
7. Exterior illumination of the sign shall be limited so that the illumination will not adversely impact the residential character of the area.
8. One (1) on-site parking space for each sleeping room shall be provided in addition to the two (2) on-site parking spaces required for the dwelling.
9. The inn shall meet all applicable county and state water, sewage, and licensing requirements. The applicant shall submit evidence from the appropriate agency that the applicant has contacted them and meets, or can comply with agency requirements.

Article 11-Definitions

HOME OCCUPATION. A commercial activity taking place in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use, and do not alter the residential character of the neighborhood. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner.

ACCESSORY LIVING QUARTERS. Habitable structures accessory to a dwelling, without kitchen. Not to be used as an independent or rental dwelling; occupants are dependent upon the main dwelling for kitchen use. No more than two (2) per parcel, 600 square foot maximum each, unless approved as a Bed & Breakfast Inn. Not to be attached to any other accessory structure. Held to accessory structure square footage maximums of Article 72. Allowed in conjunction with a legal residence.

COMMERCIAL VEHICLE. A commercial motor vehicle defined by the Oregon Vehicle Code as a vehicle that will operate at a gross vehicle weight rating or combination weight of 26,001 pounds or more; also, vehicles designed to transport 16 or more persons and vehicles designed to transport hazardous materials regardless of weight. Commercial vehicles do not include: fire trucks, emergency vehicles, motor homes and recreational vehicles operated solely for personal use.

BUSINESS VEHICLE. A vehicle used in the course of doing business for transport of persons, goods, equipment.

INCIDENTAL RETAIL SALES. Retail sales that are ancillary and secondary to the home business, such as selling shampoo from a home hair salon.

Residential Occupancy of Commercial Properties

Section 62.020.E:

E. Commercial – Care Providers and Dwellings

1. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status.
2. Manufactured dwelling only shall be allowed when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business. All services and requirements for both the dwelling and the business shall be located on the same lot. A waiver of remonstrance shall be recorded with the deed which recognizes the right of commercial operations to exist and that the normal conduct of business shall not be considered a nuisance.
3. Residential care home or residential care facilities.
4. Single-family and/or manufactured dwelling only when lawfully existing (alteration or replacement only; subject to the time limits contained in Section 13.030 of this Code).
5. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code.

Section 101.220.D:

D. Care Providers and Dwellings:

1. One (1) residential care home or one residential care facility.
2. One (1) manufactured dwelling may be allowed only when located on the same lot or parcel (to include water and septic services) as the commercial use, and when occupied by the owner/operator of the commercial use. As a condition of this use, a deed restriction shall be executed by the owner and recorded in the county deed records to disclose the qualified nature of the dwelling, and which waives complaint or claim of any kind for impacts from authorized commercial activities on nearby commercially zoned lands.
3. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030 of this Code).
4. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code.

Article 61 – Rural Residential Zones

Section 61.020 - Permitted Uses

K. Type I and Type II Home Occupations, subject to Article 92.

Section 61.030 - Conditional Uses

H. Type III Home Occupations, subject to Article 92.

Article 64 – Exclusive Farm & Farm Resource Zones

Section 64.030 - Permitted Uses

H. Type I and Type II Home Occupations, subject to Article 92.

Section 64.040 - Conditional Uses

P. Type III Home Occupations, subject to Article 92.

Article 65 – Forest Commercial & Woodlot Resource Zones

Section 65.025 - Permitted Uses

C. Type I and Type II Home Occupations, subject to Article 92.

Section 65.030 - Conditional Uses

O. Type III Home Occupations, as defined in ORS 215.448, and subject to Article 92.

Article 67 – Serpentine Zone

Section 67.020 - Permitted Uses

S. Type I and Type II Home Occupations, subject to Article 92.

Section 67.030 - Conditional Uses

C. Type III Home Occupations, subject to Article 92.

Article 68 – Limited Development Zone

Section 68.020 - Permitted Uses

O. Type I and Type II Home Occupations, subject to Article 92.

Section 68.030 - Conditional Uses

D. Type III Home Occupations, subject to Article 92.



Josephine County, Oregon

PLANNING OFFICE

700 NW Dimmick Street Suite C/Grants Pass, OR 97526

(541) 474-5421 / Fax (541) 474-5422

E-mail: planning@co.josephine.or.us

August 1, 2012

Planning Commission Members
Lower Applegate CAC
Williams CAC
Plan Amendment Specialist/DLCD/Salem
DLCD/Josh LeBombard

Josephine County Planning
Nannette Chase, Building Safety
Nancy Hubbard, Nancy's Bookkeeping & Tax Svc
David Tally, Small Business Development Center
Rick Lebowitz, Director RCC Small Business Center

NOTICE OF LEGISLATIVE LAND USE DECISION

Josephine County Planning Commission

Notice is hereby given that a legislative land use decision regarding certain changes to the county's comprehensive plan or land use regulations has been made by the Josephine County Planning Commission.

DECISION: Approval of text amendments to the Josephine County Rural Land Development Code as follows:

- [1] Amendments to Article 92 ~ Home Occupations; and
- [2] Amendment to Article 62 ~ Revisions to allow residential occupancy of businesses in the Rural Commercial and Rural Industrial zones
- [3] Amendments to relevant sections of Articles 61, 64, 65, 67, and 68 for consistency with Article 92

DATE OF DECISION: June 11, 2012

FINDINGS SIGNED: July 31, 2012

APPEAL INFORMATION: Any person who participated, either orally or in writing, and was granted party status in the Planning Commission proceedings leading up to the adoption of the amendment may appeal this decision to the Josephine County Board of Commissioners by filing an appeal application with the Planning Office *within 10 days from the date this notice is mailed*, as determined by the postmark date. The appeal must utilize forms provided by the Planning Office, to include a written statement explaining the reasons for the appeal. A non-refundable \$2,000 filing fee must be paid at the time of filing the appeal.

CONTACT: Information about this decision may be obtained at the Planning Office during business hours (*business hours are limited; please see the bottom of this notice for hours*). The planner handling the file is David Wechner, 474-5421, Ext. 5428.

CERTIFICATE OF MAILING

I hereby certify that copies of the attached *Notice of Legislative Land Use Decision* issued on behalf of the Josephine County Planning Commission and dated **August 1, 2012** were deposited in the United States mail on the 1st day of August, 2012 addressed to the following persons or organizations:

DLCD/Regional Representative
Josh LeBombard
Governor's Regional Solutions Center
673 Market Street
Medford OR 97504

Plan Amendment Specialist/DLCD
635 Capitol Street NE, Suite 150
Salem OR 97301-2450

Josephine County Planning
700 NW Dimmick Street Suite C
Grants Pass OR 97526

Planning Commissioners

Williams CAC/Stephen Williams
PO Box 472
Williams OR 97544

Lower Applegate CAC
Olaf Ahlstrom
5713 Fish Hatchery Road
Grants Pass OR 97527

David Tally
RCC Small Business Development Center
241 SE Fourth Street
Grants Pass OR 97526

Nannette Chase
Building Safety

Nancy Hubbard
Nancy's Bookkeeping & Tax Service Inc
3541 Midway Avenue
Grants Pass OR 97527

