

## **Article 8. Home Occupations, Non-Conforming Uses, Temporary Zoning and Planned Unit Development**

### **18.8.1. Home occupations.**

HOME OCCUPATION- A business, profession, occupation, trade, or hobby conducted by a person in a dwelling unit or accessory structure, for financial income or support equal to or greater than \$2500 per year. Home Occupations are always accessory to the use of a dwelling unit as a residence.

PURPOSE AND SCOPE This section is intended to permit the establishment of certain incidental and accessory Home Occupations in residential areas under conditions that will ensure their compatibility with the character of the residential district and subject neighborhood. In order for a home occupation to be lawful, it must comply with Chapter 3 of the City Code, and all standards of this section. A lawful home occupation shall be considered an accessory use and shall remain subordinate to the residential use. These regulations recognize that many types of work can be done in a home with little or no impact upon the surrounding neighborhood.

- A. Authorization Specific to Home Occupations. Any person using a dwelling unit in any zoning district for a Home Occupation is required to have approval of the Planning Commission through the conditional use process unless otherwise specified in this section. Beyond requirements of this section, maintaining all other applicable State and local permits associated with a business or permitted use, shall be standard terms of all Home Occupation authorized within the City.
- B. Exempted: Home Occupations NOT required to register with the City:
  - 1. No impact home occupations. A home occupation existing within a dwelling that (1) complies with all of the use limitations for the zoning district in which it is located and (2) does not materially change the existing noise, traffic, odor, outdoor external storage or external lighting requirements of the neighborhood in which it operates is not required to be registered with the City. A list of examples of no impact home occupations is included in section 8.03 of this article. The list in section 8.03 is not all –inclusive but intended to provide guidance regarding what is acceptable. Other local, State and federal health and safety regulations may apply depending on the specific facts of the business in question, and be enforced by the City as required.
  - 2. Hobby generating less than \$2500 per year. A hobby is defined as an activity by the occupant of a dwelling purely for personal enjoyment, amusement or recreation, and compliant with all City ordinances, not garnering more than \$2500 per year in financial income or support. All hobby activities generating more than \$2500 per year in financial income or support shall be considered home occupations and must comply with this regulation.
  - 3. Hobby automotive repairs. Regardless of financial income amounts generated, all home automotive care hobby activities shall be limited to occupant's vehicles, occupant's immediate family's vehicles, and occasional non-occupant repairs. Non occupant repairs occurring two or less times a calendar year, shall be presumed to be occasional. All automotive care related hobby activities generating more than \$2500 per year in financial income or support shall be considered home occupations and must comply with this regulation.

4. Exempted Generally. Door to door peddlers, vendors operating within the City pursuant to a valid temporary use or administrative permit issued by the City are generally exempted. Tax-exempt charitable organizations are generally exempted from the requirement to register as home occupations. Temporary and special event activities such as garage sales, bake sales, lemonade stands, or temporary lawn care operations are generally exempted from the requirement to register as home occupations. Other local, state, and federal health and safety regulations including -- Article 3 of The City of Bel Aire Code-- may apply to the exempted activities described within this paragraph.

C. Home Occupations REQUIRED to register with the City:

A home occupation within a dwelling that (1) complies with all of the use limitations for the district in which it is located and (2) MINIMALLY changes the existing noise, traffic, odor, outdoor external storage or external lighting requirements of the neighborhood as determined by the Zoning Administrator is required to be registered with the City.

Minimal impact for registration purposes shall mean a permitted business with actual or anticipated:

1. Business traffic to or from the residence in excess of five (5) vehicles per day,
2. Requiring external storage used in the home occupation,
3. Businesses having one (1) or more business related signs displayed and visible to the outside,
4. Business having more than two (2) on site employees other than a members of the immediate family permanently occupying such residence.
5. Business raising certain public health, public safety, or public welfare concerns determined to be minimal by the Police Chief or City Zoning Administrator.

