

Project title: An Ordinance amending Title 19 (Zoning) regarding Home Occupation development regulations, amending Ordinance 3774-20.

Council Bill # *interoffice use*
CB 2108-28

Agenda dates requested:
Dates requested for council action

Briefing 8/18/2021
Proposed action 9/1/2021
Consent
Action 9/8/2021 Ordinance
X
Public hearing
X Yes No

Budget amendment:
Yes X No

PowerPoint presentation:
X Yes No

Attachments:
Ordinance
Planning Commission
Resolution
Code Comparison Table

Department(s) involved:
Economic Development
Planning

Contact person:
Dan Eernisse

Phone number:
425-257-8681

Email:
deernisse@everettwa.gov

Initialed by:
DEe
Department head

Administration

Council President

Project: Zoning Amendment updating the Regulations for Home Occupations

Partner/Supplier :

Location: Citywide

Preceding action: Planning Commission Public Hearing

Fund:

Fiscal summary statement:

The proposed amendments expand opportunities for home-based businesses in the City. New business activity could generate additional business license fees, B&O taxes, and sales taxes.

Project summary statement:

Home occupations balance opportunities for small-scale economic activity with the need for safe, welcoming, and livable residential neighborhoods. The proposed amendment seek to modestly increase opportunities for home occupations to launch, operate, pay salaries, welcome customers, and pay taxes, while setting clear limitations necessary to balance economic potential with neighborhood livability issues. Amendments include removal of a square footage maximum, allowing two employees in addition to the resident, adding limitations on visitors/clients, and revising restrictions on commercial vehicle deliveries. Notable changes include:

- Revising the definition of “home occupation” in EMC 19.040.050 to clarify applicability to business within a dwelling unit by the resident of the dwelling.
- Relocating regulations for home occupations from EMC 19.08 to EMC 19.05 to better match chapter topics and applicability.
- Adjusting language to allow home occupations in any dwelling unit rather than in residential zones.
- Removing the following from the list of prohibited home occupations: clinics, barber/beauty shops, real estate offices, offices with client visits, on premise retail sales. Regulations have been revised to address potential impacts from these and other potential home occupations.
- Adding wedding/event venues to the list of prohibited home occupations.
- Amending the limitation on classes from 20 hours per week to five students per class and ten students per day, consistent with the customer limitation.
- Adding the permissibility of up to two non-resident employees.
- Adding a limitation to two business vehicles per home occupation in EMC 19.05.067(O) and a citation related to the applicable parking section of the development regulations.

Recommendation (exact action requested of Council):

Adopt an Ordinance amending Title 19 (Zoning) regarding Home Occupation development regulations, Amending Ordinance 3774-20.



ORDINANCE NO. _____

An ORDINANCE Amending Title 19 (Zoning) regarding Home Occupation development regulations, AMENDING Ordinance 3774-20

WHEREAS,

- A. Economic development is a key component of a healthy, thriving community; and
- B. Home occupations contribute to the City's economy; and
- C. The proposed amendments will facilitate the creation of small businesses in Everett and support their early stages by lowering barriers to entry and creating a clearer and more predictable regulatory environment.
- D. The proposed amendments will simplify regulatory oversight and code enforcement activities and enable more predictable and consistent decision-making by city staff.
- E. The proposed amendments will expand home occupation business opportunities to dwellings in all zones while ensuring compatibility with residential uses; and
- F. Everett Municipal Code (EMC) 15.03.300(C)(4) provides for amendments to the Unified Development Code when it finds that the following criteria is met: 1) the proposed amendments are consistent with the applicable provisions of the City of Everett Comprehensive Plan; 2) the proposed amendments bear a substantial relation to public health, safety or welfare; and 3) the proposed amendments promote the best long-term interests of the Everett community.
- G. The City conducted an environmental reviewed the proposed amendments in compliance with the State Environmental Policy Act and issued a Determination of Non-Significance on May 20, 2021. No comments were received in response to the determination; and
- H. Public notice and opportunity to comment on these amendments was provided through electronic and mail notice to interested parties, a legal notice of public hearing published in the Everett Herald on June 8, 2021, notice to the Washington State Department of Commerce on April 21, 2021, and a public hearing held by the Planning Commission on July 20, 2021; and
- I. The Everett Planning Commission, after consideration of public input, has recommended approval of the amendments as set forth in this Ordinance; and
- J. The proposed Unified Development Code regulations meet the criteria set forth in EMC 15.03.300(C)(4);

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The following section of the Everett Municipal Code:

[19.08.120](#) Home occupations.

is hereby repealed.