Rick Leibowitz, Director
Small Business Center
Rogue Community College
3345 Redwood Hwy
Grants Pass OR 97527



Anne Ingalls/Planning Specialist
Josephine County Planning

**BEFORE THE RURAL PLANNING COMMISSION
For Josephine County, Oregon**

IN THE MATTER OF A REQUEST FOR A
COMPREHENSIVE PLAN AMENDMENT AND
TEXT AMENDMENT TO THE RURAL LAND
DEVELOPMENT CODE REGARDING HOME
OCCUPATIONS AND RESIDENTIAL USES
ALLOWED IN COMMERCIAL ZONES

**FINDINGS OF FACT
& DECISION**

SECTION 1. APPLICATION INFORMATION

- 1.1 The proponent of this amendment to the Comprehensive Plan and Text Amendment is Josephine County.
 - 1.2 The amendment as proposed and heard in public hearing by the Planning Commission is applicable to all plan designations of the Comprehensive Plan; and, is applicable to all zoning districts identified in Chapter 6 of the Rural Land Development Code.
 - 1.3 The Board of County Commissioners initiated the original request for an amendment to the Rural Land Development Code to provide specific standards and procedures for review and development of Home Occupations and residential use in Commercial zones by direction to staff in an Administrative meeting held June 24, 2011.
 - 1.4 The application was then initiated by the Planning Director, who presented the original ordinance and proposed revisions of Article 92 to the Planning Commission in a workshop session on August 29, 2011. The Planning Commission then formed a Home Occupations sub-committee, charged with researching and drafting amendments to Article 92 of the RLDC. The Planning Commission and public were invited to two 'workshop' sessions to discuss elements of the Home Occupations ordinance amendments on April 30 and May 23, 2012.
 - 1.5 To facilitate amendments to Article 92 as proposed by the Home Occupations sub-committee, staff proposed text changes to Article 11, Definitions and Articles 62 and 101, the Rural Commercial zones to address residential use of commercial zones.
 - 1.6 As the provisions of Article 92 introduce two new levels of review for Home Occupation as a permitted use subordinate to residential, the designation of Home Occupation as a permitted use is proposed to be added to all zones that allow residential use: Rural Residential; Exclusive Farm and Farm Resource; Forest Commercial and Woodlot Resource; Serpentine and Limited Development. Staff proposes clarification that *Type III* Home Occupations are Conditional Uses in each zone.
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SECTION 2. EVIDENCE PRESENTED

- 2.1 The record includes but is not limited to: the application; staff report and proposed ordinance as approved by the sub-committee to the Planning Commission; an audio-recording of the public hearing, including oral testimony; written testimony and materials submitted by the County staff and members of the public to the Planning Commission for consideration. The record is contained in the Planning Director's file, along with all other documentation and evidence received and reviewed as part of this legislative action. Public notices and news releases preceding these hearings are contained in the Planning Director's file and are included in these findings by reference. Other documentation includes Geographic Information System maps, information submitted to the Home Occupations sub-committee, agendas and audio recordings of those meetings.
- 2.2 The request came before the Rural Planning Commission in public hearing on June 11, 2012. After deliberations, findings were voiced and motions forwarded to approve the amendment of the text of the Rural Land Development Code, adopting amendments to Article 92, with several specific text changes to the sub-committee proposal presented as the 'May 31, 2012 Draft'. The Planning Commission recommended approval of the ordinance (with specific changes voiced by Commission members) by a vote of 7-1.

SECTION 3. SUMMARY OF TESTIMONY

- 3.1 Oral and written testimony of David Wechner, Josephine County Planning Director: He presented the June 1, 2012 Staff Report (Document 1) and Draft Ordinance, noted as Exhibit A. He referenced the law and rules applicable to this proposal, including: statewide planning Goals 1, 2 and 9; Oregon Administrative Rule 660-012, the Transportation rule; applicable policies of the Josephine County Comprehensive Plan as outlined in the staff report and the Josephine County Transportation System Plan. He noted the staff report includes seven main points concerning these proposed amendments to the RLDC:
 - A. Adding 'encourage home businesses' to the existing definitions, retaining Plan designations of home-based businesses.
 - B. Use of a tiered system to group Home Occupations by proposed impact and hence, their level of review.
 - C. A list of uses to be prohibited as Home Occupations.
 - D. Similar uses that are not specifically addressed as Home Occupations.
 - E. Bed and Breakfast Inns.
 - F. Proposed expansion of residential use of commercially-zoned properties to allow residential use in conjunction with businesses.
 - G. New definitions to be added to Article 11 of the RLDC, clarifying provisions of the proposed text amendments.
- 3.2 Oral testimony of David Tally, a member of the Home Occupations sub-committee: He discussed the development of the Ordinance in the sub-committee, and offered his support of the ordinance as drafted. He did highlight the issue of registering businesses as opposed to

exempting them entirely from County regulation, and favors a registration system, so the number and type of businesses operating in Josephine County are known and legitimately established.

- 3.3 The Planning Commission noted the Exhibit list of documents received in response to public notice and the staff report. Exhibits E, F and G as noted were submitted prior to the public hearing, and copies made available by staff to the Planning Commission. The letters collectively expressed support for ordinance amendments to allow residential use of commercially-zoned properties.
- 3.4 Minutes and recordings of public hearings, all other documentation and evidence received and reviewed as part of this action for the Planning Commission hearing held on June 11, 2012 are incorporated into these findings by reference.

SECTION 4. STANDARDS & CRITERIA

- 4.1 The criteria for comprehensive plan and zone amendments applicable to this action are contained in the Rural Land Development Code (*RLDC*) Sections (§) 46.30 and 46.040 and the Josephine County Comprehensive Plan. Requests for Post-Acknowledgement Plan amendments must be consistent with the State Land Use Goals contained in Oregon Administrative Rule (OAR) 660-015.

SECTION 5. FINDINGS OF FACT

The Planning Commission makes the following findings of fact in support of the decision:

- 5.1 The Commission finds that the application, staff report and ordinance language as proposed satisfies the requirements for a Comprehensive Plan / RLDC text amendment, per RLDC §46.030.
- 5.2 The Commission finds the proposed amendment satisfies the Plan Amendment Review Criteria of RLDC §46.040 as follows:
 - A. The staff report accompanying the request addresses applicable statewide and county goals and policies, specifically Goal 1, 2 and 9 of the Statewide Planning Goals (OAR 660, Division 15). Applicable Goals 5 and 11 of the Josephine County Comprehensive Plan are satisfied with the amendment as proposed.
 - B. The application demonstrates consistency with state statute and rule; therefore, an exception to statewide goals pursuant to ORS 197.732 is not required.
 - C. The proposal is not specific to a particular parcel of land, but that regulation inherent in the development standards and criteria of Articles 92, 62 and 101 as amended will ensure that adequate carrying capacity for home occupations and the per-business residential occupation of commercially-zoned parcels is available for County residents, and that development according to the regulations adopted herein will not significantly increase the risk from hazards to residents of the area or general public.

Home Occupations as regulated under the proposed amendment to the RLDC will not result in future maintenance cost to the public for infrastructure needed to serve the development, and that the land in its natural state may accommodate the proposed uses addressed by the

ordinance, without special alterations or mitigation to make the land achieve carrying capacity.