A list of examples of MINIMAL impact home occupations is included in section 8.03 of this article. The list in section 8.03 is not all –inclusive but intended to provide guidance regarding what is acceptable. Other local, State and federal health and safety regulations may apply and be enforced by the City as required.

- D. Registration Requirements: Article 3 of the City Code requires persons operating an allowable home occupation that is described in 8.01 (C) and not exempt by 8.01 (B) of this Article to register that home occupation annually and pay to the City Clerk or his or her designee a permit fee for a Business Registration and Permit to Operate certificate. Application requirements for the Business Registration and Permit to Operate certificate are specified in Chapter 3 of the City Code. The registration fee for Business Registration and Permit to Operate certificate shall be set forth in the City fee schedule. Additional information may be required as necessary to enable the Clerk and Zoning Administrator to determine whether such home occupation is in conformance with local ordinances regulating home occupations.
- E. Home Occupations REQUIRED TO HAVE A CONDITIONAL USE PERMIT: Persons operating a home occupation that is not exempt by sections 8.01(B), and exceeds the impact described in 8.01 (C) or that the City Zoning Administrator determines may create a greater public health or safety concerns for neighborhood residents of the City shall be required to obtain a conditional use permit for that home occupation. The process for obtaining a conditional use permit is found in section 5.03 of this Zoning Regulation.
- F. Requesting Review by Planning Commission. Were the City Zoning Administrator determines an applicant shall be required to obtain a conditional use permit, before registering, that applicant

may request the planning commission review that determination. If a majority of the planning commission determines that home occupation should only be required to register, the Planning Commission's determination shall be final.

- G. Conditional Use Permit Home Occupation Registration requirements: Upon approval of a condition use permit, Article 3 of the City Code requires persons approved to operate a home occupation to register that home occupation annually and pay to the City Clerk or his or her designee a permit fee for a Business Registration and Permit to Operate certificate. Application requirements for the Business Registration and Permit to Operate certificate are specified in Chapter 3 of the City Code. The registration fee for Business Registration and Permit to Operate certificate shall be set forth in the City fee schedule. Additional information may be required as necessary to enable the Clerk and Zoning Administrator to determine whether such home occupation is in conformance with local ordinances regulating home occupations.

#### **18.8.2. General standards for all permitted home occupations within the city of Bel Aire.**

- A. The following standards shall apply to all Home Occupations unless specifically modified by residential district standards:
1. Hazardous substances are prohibited, except at the, "consumer commodity" level, as that term is defined in 49 C.F.R. Sec. 171.8.
  2. There shall be no outside storage or display of goods or equipment or materials used in the home occupation.
  3. Upon approval of the Zoning Administrator, one non-animated, non-illuminated, accessory identification sign of no more than 2 square feet in area shall be permitted, as approved in writing by the Zoning Administrator. All signs must be in accordance with the Sign Code of the City of Bel Aire.
  4. Zoning Code authorization of a Home Occupation shall in no way be construed to override any restrictive covenant(s) of record, (i.e., Homeowners Association Covenants).
  5. No more than two (2) vehicles which advertise or assist in operation of the business shall be legally parked in the front setback at the Home Occupation at one time.
  6. There shall be no overnight parking of vehicles rated over one (1) ton in the front setback.
  7. No equipment or process shall be used that creates undue noise, vibration, electrical interference, smoke or particulate matter emissions or odors that are detectable to the normal senses off the lot as determined by the Zoning Administrator. In cases of electrical interference, no equipment or process shall be used which creates a visual effect or an audible interference off the premises in any radio or television receiver or transmitter or causes fluctuation in power voltage.

#### **18.8.3. Home occupations permitting process.**

Permitted home occupations may include, but are not limited to the following list of occupations: This list is not all inclusive but intended to provide guidance regarding what is acceptable.