Section 2. Section 5 of Ordinance 3774-20 codified at EMC 19.04.100, is amended as follows, with strikeouts deleted and underlining added:

~~“Home occupation” means an occupation which is incidental and subordinate to a residential use, which is carried on by a member of the family residing in the dwelling a business carried out in a dwelling by a resident of that dwelling.~~

Section 3. Section 5 of Ordinance 3774-20 codified at EMC Chapter 19.05, is amended to add the following section:

19.05.067 Home occupations.

Home occupations are permitted in any dwelling provided the home occupations comply with the requirements in this subsection.

- A. Any person engaging in a home occupation shall register as a business with the city clerk’s office and shall be subject to the city business and occupations tax.
- B. Home occupations shall comply with all other local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.
- C. The home occupation shall be secondary to the residential use of the property;
- D. The home occupation shall be carried on entirely within a dwelling or accessory building by the occupant thereof and employees as allowed in this subsection;
- E. The home occupation shall be conducted in such a manner as to give no outward appearance of a business, affect the appearance of the building(s) as a residence, nor manifest any characteristics of a business;
- F. No noise, vibration, dust, smoke, light, glare, or odor shall be emitted other than is commonly associated with a residential use. The maximum permissible noise levels of Noise Control District I applies to all home occupations;
- G. The home occupation shall be fully enclosed within the residence or accessory building with no outside storage of equipment or materials allowed;
- H. No stock in trade shall be displayed on the premises;
- I. Signage is prohibit in accordance with EMC 19.36.030(A)(13) for residential zones;
- J. Prohibited home occupations include, but are not limited to:
 1. Veterinary clinic,
 2. Automobile or other vehicle sales, service, fueling, body repair and painting, or commercial parking,
 3. Wedding or event venues;
 4. Adult retail or adult use business

3-5. Retail sales of firearms or ammunition

4-6. Any home occupation of a nature which is similar to those listed in this subsection 19.05.067.J or which creates impacts on surrounding properties which are similar to those created by the uses listed herein;

- K. No more than two people other than residents of the dwelling may work on the property at any time;
- L. If the home occupation is the type in which classes are held or instruction is given, not more than five students are allowed in any one class or instruction period and not more than ten students are allowed on the property on any day;
- M. If the home occupation is the type with client or customer visits, not more than two clients or customers are allowed on the property at any time, and not more than ten clients or customers are allowed on the property on any day;
- N. Employees shall only be allowed to work, and students, customers, and clients shall only be allowed to do business on the property from eight o'clock a.m. to six o'clock p.m. on weekdays or from nine o'clock a.m. to five o'clock p.m. on weekends and holidays;
- O. The number of business vehicles is limited to two;
- P. Parking of any vehicles associated with the home occupation shall use legal on-site or off-site parking spaces and shall comply with the provisions of EMC 19.34.105;
- Q. No receipt or delivery of products shall be permitted except as is commonly associated with residential use. The gross vehicle weight of delivery vehicles shall not exceed eighteen thousand pounds;
- R. Garage Sales shall not be considered a home occupation and are subject to the limitations in EMC 19.05.068.H.1.