- D. The type of use authorized, and as regulated by the proposed amendment, will be consistent with the character of the County's land area. Mitigation for potential impacts to other uses, and standards that minimize the intrusion of home occupations in residential areas, are inherent in the text amendment as proposed.
- E. The proposed amendments do not involve a change to the Comprehensive Plan or zone maps within established exception areas; this criterion does not apply.

5.3 The Commission finds that notified agencies and Josephine County Public Works had no objections to the application for text amendment.

5.4 The Commission finds that sections of the May 11, 2012 draft of Article 92 as presented with the staff report should be changed as follows (new language underlined):

5.4.1 **Section 92.040 shall be amended to read:**

92.040 ~~Registered~~ Exempt Home Occupations

A. ~~Registered~~ Exempt Home Occupations are not subject to the permit process, and defined by the listed standards: *(AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)*

1. Only the resident(s) of the property may undertake ~~Registered~~/Exempt Home Occupations.
2. No exterior signs that identify the property as a business location.
3. No customers shall come to the property.
4. Deliveries to the residence by postal package services only.
5. 1 business vehicle onsite.
6. Storage of material related to the business is confined to the interior of the residence or accessory structure with no exterior indication of a business.
7. The business shall not occupy more than 25% of the total combined square footage of structures on the property.
8. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television, websites or other advertising media.

B. **CORRECTION - Striking:** ~~Registered Exempt Home Occupations require ministerial review to determine eligibility for registration/exemption:~~ *(AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)*

~~1. A standards checklist to be completed by the applicant and reviewed by the Director. Once approved, the applicant signs a Compliance Agreement which will be kept in the property's land use file. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)~~

2. No Development Permit will be required for ~~Registered~~ Exempt home occupations, except that new structures or additions on site are subject to Article 41.020.

5.4.2 **Section 92.050.7 shall be amended to read:**

7. No outdoor storage or activities. unless screened from view of neighboring properties by a solid fence, adequate vegetation, or other structures. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)

5.4.3 **Section 92.060.A.13 shall be amended to read:**

13. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales may have up to ~~3~~ 4 vehicles on site to be worked on or for sale. Inside storage or screening required. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)

5.4.4 **Section 92.070.A.4 shall be amended to read:**

4. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales for more than ~~3~~ 4 vehicles onsite at a time. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)

5.4.5 **Section 92.100.A shall be amended to read:**

- A. Type I, II and III Home Occupation Permit Renewal
A permit for Type I, II and III home occupations shall be valid for a period of ~~2~~ 3 years from the date the Development Permit has been issued. Renewal of the permit will be granted every ~~2~~ 3 years, unless the original permit conditions have been violated, or the property/business owner wishes to change the business to an extent that a higher (or lower) type would apply. Changing the business to a lower Type permit does not require a new application, but the change will be noted as a function of the annual permit renewal. Renewal will require a fee and review of current operations compared to the original conditions of approval. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)

- 5.5 The Commission finds that Article 62 of the May 11, 2012 draft as presented with the staff report should be changed as follows (new language underlined):

5.5.1 **Section 62.020.E shall read:**

E. Commercial – Care Providers and Dwellings

1. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status.
2. Manufactured dwelling only shall be allowed when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business. All services and requirements for both the dwelling and the business shall be located on the same lot. ~~When the business ceases to operate, then the manufactured dwelling shall be removed. A~~ waiver of remonstrance shall be recorded with the deed which recognizes the right of commercial operations to exist and that the normal conduct of business shall not be considered a nuisance. (AS MOVED BY COMMISSIONER KIRKPATRICK-PILGER; 2ND BY COMMISSIONER DRAKE)

5.5.2 **Section 62.020.E. shall be amended by adding a new sub-section 5:**

5. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code.

5.6 The Commission finds that Article 101 of the May 11, 2012 draft as presented with the staff report should be changed as follows (new language underlined):

5.6.1 **Section 101.220.D shall read:**

D. Care Providers and Dwellings:

1. One residential care home or one residential care facility.
2. One manufactured dwelling may be allowed only when located on the same lot or parcel (to include water and septic services) as the commercial use, and when occupied by the owner/operator of the commercial use. ~~When the use ceases to operate or the owner/operator moves off site, the manufactured dwelling shall be removed within 60 days.~~ As a condition of this use, a deed restriction shall be executed by the owner and recorded in the county deed records to disclose the qualified nature of the dwelling, ~~the requirement for removal,~~ and which waives complaint or claim of any kind for impacts from authorized commercial activities on nearby commercially zoned lands. *(AS MOVED BY COMMISSIONER KIRKPATRICK-PILGER; 2ND BY COMMISSIONER DRAKE)*
3. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030 of this code)

5.6.2 **Section 101.220.D shall be amended by adding a new sub-section 4:**

4. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code.

5.7 **Article 11 of the RLDC shall be amended to read:**

Home Occupation A commercial activity taking place in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use, and do not alter the residential character of the neighborhood. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner.

Accessory living quarters Habitable structures accessory to a dwelling, without kitchen. Not to be used as an independent or rental dwelling; occupants are dependent upon the main dwelling for kitchen use. No more than 2 per parcel, 600 sf maximum each, unless approved as a Bed & Breakfast Inn. Not to be attached to any other accessory structure. Held to accessory structure square footage maximums of Article 72. Allowed in conjunction with a legal residence.

Commercial vehicle A commercial motor vehicle defined by the Oregon Vehicle Code as a vehicle that will operate at a gross vehicle weight rating or combination weight of 26,001 pounds or more; also, vehicles designed to transport 16 or more persons and vehicles designed to transport hazardous materials regardless of weight. Commercial vehicles do not include: fire trucks, emergency vehicles, motor homes and recreational vehicles operated solely for personal use.

Business vehicle A vehicle used in the course of doing business for transport of persons, goods, equipment.

Incidental Retail Sales Retail sales that are ancillary and secondary to the home business, such as selling shampoo from a home hair salon.

- 5.8 The Commission finds that the Rural Land Development Code should be amended to acknowledge new provisions of Article 92 which introduce two levels of review for Home Occupation as a permitted use subordinate to residential, such that Home Occupation is proposed to be as a permitted use to all zones that allow residential use: Rural Residential (61); Exclusive Farm and Farm Resource (64); Forest Commercial and Woodlot Resource (65); Serpentine (67) and Limited Development (68).
- 5.8.1 **Section 61.020 – Permitted Uses shall be amended by adding a new sub-section K:**
- K. Type I and Type II Home Occupations subject to the provisions of Article 92.
- 5.8.2 **Section 64.030 - Permitted Uses shall be amended by adding a new sub-section H:**
- H. Type I and Type II Home Occupations subject to the provisions of Article 92.
- 5.8.3 **Section 65.025 - Permitted Uses shall be amended by adding a new sub-section C:**
- C. Type I and Type II Home Occupations subject to the provisions of Article 92.
- 5.8.4 **Section 67.020 - Permitted Uses shall be amended by adding a new sub-section S:**
- S. Type I and Type II Home Occupations subject to the provisions of Article 92.
- 5.8.5 **Section 68.020 - Permitted Uses shall be amended by adding a new sub-section O:**
- O. Type I and Type II Home Occupations subject to the provisions of Article 92.
- 5.9 The Commission finds that the Rural Land Development Code should be amended to acknowledge new provisions of Article 92, such that Type III Home Occupations will be permitted as a Conditional Use in all zones that allow residential use: Rural Residential (61); Exclusive Farm and Farm Resource (64); Forest Commercial and Woodlot Resource (65); Serpentine (67) and Limited Development (68).
- 5.9.1 **Section 61.030.H - Conditional Uses shall be amended to read:**
- H. Type III Home Occupations subject to the provisions of Article 92.

