



# BMC Chapter 23C.14 Home Occupations

PLANNING COMMISSION  
SEPTEMBER 16, 2020



# Outline

- ▶ What is a Home Occupation?
- ▶ Amendments adopted July 2020
- ▶ Proposed Updates
- ▶ Next Steps



# What is a Home Occupation?

Home Occupations (HOs) are small-scale businesses conducted on a residential property as an incidental or secondary land use by the resident of the home and may be operated in a single-family or multi-dwelling building.

# September 2020 Proposed Amendments

HO Category	Customer Visits	Non-Resident Employee	Third-Party Shipping & Receiving	Permit
<u>Low-Impact Class I</u>	Up-to five visits per day, with no more than one customer at a time	Not Allowed	<u>Not Allowed</u>	ZC
<u>Moderate-Impact Class II</u>	<del>Six or more visits</del> <u>Up-to 10 visits</u> per day, with no more than four clients or customers at a time	One Allowed	<u>Not Allowed</u>	AUP
<u>Class III</u>	<u>More than 10 visits per day, with more than four customers at a time.</u>	<u>One Allowed</u>	<u>Allowed</u>	<u>UP(PH)</u>

Modify Use Permitted table for all R-Districts, C-Districts, and the MU-R.

ZC = Zoning Certificate; AUP = Administrative Use Permit; UP(PH) = Use Permit with Public Hearing

# September 2020 Proposed Amendments



## Modify Enforcement Protocol

- Modify sections “Complaints and Imposition of Conditions” to clarify process for submitting and addressing grievances
- Amend “Complaints and Imposition of Conditions” to provide guidance for all HO categories

# September 2020 Proposed Amendments

## Update Home Occupation Definition & Findings

- Amend “Findings” to provide guidance on identifying potential impacts of third-party shipping and receiving.
- Amend the definition of “Home Occupation” to include distinctions classes of HOs



# Next Steps

Hold a Public  
Hearing on the  
Proposed  
Ordinance



Discuss the  
Proposed  
Language  
Changes



Make a  
Recommendation  
to City Council

## **Proposed Recommendation:**

Recommend for adoption by City Council draft Zoning Ordinance amendments that include direction from the July 1, 2020 meeting and the modifications presented in the aforementioned sections.

# July 2020 Proposed Amendments



HO Category	Customer Visits	Non-Resident Employee	Permit
Low-Impact	Up-to five visits per day, with no more than one customer at a time	Not Allowed	ZC
Moderate-Impact	Six or more visits per day, with no more than four customers at a time	One Allowed	AUP
Teaching-Related	<del>Four or fewer students allowed at a time</del>	<del>Not Allowed</del>	<del>AUP</del>

Modify Use Permitted table for all R-Districts, the C-W, and the MU-R.

ZC = Zoning Certificate; AUP = Administrative Use Permit; UP(PH) = Use Permit with Public Hearing



# What is a Home Occupation?

Regardless of category, all HOs must:

- Be conducted entirely within the dwelling unit or group living accommodation room.
- Occupy less than 20% or 400 square feet of the unit.
- Not generate offensive noise, odors or other nuisances.
- Not handle or generate hazardous materials.
- Non resident employees are not allowed.

# What is a Home Occupation?

HO Category	Level of Discretion	Customer Visits
Low-Impact	ZC	Not Allowed
Moderate-Impact	UP(PH)	Allowed
Teaching-Related	AUP	Four or fewer students allowed at a time

ZC = Zoning Certificate; AUP = Administrative Use Permit; UP(PH) = Use Permit with Public Hearing

DECEMBER  
2011

### **City Council Referral**

Consider a set of amendments to reduce the levels of discretion for Moderate-Impact HOs and streamline the permitting process for all HOs.

NOVEMBER  
2018

### **Planning Commission**

Held a public hearing and approved amendments to recommend to City Council.

2020

### **Planning Commission Reviews Recommendations**

New State laws governing Accessory Dwelling Units and gig workers prompt review of 2018 amendments for consistency of generally allowable uses and needs of the community.



# Proposed Amendments from 2018

- 
- ▶ Customer/Client Visits
  - ▶ Accessory Buildings
  - ▶ On-site Goods
  - ▶ Visiting Hours
  - ▶ Non-resident Employees
  - ▶ Advertising Signs
  - ▶ Restructure and Reformat Chapter
  - ▶ Uses Permitted Tables

# 2018 Proposed Amendments

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## Accessory Buildings:

- Allow HOs in Accessory Buildings.
- Apply square footage limitation for HOs (total area and percentage of the dwelling) to Accessory Buildings.



## On-Site Goods:

- Allow business-related activities, including handling, processing, storage, and transport of goods on-site. Do not allow these activities outdoors.

# 2018 Proposed Amendments

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## Visiting Hours:

- Establish hours of operation from 10am - 8pm for customer/client visits for all HOs.



## Advertising Signs:

- Add language to prohibit on-site signs advertising the HO.

# 2018 Proposed Amendments

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## **Restructure and Reformat Chapter:**

- Consolidate repetitive language.
- Remove sections “Complaints and Imposition of Conditions,” “Home Occupations in Rental Unit,” “Medical Cannabis Residential Cultivation.”
- Consolidate all “Findings” for HOs to the Home Occupations chapter.



# 2020 Proposed Updates

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- ▶ **Clarify and Refine Proposed Text of “General Requirements”**
    - ▶ Accessory Dwelling Units
    - ▶ Non-resident Employees
    - ▶ Hazardous Materials
  - ▶ **Restructure and Reformat the Chapter**
  - ▶ **Update the Definition of Home Occupation**



# 2020 Proposed Updates



## Accessory Dwelling Units:

- Refine text language to clarify use is permitted in ADUs.
- Clarify HO size restrictions to offer the maximum amount of operating space within the size limitations.



## Non-resident Employee:

- Remove language that restricts non-residents from conducting HO related-activities.

# 2020 Proposed Updates



## **Hazardous Materials:**

- Clarify how hazardous materials are defined by the City of Berkeley.



## **Restructure and Reformat Chapter:**

- Move the description of HO classifications from HO chapter to the Definitions chapter.
- Rename Section 23C.16.020 to “Permits Required.”

# 2020 Proposed Updates

**Home Occupation:** A business use conducted on property developed with Residential use, which is incidental and secondary to the Residential use, does not change the residential character thereof, is limited so as not to substantially reduce the Residential use of the dwelling, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room and is operated only by the resident's of the subject residence. There are two classification of Home Occupations:

1. Low Impact Home Occupation involves no more than five visits per day, with no more than one client or customer at a time.
2. Moderate Impact Home Occupation involves six or more visits per day, with no more than four clients or customers at a time and up to one non-resident employee or individual engaging in business-related activities on-site.