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this

Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

Sharon Fuller, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

HOME OCCUPATION REGULATIONS - COMPARISON OF EXISTING AND PROPOSED REGULATIONS

Topic	Existing regulations	Planning Commission draft (July 14, 2021)	Notes
Definition	“Home occupation” means an occupation which is incidental and subordinate to a residential use, which is carried on by a member of the family residing in the dwelling. (EMC 19.04.100)	“Home occupation means a business carried out in a dwelling by a resident of that dwelling.” (move to EMC 19.04.050)	
Permit status	A. Home occupations may be permitted in any residential zone provided such home occupations comply with the requirements of the zone in which the property is located and the following requirements: (EMC 19.08.120)	Home occupations are permitted in any dwelling provided the home occupations comply with the requirements in this subsection. (EMC 19.05.067)	“May be permitted” is changed to “are permitted” to reflect that home occupations, as a permitted use, do not involve a permit review process or discretion by the city as long as the business meets the requirements in code
Maximum size and access	1. Home occupations shall not occupy more than twenty-five percent of the total floor area of the residence, or six hundred square feet, whichever is less. Home occupations carried on within a dwelling shall be provided access to the work space through the dwelling only, with no direct access to the outside; (EMC 19.08.120)	C. The home occupation shall be secondary to the residential use of the property; D. The home occupation shall be carried on entirely within a dwelling or accessory building by the occupant thereof and employees as allowed in this subsection;	Size limitation proposed for removal. It is difficult to enforce conditions that are only apparent from within a property. The access restriction proposed for removal. Staff did not see the value in this restriction.



HOME OCCUPATION REGULATIONS - COMPARISON OF EXISTING AND PROPOSED REGULATIONS

<p>Enclosure</p>	<p>2. The occupation shall be carried on entirely within a residence or accessory building by the occupant thereof;</p> <p>3. The home occupation may be located in the principal dwelling or in the accessory structure. If located in an accessory structure, the following regulations shall apply:</p> <ul style="list-style-type: none"> a. The area devoted to the occupation, as described in subsection (A)(1) of this section, shall be based upon the floor area of the dwelling only; and b. Access to the work space may be directly from the outside; (EMC 19.08.120) 	<p>D. The home occupation shall be carried on entirely within a dwelling or accessory building by the occupant thereof and employees as allowed in this subsection;</p>	<p>Maintains requirement that the home occupation be fully enclosed within a residence or accessory building.</p> <p>Removes limitations on size.</p>
<p>Noise, dust, glare, etc.</p>	<p>4. No noise, dust, smoke, light, glare or odor shall be emitted other than is commonly associated with a residential use; (EMC 19.08.120)</p>	<p>F. No noise, vibration, dust, smoke, light, glare, or odor shall be emitted other than is commonly associated with a residential use. The maximum permissible noise levels of Noise Control District I applies to all home occupations;</p>	<p>Adds reference to maximum permissible noise levels.</p>
<p>Outward appearances</p>	<p>5. The occupation shall be conducted in such a manner as to give no outward appearance of a business nor manifest any characteristics of a business; (EMC 19.08.120)</p>	<p>E. The home occupation shall be conducted in such a manner as to give no outward appearance of a business, affect the appearance of the building(s) as a residence, nor manifest any characteristics of a business;</p>	<p>Clarifies requirement to maintain the appearance of the building as a residence.</p>
<p>Prohibited uses</p>	<p>6. Occupations which shall be prohibited as home occupations include, but are not limited to:</p> <ul style="list-style-type: none"> a. Veterinarians; b. Clinics; c. Auto repair; 	<p>J. Prohibited home occupations include, but are not limited to:</p> <ul style="list-style-type: none"> 1. Veterinary clinic, 	<p>Reduces and clarifies the list of prohibited uses. Clinics, barber/beauty shops, offices</p>



HOME OCCUPATION REGULATIONS - COMPARISON OF EXISTING AND PROPOSED REGULATIONS

	<p>d. Auto sale;</p> <p>e. Barber/beauty shops;</p> <p>f. Real estate offices;</p> <p>g. Offices with client visits;</p> <p>h. Retail sales, on premises;</p> <p>i. Any use of a nature which is similar to those listed in this chapter or which creates impacts on surrounding properties which are similar to those created by the uses listed herein; (EMC 19.08.120)</p>	<p>2. Automobile or other vehicle sales, service, fueling, body repair and painting, or commercial parking,</p> <p>3. Wedding or event venues;</p> <p>4. Any home occupation of a nature which is similar to those listed in this subsection (J) or which creates impacts on surrounding properties which are similar to those created by the uses listed herein;</p>	<p>with client visits, and retail sales would no longer be prohibited.</p>
Client or customer visits		<p>M. If the home occupation is the type with client or customer visits, not more than two clients or customers are allowed on the property at any time, and not more than ten clients or customers are allowed on the property on any day;</p>	<p>Client visits would be allowed under the proposal – limitation on the number at a time and in a day are proposed to mitigate traffic impacts.</p>
Hours		<p>N. Employees shall only be allowed to work, and students, customers, and clients shall only be allowed to do business on the property from eight o'clock a.m. to six o'clock p.m. on weekdays or from nine o'clock a.m. to five o'clock p.m. on weekends and holidays;</p>	<p>Adds limits on hours of operation.</p>
Employees	<p>7. There shall be no person other than a resident of the dwelling employed on the premises; (EMC 19.08.120)</p>	<p>K. No more than two people other than residents of the dwelling may work on the property at any time;</p>	<p>Allows two employees that do not reside in the dwelling.</p>
Classes	<p>8. If the occupation is the type in which classes are held or</p>	<p>L. If the home occupation is the type in which classes are</p>	<p>Adds limits on the number of</p>