5.9.2 **Section 64.040.P - Conditional Uses shall be amended to read:**

P. Type III Home Occupations subject to the provisions of Article 92.

5.9.3 **Section 65.030.O - Conditional Uses shall be amended to read:**

O. Type III Home Occupations as defined in ORS 215.448 and subject to the requirements of Article 92 of this code.

5.9.4 **Section 67.030.C - Conditional Uses is amended to read:**

C. Type III Home Occupations subject to the requirements of Article 92.

5.9.5 **Section 68.030.D - Conditional Uses is amended to read:**

D. Type III Home Occupations subject to the provisions of Article 92.

SECTION 6. DECISION

6.1 Based on the staff report, a review of evidence submitted into the record and testimony of witnesses, the Josephine County Rural Planning Commission, upon a motion by Commissioner Goodwin to approve the request, seconded by Commissioner Drake, voted 4 (in favor) to 3 (against) on the request to amend the Comprehensive Plan and text of the Rural Land Development Code to adopt proposed Article 92 – Home Occupations, Article 11 – Definitions, Section 62.020.E – Commercial – Care Providers and Dwellings, Section 101.220.D – Care Providers and Dwellings as written in the attached Exhibit A.

Decided this 31st day of July, 2012. The proposed text amendments to Articles 92, 11, 61, 62, 64, 65, 67, 68 and 101 to the Rural Land Development Code are hereby forwarded to the Board of County Commissioners for adoption.

JOSEPHINE COUNTY RURAL PLANNING COMMISSION

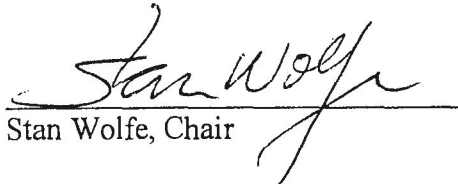

Stan Wolfe, Chair

EXHIBIT A

Article 92 - HOME OCCUPATIONS

92.010 Purpose

It is the purpose of this Article to encourage citizens of the County to use their homes to engage in small-scale business ventures. Home occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood nor be subjected to negative effects on property values by activities on nearby parcels. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner or resident.

92.020 Authority

The provisions of this Code are intended to apply to residential and resource-zoned properties already occupied with a residential use. No person shall carry on a home occupation, or permit such use to occur on property, which that person owns or is in lawful control, contrary to the provisions of this Article. Home occupations in resource zones are also subject to ORS 215.448.

92.030 General Definition and Criteria for Home Occupations

- A. Home Occupation means a business in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least 1 resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use. All home occupations, Registered, Type I, II and III, shall be conducted in accordance with the following general criteria:
1. All business operations shall comply with the current noise ordinance and shall not produce offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.
 2. No construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established. (ORS 215.488(3)).
 3. No storage and/or distribution of toxic or flammable materials and spray painting/ finishing operations that involve toxic or flammable materials, which in the judgment of the Fire Marshal and/or the Department of Environmental Quality (DEQ) pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals who are engaged in home occupations shall submit to the Planning Office for review of the DEQ Potential Site Hazards Checklist which pertains to all potentially toxic and/or flammable materials associated with the use.
 4. All parking and signage related to the Home Occupation shall be on-site, not in public right-of-way.
 5. Home Occupations shall be secondary to the residential use of the property.
 6. All Home Occupations other than those deemed as ~~Registered~~ exempt shall be administered as Type I, II or III, distinguished by the potential impacts they represent to nearby properties.
 7. Type I, II and III Home Occupations require issuance of a Development Permit as final authorization.
 8. Only the principal resident(s) of a residential property may undertake home occupations with non-resident employees as allowed by the Type of Home Occupation.

9. In the event the requirements of this Article conflict with other requirements contained in this code, the requirements of this Article shall govern.

92.040 Registered Exempt Home Occupations (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)

- A. Registered Exempt Home Occupations are not subject to the permit process, and defined by the listed standards: (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)
 1. Only the resident(s) of the property may undertake Registered/Exempt Home Occupations.
 2. No exterior signs that identify the property as a business location.
 3. No customers shall come to the property.
 4. Deliveries to the residence by postal package services only.
 5. 1 business vehicle onsite.
 6. Storage of material related to the business is confined to the interior of the residence or accessory structure with no exterior indication of a business.
 7. The business shall not occupy more than 25% of the total combined square footage of structures on the property.
 8. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television, websites or other advertising media.
- B. **CORRECTION - Striking:** ~~Registered Exempt Home Occupations require ministerial review to determine eligibility for registration/exemption:~~ (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)
 - ~~1. A standards checklist to be completed by the applicant and reviewed by the Director. Once approved, the applicant signs a Compliance Agreement which will be kept in the property's land use file. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)~~
 2. No Development Permit will be required for Registered Exempt home occupations, except that new structures or additions on site are subject to Article 41.020.

92.050 Home Occupations

- A. Type I Home Occupations require application review prior to issuance of a permit to be conducted in conformance with the following additional standards:
 1. Up to 2 non-resident on-site employees or volunteers (including part-time employees).
 2. Adequate on-site parking to accommodate residents, employees, business vehicles and customers.
 3. One non-illuminated exterior sign, not to exceed 6 square feet in size setback 10 feet from property lines.
 4. Customers and clients by appointment only.
 5. Deliveries to the residence by postal package services only.
 6. 2 business vehicles permitted onsite.
 7. No outdoor storage or activities, unless screened from view of neighboring properties by a solid fence, adequate vegetation, or other structures. (AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)

8. No large construction equipment or commercial vehicles (e.g. earth movers, dump truck, box truck, semi-truck, equipment trailers) in conjunction with the business to be onsite.
9. No major remodel or addition of equipment or appliances that would not be typical of the residential use is required to operate the business (e.g. commercial kitchen, industrial drying oven, production machinery).
10. Operations shall be conducted weekdays during typical business hours.
11. Shall have adequate access for proposed business purposes.

B. Permit Procedures for Type I Home Occupations

1. An application for a Type I Home Occupation Permit shall be filed according to the application procedures of Article 40 for a ministerial permit.
2. The application shall identify the type of use and address the conditions contained in this article and other applicable sections of this Code.
3. A Development Permit shall be issued as final authorization of an approved Type I Home Occupation.