TIER ONE NOT REQUIRED TO REGISTER - Examples	TIER TWO REQUIRED TO REGISTER - Examples	TIER THREE CONDITIONAL USE PERMIT REQUIRED *
<ul style="list-style-type: none"> <li>•Administrative offices of business/trade</li> <li>•Arts and crafts activities</li> <li>•Baking/catering</li> <li>•Beauty salon</li> <li>•Clerical/secretarial</li> <li>•Day-time adult care</li> <li>•Direct sales</li> <li>•Floral or interior design</li> <li>•Jewelry, watch, clock repair; engraving; locksmith;</li> <li>•Maid, laundry service</li> <li>•Internet business</li> <li>•Professional or administrative offices (including psychological, lawyer, accountant, engineer, architect or similar)</li> <li>•Photography</li> <li>•Picture framing</li> <li>•Scissors, saw, blade sharpening Small electronics repair</li> <li>•Seamstress, tailoring,</li> </ul>	<p>Occupations similar to those listed in TIER ONE column but additionally having the following actual or anticipated requirements:</p> <ul style="list-style-type: none"> <li>•External storage used for the home occupation</li> <li>•Having one (1) or more business related sign visible from outside. Business related vehicles are excluded from this limitation. Refer to the City Sign Code.</li> <li>•Business traffic to or from the residence in excess of five (5) vehicles per day,</li> <li>•More than two (2) on site employees other than a members of the immediate family permanently occupying such residence.</li> <li>•As determined by the Police Chief or City Zoning Administrator Business raising public health, public safety, or public welfare concerns</li> </ul>	<p>All other home occupations. Generally these are home occupations which may be substantially similar to those allowed in tier one or tier two but anticipated to create a greater impact than typically exists in Bel Aire for those categories of home occupations, or are occupations raising public health, safety, or welfare concerns for residents as determined by the City Zoning Administrator or Chief of Police.</p>

•Tutoring, education or training		
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\*Where the City Zoning Administrator determines an applicant shall be required to obtain a conditional use permit, before registering, that applicant may request the planning commission review that determination. If a majority of the planning commission determines that home occupation should only be required to register, the Planning Commission's determination shall be final.

#### 18.8.4. Nonconforming uses.

##### A. Purpose, Policy and Applicability

1. Definition. Zoning nonconformities are those uses, structures, or lots that came into being lawfully but that no longer conform to one or more requirements of these Regulations.
2. Policy. It is the general policy of the City to allow uses, structures or lots that came into existence legally and in conformance with then-applicable zoning requirements but that do not conform to all of the applicable requirements of this currently adopted Code to continue to exist and be put to productive use, but to bring as many aspects of such use into conformance with the current Code as is reasonably practicable, all subject to the limitations of this section. The limitations of this section are intended to recognize the interests of the property owner in continuing to use the property but to control the expansion of the nonconformity and to control re-establishment of abandoned uses and limit re-establishment of buildings and structures that have been substantially destroyed.
3. No nonconformities created by adoption of these Regulations. No use of a building, structure or property that complied with the zoning ordinance or zoning resolution in effect prior to the effective date of these Regulations shall become or be deemed to have become nonconforming or noncomplying due to adoption of these Regulations. Any use of a building, structure or property and any building, structure or property that complied with the zoning ordinance or zoning resolution in effect prior to the effective date of these Regulations may be rebuilt, repaired or otherwise re-established to the extent that it existed prior to the effective date of these Regulations.
4. Zoning Administrator Discretion/Appeals. Whenever these Regulations shall refer to a percentage of change, lot size, use, etc., the final determination of whether a proposal meets or exceeds such percentage shall be a determination of the Zoning Administrator. Appeals of this, or any, determination of the Zoning Administrator in association with nonconformities shall be to the Board of Zoning Appeals.

##### B. Definitions. Unless otherwise specifically provided or unless clearly required by the context, the following words and phrases shall have the meaning indicated when used in association with issues of nonconforming use, lot, or structure.

1. Cost. The total cost of alteration or repair shall mean the fair market value of the materials, services and labor necessary to accomplish such renovation, repair or restoration. No person may seek to avoid the intent of this Article by doing such work incrementally.
2. Dimensional Nonconformity. A nonconforming situation that occurs when the height, size or minimum floor area of a structure, or the relationship between an existing