92.060 Type II Home Occupations

A. Type II home occupations require application review prior to issuance of a permit and shall be conducted in conformance with the following additional standards:

1. Up to 4 non-resident on-site employees or volunteers (includes part-time employees).
2. Adequate on-site parking to accommodate residents, employees, business vehicles and customers.
3. One exterior sign, not to exceed 12 square feet in size and setback 10 feet from property lines.
4. 'Drop in' customers and clients allowed, including small group of customers or classes.
5. Any commercial pick-up and deliveries other than postal/package services are limited to 2 per day.
6. Up to 4 business vehicles permitted on property.
7. Incidental retail sales associated with permitted home business.
8. Storage of materials onsite to be screened from view of neighboring properties by a solid fence, adequate vegetation, or other structures.
9. Outdoor activities onsite to be screened from view of neighboring properties by a solid fence, adequate vegetation or other structures and setbacks may be employed to mitigate potential impacts to adjacent properties.
10. Large equipment and commercial vehicles only if screened from view of neighboring properties or garaged.
11. Hours of operation as allowed by conditions of approval.
12. Type II Home Occupations are subject to the Site Plan Review standards of Section 42.050.A.
13. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales may have up to 3 4 vehicles on site to be worked on or for sale. Inside storage or screening required. *(AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)*

B. Permit Procedures for Type II Home Occupations

1. Type II home occupations require Site Plan Review per Article 42, filed according to the application procedures of Article 40 for a quasi-judicial permit, to be reviewed at the Technical Review level.
2. The application shall identify the type of use and address the conditions contained in this article and other applicable sections of this Code.
3. Review will require public notice as required by Article 32.
4. The Planning Office will conduct a site visit as a part of the review.
5. The Planning Director may apply conditions to the approval of Type II home occupation permits to ensure compliance with the requirements of this Article.
6. A Development Permit shall be issued as final authorization of an approved Type II Home Occupation.

92.070 Type III Home Occupations

- A. Any proposed Home Occupation exceeding the standards of Type I or II Home Occupations shall either be reviewed as a Conditional Use Permit, subject to Article 45; or, must be conducted as a use in commercial or industrial zones, to include the following:
 1. Retail Sales.
 2. Large scale manufacturing.
 3. Business operations requiring hazardous materials.
 4. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales for more than ~~3~~ 4 vehicles onsite at a time. *(AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)*
 5. Bed & Breakfast Inns subject to special standards contained in section 92.110.
- B. Items listed in 92.080.A may not be reviewed as Type III.
- C. Type III home occupations shall be conducted in conformance with the standards of 92.030.
- D. A Development Permit shall be issued as final authorization of an approved Type III Home Occupation.

92.080 Prohibited Uses

- A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as home occupations and must be established in commercial or industrial zones:
 1. Junk and salvage operations.
 2. Storage and/or sale of fireworks.
 3. Mobile home sales.
 4. Vehicle wreckers and/or recyclers.

92.090 Similar Permitted and Outright Uses

- A. Agriculture, farming and farm use, as these uses are defined in Section 11.030 of this Code are outright uses in farm and forest zones and a permitted use with criteria in residential zones (Section 61.050). Farm stands require standards only review in farm zones (Section 64.035.F) and are permitted uses in residential zones. Forest product propagation or harvesting is an outright use in farm and forest zones and a permitted use in residential zones.

- B. Short-term sales from a residence shall not be deemed to fall under the regulations for home occupations and are allowed outright. Such sales shall not exceed 4 days in duration and occur more than 10 times in any given calendar year. Examples of such uses are typically known as: yard or garage sales, estate sales, auctions, beverage stands, rummage and craft sales.

92.100 Renewal and Revocation of Home Occupation Permits

A. Type I, II and III Home Occupation Permit Renewal

A permit for Type I, II and III home occupations shall be valid for a period of ~~2~~ 3 years from the date the Development Permit has been issued. Renewal of the permit will be granted every ~~2~~ 3 years, unless the original permit conditions have been violated, or the property/business owner wishes to change the business to an extent that a higher (or lower) type would apply. Changing the business to a lower Type permit does not require a new application, but the change will be noted as a function of the annual permit renewal. Renewal will require a fee and review of current operations compared to the original conditions of approval. *(AS MOVED BY COMMISSIONER GOODWIN; 2ND BY COMMISSIONER KIRKPATRICK-PILGER)*

B. Grounds for Revocation

If a home occupation fails to maintain the standards of this code or the permit issued by the County, the Director may revoke a home occupation permit according to the revocation procedures outlined in Article 41.

92.110 Special Standards for the Operation of Bed & Breakfast Inns

A. A bed and breakfast inn operating from a residentially developed property will be reviewed as a Type III Home Occupation and shall be operated according to the following special standards:

1. The inn must be located in a residence or accessory living quarters.
2. The operator of the inn must live on the premises and continue to use part of the main dwelling as a residence.
3. Outward modification of the structure shall be made only if such changes are compatible with the character of the neighborhood and the intent of the zone, and in all cases, the changes shall maintain the residential character of the structure.
4. The inn shall be limited to a maximum of 10 individual guests and 5 bedrooms.
5. The inn will be compatible with the neighborhood in terms of access and the proximity to structures and the operation is screened from view from adjoining lots or parcels.
6. One on-premise sign not to exceed 12 square feet and set back 10 feet from property lines.
7. Exterior illumination of the sign shall be limited so that the illumination will not adversely impact the residential character of the area.
8. One on-site parking space for each sleeping room shall be provided in addition to the 2 on-site parking spaces required for the dwelling.
9. The inn must meet all applicable county and state water, sewage, and licensing requirements. The applicant shall submit evidence from the appropriate agency that the applicant has contacted them and meets, or can comply with, agency requirements.

Article 11-Definitions

Current definition to be deleted:

~~HOME OCCUPATION. An occupation or enterprise carried on within a dwelling or accessory building, for financial gain by the tenant in possession of the property; the occupation or enterprise must be accessory to the primary residential use and in compliance with the applicable requirements of this code. A home occupation does not include operations which meet all of the following criteria:~~

- ~~A. The person is engaged in making objects in the residence which are sold elsewhere including but not limited to arts and crafts, quilting, and/or sewing toys; or~~
- ~~B. The person is engaged in a mail order business including but not limited to selling Avon or other cosmetics, Fuller Brush, toys, other items; or~~
- ~~C. The person offers a service which is conducted within the residence including but not limited to computer programming, data entry, consulting, accounting, and/or bookkeeping;~~
- ~~D. The business shall not have any employees;~~
- ~~E. The business shall not have a sign;~~
- ~~F. Customers shall not be coming to the residence to conduct business.~~
- ~~G. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or trailer (exceeding 2.5 tons GVW) not including a licensed parcel service or United States Mail.~~

Amended to include the following definitions:

Home Occupation A commercial activity taking place in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use, and do not alter the residential character of the neighborhood. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner.

Accessory living quarters Habitable structures accessory to a dwelling, without kitchen. Not to be used as an independent or rental dwelling; occupants are dependent upon the main dwelling for kitchen use. No more than 2 per parcel, 600 sf maximum each, unless approved as a Bed & Breakfast Inn. Not to be attached to any other accessory structure. Held to accessory structure square footage maximums of Article 72. Allowed in conjunction with a legal residence.

Commercial vehicle A commercial motor vehicle defined by the Oregon Vehicle Code as a vehicle that will operate at a gross vehicle weight rating or combination weight of 26,001 pounds or more; also, vehicles designed to transport 16 or more persons and vehicles designed to transport hazardous materials regardless of weight. Commercial vehicles do not include: fire trucks, emergency vehicles, motor homes and recreational vehicles operated solely for personal use.

Business vehicle A vehicle used in the course of doing business for transport of persons, goods, equipment.

Incidental Retail Sales Retail sales that are ancillary and secondary to the home business, such as selling shampoo from a home hair salon.

Residential Occupancy of Commercial Properties

Section 62.020.E:

E. Commercial – Care Providers and Dwellings

1. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status
2. Manufactured dwelling only shall be allowed when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business. All services and requirements for both the dwelling and the business shall be located on the same lot. ~~When the business ceases to operate, then the manufactured dwelling shall be removed.~~ A waiver of remonstrance shall be recorded with the deed which recognizes the right of commercial operations to exist and that the normal conduct of business shall not be considered a nuisance. *(AS MOVED BY COMMISSIONER KIRKPATRICK-PILGER; 2ND BY COMMISSIONER DRAKE)*
3. Residential care home or residential care facilities
4. Single-family and/or manufactured dwelling only when lawfully existing (alteration or replacement only; subject to the time limits contained in Section 13.030 of this code)

Section 62.020.E would be amended by adding the following:

5. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code

Section 101.220.D:

D. Care Providers and Dwellings:

1. One residential care home or one residential care facility
2. One manufactured dwelling may be allowed only when located on the same lot or parcel (to include water and septic services) as the commercial use, and when occupied by the owner/operator of the commercial use. ~~When the use ceases to operate or the owner/operator moves off site, the manufactured dwelling shall be removed within 60 days.~~ As a condition of this use, a deed restriction shall be executed by the owner and recorded in the county deed records to disclose the qualified nature of the dwelling, ~~the requirement for removal,~~ and which waives complaint or claim of any kind for impacts from authorized commercial activities on nearby commercially zoned lands. *(AS MOVED BY COMMISSIONER KIRKPATRICK-PILGER; 2ND BY COMMISSIONER DRAKE)*
3. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030 of this code)

Section 101.220.D would be amended by adding the following:

4. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code

Article 61 – Rural Residential Zones

Section 61.020 - Permitted Uses

Section 61.020 is amended by adding the following:

K. Type I and Type II Home Occupations subject to the provisions of Article 92.

Section 61.030 - Conditional Uses

Section 61.030.H is amended as follows:

H. Type III Home Occupations subject to the provisions of Article 92.

Article 64 – Exclusive Farm & Farm Resource Zones

Section 64.030 - Permitted Uses

Section 64.030 is amended by adding the following:

H. Type I and Type II Home Occupations subject to the provisions of Article 92.

Section 64.040 - Conditional Uses

Section 64.040.P is amended as follows:

P. Type III Home Occupations subject to the provisions of Article 92.

Article 65 – Forest Commercial & Woodlot Resource Zones

Section 65.025 - Permitted Uses

Section 65.025 is amended by adding the following:

C. Type I and Type II Home Occupations subject to the provisions of Article 92.

Section 65.030 - Conditional Uses

Section 65.030.O is amended as follows:

O. Type III Home Occupations as defined in ORS 215.448 and subject to the requirements of Article 92 of this code.

Article 67 – Serpentine Zone

Section 67.020 - Permitted Uses

Section 67.020 is amended by adding the following:

S. Type I and Type II Home Occupations subject to the provisions of Article 92.

Section 67.030 - Conditional Uses

Section 67.030.C is amended as follows:

C. Type III Home Occupations subject to the requirements of Article 92.

Article 68 – Limited Development Zone

Section 68.020 - Permitted Uses

Section 68.020 is amended by adding the following:

O. Type I and Type II Home Occupations subject to the provisions of Article 92.

Section 68.030 - Conditional Uses

Section 68.030.D is amended as follows:

D. Type III Home Occupations subject to the provisions of Article 92.



Josephine County, Oregon

Planning Office

700 NW Dimmick Street, Suite C/Grants Pass OR 97526
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September 21, 2012

Plan Amendment Specialist/DLCD
635 Capitol Street NE Suite 150
Salem OR 97301-2540

Lower Applegate CAC/Olaf Ahlstrom
5713 Fish Hatchery Road
Grants Pass OR 9+7527

DLCD/Josh LeBombard
(via e-mail)

Williams CAC/Stephen Williams
PO Box 472
Williams OR 9754

LUBA/PUC Building
550 Capitol Street NE Suite 235
Salem OR 97301-2552

Attached Mailing List

Re: *Josephine County Ordinance No. 2012-003 ~ Article 92 ~ Home Occupations and Article 62 ~ Revision to allow residential occupancy of businesses in Rural Commercial and Rural Industrial zones*

Josephine County Ordinance No. 2012-003 amends the Josephine County Rural Land Development Code:

Amendments to Article 92 ~ Home Occupations and Article 11 – Definitions as they relate to Home Occupations; and

Amendment to Article 62.020.E and 101.220.E ~ Revisions to allow residential occupancy of businesses in the Rural Commercial and Rural Industrial zones

The Ordinance was approved and signed by the Josephine County Board of Commissioners at their Weekly Business Session on September 12, 2012. The Ordinance becomes effective 90 days after that date, December 11, 2012. You may obtain a copy of the Ordinance on the county planning website: www.co.josephine.or.us. Select planning under departments, select Ordinances on the left sidebar, and cursor down to 2012. Should you have questions, please contact our office.

Sincerely,

Anne Ingalls

Planning Specialist

Josephine County Planning Office

700 NW Dimmick, Suite C, Grants Pass OR 97526, 541/474-5423 aingalls@co.josephine.or.us

Encs.: As referenced in letter

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR JOSEPHINE COUNTY
STATE OF OREGON**

ORDINANCE NO. 2012-003

**AN ORDINANCE AMENDING THE TEXT OF THE JOSEPHINE COUNTY RURAL LAND
DEVELOPMENT CODE (ORDINANCE 94-4) REGARDING HOME OCCUPATIONS AND
RESIDENTIAL USE IN COMMERCIAL ZONES**

WHEREAS, the Board of County Commissioners directed the Planning Director to request an amendment to the Rural Land Development Code (RLDC) to provide specific standards and procedures for review and development of Home Occupations and Residential Use of properties in commercial zones; and

WHEREAS, the Planning Commission formed a Home Occupation sub-committee to review existing provisions of the RLDC and draft proposed amendments; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the RLDC, conducted a public hearing on June 11, 2012 regarding the proposed text amendments after required notice by publication, community advertisement, and mailing to interested persons, agencies and organizations; and

WHEREAS, after due consideration of the proposed ordinance and the testimony and evidence from those participating at the hearing, the Planning Commission proposed several specific text changes to the language of the Rural Land Development Code and voted 4-3 to approve the amendments; and

WHEREAS, written findings of approval were approved and signed by the Rural Planning Commission Chair and entered into the official record of the proceedings kept by the Planning Director; and

WHEREAS, notice of the Planning Commission's decision was given as required by law, and the decision having now become final without appeal; and

WHEREAS, this Board, having reviewed the record of the foregoing matters, find the approved ordinance advances the policies and purposes of the Josephine County Comprehensive Plan; and

NOW, THEREFORE, based upon all of the foregoing recitals, the Board does hereby adopt amendments to the text of the Josephine County Rural Land Development Code Articles 92, 11, 62.020, 101.220, 61, 64, 65, 67 and 68 as depicted in the attached *Exhibit A*.

Section 2. Affirmation

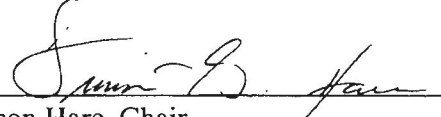
Except as specifically amended by the provisions of this Ordinance, the Comprehensive Plan (Ordinance 81-11) is hereby affirmed in all other respects.

Section 3. Effective Date:


First reading by the Board of County Commissioners this 22nd day of August 2012.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 12th day of September 2012. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:



Simon Hare, Chair




Don Reedy, Vice-Chair

Absent at Signing

Harold Haugen, Commissioner

ATTEST:



Recording Secretary

APPROVED AS TO FORM:



Steven E. Rich, Legal Counsel

EXHIBIT A

Article 92 - HOME OCCUPATIONS

Ordinance 2012-003, Effective December 11, 2012

92.010 Purpose

It is the purpose of this Article to encourage citizens of the County to use their homes to engage in small-scale business ventures. Home Occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood nor be subjected to negative effects on property values by business activities on nearby parcels. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner or resident.

92.020 Authority

The provisions of this Code are intended to apply to residential and resource-zoned properties already occupied with a residential use. No person shall carry on a home occupation, or permit such use to occur on property, which that person owns or is in lawful control, contrary to the provisions of this Article. Home Occupations in resource zones are also subject to ORS 215.448.

92.030 General Definition and Criteria for Home Occupations

A. Home Occupation means a business in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use. All Home Occupations shall be conducted in accordance with the following general criteria:

1. All business operations shall comply with the current noise ordinance and shall not produce offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.
2. No construction of any structure that would not otherwise be allowed in the zone in which the Home Occupation is located may be established. (ORS 215.448(3)).
3. No storage and/or distribution of toxic or flammable materials and spray painting/finishing operations that involve toxic or flammable materials, which in the judgment of the Fire Marshal and/or the Department of Environmental Quality (DEQ) pose a dangerous risk to the residence, its occupants, and/or surrounding properties are allowed. Those individuals who are engaged in home occupations shall submit to the Planning Office the DEQ Potential Site Hazards Checklist which pertains to all potentially toxic and/or flammable materials associated with the use.
4. All parking and signage related to the Home Occupation shall be on-site, not in public right-of-way.
5. Home Occupations shall be secondary to the residential use of the property.

6. All Home Occupations other than those deemed as exempt shall be administered as Type I, II or III, distinguished by the potential impacts they represent to nearby properties.
7. Type I, II and III Home Occupations require issuance of a Development Permit as final authorization.
8. Only the principal resident(s) of a residential property may undertake home occupations with non-resident employees as allowed by the Type of Home Occupation.
9. In the event the requirements of this Article conflict with other requirements contained in this code, the requirements of this Article shall govern.

92.040 Exempt Home Occupations

- A. Exempt Home Occupations are not subject to the permit process, and are defined by the following standards:
 1. Only the resident(s) of the property may undertake Exempt Home Occupations.
 2. No exterior signs that identify the property as a business location.
 3. No customers shall come to the property.
 4. Deliveries to the residence must be by postal package services only.
 5. One (1) business vehicle is allowed on-site.
 6. Storage of material related to the business is confined to the interior of the residence or accessory structure with no exterior indication of a business.
 7. The business shall not occupy more than 25% of the total combined square footage of structures on the property.
 8. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television, websites or other advertising media.
- B. No Development Permit will be required for Exempt Home Occupations, except that new structures or additions on-site are subject to Article 41.020.

92.050 Type I Home Occupations

- A. Type I Home Occupations require application review prior to issuance of a permit and are to be conducted in conformance with the following additional standards:
 1. Up to two (2) non-resident on-site employees or volunteers (including part-time employees).

2. Adequate on-site parking to accommodate residents, employees, business vehicles and customers.
3. One (1) non-illuminated exterior sign, not to exceed 6 square feet in size and setback 10 feet from property lines.
4. Customers and clients by appointment only.
5. Deliveries to the residence by postal package services only.
6. Two (2) business vehicles permitted on-site.
7. No outdoor storage or activities.
8. No large construction equipment or commercial vehicles (e.g. earth movers, dump truck, box truck, semi-truck, equipment trailers) in conjunction with the business to be on-site.
9. No major remodel or addition of equipment or appliances that would not be typical of the residential use is allowed (e.g. commercial kitchen, industrial drying oven, production machinery).
10. Operations shall be conducted weekdays during typical business hours.
11. Shall have adequate access for proposed business purposes.

B. Permit Procedures for Type I Home Occupations

1. An application for a Type I Home Occupation Permit shall be filed according to the application procedures of Article 22 for a ministerial permit.
2. The application shall identify the type of use and address the conditions contained in this Article and other applicable sections of this Code.
3. A Development Permit shall be issued as final authorization of an approved Type I Home Occupation.

92.060 Type II Home Occupations

A. Type II Home Occupations require application review prior to issuance of a permit and shall be conducted in conformance with the following additional standards:

1. Up to four (4) non-resident on-site employees or volunteers (including part-time employees).
2. Adequate on-site parking to accommodate residents, employees, business vehicles and customers.

3. One (1) exterior sign, not to exceed 12 square feet in size and setback 10 feet from property lines.
4. 'Drop in' customers and clients are allowed, including small groups of customers or classes.
5. Any commercial pick-up and deliveries other than postal/package services are limited to two (2) per day.
6. Up to four (4) business vehicles permitted on property.
7. Incidental retail sales associated with the permitted home occupation are allowed.
8. Storage of materials on-site to be screened from view of neighboring properties by a solid fence, adequate vegetation, or other structures.
9. Outdoor activities on-site to be screened from view of neighboring properties by a solid fence, adequate vegetation or other structures and setbacks may be employed to mitigate potential impacts to adjacent properties.
10. Large equipment and commercial vehicles only if screened from view of neighboring properties or garaged.
11. Hours of operation as allowed by conditions of approval.
12. Type II Home Occupations are subject to the Site Plan Review standards of Section 42.050.A.
13. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales may have up to four (4) vehicles on-site to be worked on or for sale. Inside storage or screening required.

B. Permit Procedures for Type II Home Occupations

1. Type II Home Occupations require Site Plan Review per Article 42, filed according to the application procedures of Article 22.040 for a quasi-judicial permit.
2. The application shall identify the type of use and address the conditions contained in this Article and other applicable sections of this Code.
3. Review will require public notice as required by Article 32.
4. The Planning Office will conduct a site visit as a part of the review.
5. The Planning Director may apply conditions to the approval of Type II Home Occupation permits to ensure compliance with the requirements of this Article.
6. A Development Permit shall be issued as final authorization of an approved Type II Home Occupation.

92.070 Type III Home Occupations

- A. Any proposed Home Occupation exceeding the standards of Type I or II Home Occupations shall either be reviewed as a Conditional Use Permit, subject to Article 45; or, must be conducted as a use in commercial or industrial zones, to include the following:
 - 1. Retail Sales.
 - 2. Large scale manufacturing.
 - 3. Business operations requiring hazardous materials.
 - 4. Vehicle or boat-oriented businesses, including repair, service, detailing, restoration and sales for more than four (4) vehicles on-site at a time.
 - 5. Bed & Breakfast Inns subject to special standards contained in Section 92.110.
- B. Uses listed in Section 92.080.A may not be reviewed as a Type III Home Occupation.
- C. Type III Home Occupations shall be conducted in conformance with the standards of Section 92.030.
- D. A Development Permit shall be issued as final authorization of an approved Type III Home Occupation.

92.080 Prohibited Uses

- A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as Home Occupations and must be established in commercial or industrial zones:
 - 1. Junk and salvage operations.
 - 2. Storage and/or sale of fireworks.
 - 3. Mobile home sales.
 - 4. Vehicle wreckers and/or recyclers.

92.090 Similar Permitted and Outright Uses

- A. Agriculture, farming and farm use, as these uses are defined in Section 11.030 of this Code are outright uses in farm and forest zones and are permitted uses with criteria in residential zones (Section 61.050). Farm stands require standards only review in farm zones (Section 64.035.F) and are permitted uses in residential zones. Forest product propagation or harvesting is an outright use in farm and forest zones and a permitted use in residential zones.
- B. Short-term sales from a residence shall not be deemed to fall under the regulations for home

occupations and are allowed outright. Such sales shall not exceed four (4) days in duration and occur more than ten (10) times in any given calendar year. Examples of such uses are typically known as: yard or garage sales, estate sales, auctions, beverage stands, rummage and craft sales.

92.100 Revocation of Home Occupation Permits

A. Grounds for Revocation

If a Home Occupation fails to maintain the standards of this code or the permit issued by the County, the Planning Director may revoke a Home Occupation permit according to the revocation procedures outlined in Article 41, or require re-application to a higher Type.

92.110 Special Standards for the Operation of Bed & Breakfast Inns

A. A bed and breakfast inn operating from a residentially developed property will be reviewed as a Type III Home Occupation and shall be operated according to the following special standards:

1. The inn must be located in a residence or accessory living quarters.
2. The operator of the inn must live on the premises and continue to use part of the main dwelling as a residence.
3. Outward modification of the structure shall be made only if such changes are compatible with the character of the neighborhood and the intent of the zone, and in all cases, the changes shall maintain the residential character of the structure.
4. The inn shall be limited to a maximum of ten (10) individual guests and five (5) bedrooms.
5. The inn shall be compatible with the neighborhood in terms of access and the proximity to structures and the operation shall be screened from view from adjoining lots or parcels.
6. One (1) on-premise sign not to exceed 12 square feet and setback 10 feet from property lines.
7. Exterior illumination of the sign shall be limited so that the illumination will not adversely impact the residential character of the area.
8. One (1) on-site parking space for each sleeping room shall be provided in addition to the two (2) on-site parking spaces required for the dwelling.
9. The inn shall meet all applicable county and state water, sewage, and licensing requirements. The applicant shall submit evidence from the appropriate agency that the applicant has contacted them and meets, or can comply with agency requirements.

Article 11-Definitions

HOME OCCUPATION. A commercial activity taking place in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one (1) resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to the residential use, and do not alter the residential character of the neighborhood. A Home Occupation permit does not 'run with the land' and may not be assumed by a new owner.

ACCESSORY LIVING QUARTERS. Habitable structures accessory to a dwelling, without kitchen. Not to be used as an independent or rental dwelling; occupants are dependent upon the main dwelling for kitchen use. No more than two (2) per parcel, 600 square foot maximum each, unless approved as a Bed & Breakfast Inn. Not to be attached to any other accessory structure. Held to accessory structure square footage maximums of Article 72. Allowed in conjunction with a legal residence.

COMMERCIAL VEHICLE. A commercial motor vehicle defined by the Oregon Vehicle Code as a vehicle that will operate at a gross vehicle weight rating or combination weight of 26,001 pounds or more; also, vehicles designed to transport 16 or more persons and vehicles designed to transport hazardous materials regardless of weight. Commercial vehicles do not include: fire trucks, emergency vehicles, motor homes and recreational vehicles operated solely for personal use.

BUSINESS VEHICLE. A vehicle used in the course of doing business for transport of persons, goods, equipment.

INCIDENTAL RETAIL SALES. Retail sales that are ancillary and secondary to the home business, such as selling shampoo from a home hair salon.

Residential Occupancy of Commercial Properties

Section 62.020.E:

E. Commercial – Care Providers and Dwellings

1. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status.
2. Manufactured dwelling only shall be allowed when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business. All services and requirements for both the dwelling and the business shall be located on the same lot. A waiver of remonstrance shall be recorded with the deed which recognizes the right of commercial operations to exist and that the normal conduct of business shall not be considered a nuisance.
3. Residential care home or residential care facilities.
4. Single-family and/or manufactured dwelling only when lawfully existing (alteration or replacement only; subject to the time limits contained in Section 13.030 of this Code).
5. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code.

Section 101.220.D:

D. Care Providers and Dwellings:

1. One (1) residential care home or one residential care facility.
2. One (1) manufactured dwelling may be allowed only when located on the same lot or parcel (to include water and septic services) as the commercial use, and when occupied by the owner/operator of the commercial use. As a condition of this use, a deed restriction shall be executed by the owner and recorded in the county deed records to disclose the qualified nature of the dwelling, and which waives complaint or claim of any kind for impacts from authorized commercial activities on nearby commercially zoned lands.
3. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030 of this Code).
4. Residential occupancy of the business, providing such dwelling is on the same property, and meets the residential occupancy requirements of the Building Code.

Article 61 – Rural Residential Zones

Section 61.020 - Permitted Uses

K. Type I and Type II Home Occupations, subject to Article 92.

Section 61.030 - Conditional Uses

H. Type III Home Occupations, subject to Article 92.

Article 64 – Exclusive Farm & Farm Resource Zones

Section 64.030 - Permitted Uses

H. Type I and Type II Home Occupations, subject to Article 92.

Section 64.040 - Conditional Uses

P. Type III Home Occupations, subject to Article 92.

Article 65 – Forest Commercial & Woodlot Resource Zones

Section 65.025 - Permitted Uses

C. Type I and Type II Home Occupations, subject to Article 92.

Section 65.030 - Conditional Uses

O. Type III Home Occupations, as defined in ORS 215.448, and subject to Article 92.

Article 67 – Serpentine Zone

Section 67.020 - Permitted Uses

S. Type I and Type II Home Occupations, subject to Article 92.

Section 67.030 - Conditional Uses

C. Type III Home Occupations, subject to Article 92.

Article 68 – Limited Development Zone

Section 68.020 - Permitted Uses

O. Type I and Type II Home Occupations, subject to Article 92.

Section 68.030 - Conditional Uses

D. Type III Home Occupations, subject to Article 92.

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DEPT OF
SEP 24 2012
LAND CONSERVATION
AND DEVELOPMENT

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