HOME OCCUPATION REGULATIONS - COMPARISON OF EXISTING AND PROPOSED REGULATIONS

	instruction is given, there shall be not more than five students allowed in any one class or instruction period. Classes shall not exceed a total of twenty hours in any week; (EMC 19.08.120)	held or instruction is given, not more than five students are allowed in any one class or instruction period and not more than ten students are allowed on the property on any day;	students at a time and in a day instead of limiting the number of class hours.
Stock in trade	9. No stock in trade shall be sold or displayed on the premises, and no equipment or materials shall be stored on any outdoor portion of the premises; (EMC 19.08.120)	H. No stock in trade shall be displayed on the premises; G. The home occupation shall be fully enclosed within the residence or accessory building with no outside storage of equipment or materials allowed;	Minor clarification and reorganization.
Parking	10. Parking of student, client or employee vehicles shall not create any hazard or congestion; (EMC 19.08.120)	P. Parking of any vehicles associated with the home occupation shall use legal on-site or off-site parking spaces and shall comply with the provisions of EMC 19.34.105; O. The number of business vehicles is limited to two;	Clarification – “hazard” and “congestion” are subjective; legal parking is not. Adds limitation on number of business vehicles.
Deliveries	11. No receipt or delivery of products shall be permitted except as is commonly anticipated in residential areas. Commercial vehicle deliveries shall not exceed two per week. The gross vehicle weight of delivery vehicles shall not exceed eighteen thousand pounds; (EMC 19.08.120)	Q. No receipt or delivery of products shall be permitted except as is commonly associated with residential use. The gross vehicle weight of delivery vehicles shall not exceed eighteen thousand pounds;	Removes limit on number of commercial deliveries, as long as deliveries are within a range commonly associated with residential uses.
Signs	12. No signs shall be allowed for home occupations; and (EMC 19.08.120)	I. All signage is prohibited in accordance with 19.36.030(A)(13) EMC;	Revised for clarity..
Other laws	13. Home occupations shall comply with all other local, state and federal regulations pertinent	B. Home occupations shall comply with all other local, state, and federal regulations	No change



HOME OCCUPATION REGULATIONS - COMPARISON OF EXISTING AND PROPOSED REGULATIONS

	to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations. (EMC 19.08.120)	pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.	
Business license	B. Any person engaging in a home occupation shall register as a business with the city treasurer's office and shall be subject to the city business and occupations tax. (EMC 19.08.120)	A. Any person engaging in a home occupation shall register as a business with the city clerk's office and shall be subject to the city business and occupations tax.	No change
Garage sales	C. Garage sales shall not be considered to be a home occupation. (EMC 19.08.120)	R. Garage Sales shall not be considered a home occupation and are subject to the limitations in EMC 19.05.068(H)(1) .	Revised for clarity.





PLANNING COMMISSION RESOLUTION NO. 21-02

A Resolution Recommending that the City Council adopt Unified Development Code Amendments REVV21-001 for Home Occupations in Everett Municipal Code Sections 19.04.050 Use definitions, residential, 19.05.100 Home occupations, and 19.08.120 Home occupations

WHEREAS, THE PLANNING COMMISSION FINDS THE FOLLOWING:

1. Economic development is a key component of a healthy, thriving community; and
2. Home occupations contribute to the City's economy; and
3. The proposed amendments will facilitate the creation of small businesses in Everett and support their early stages by lowering barriers to entry and creating a clearer and more predictable regulatory environment.
4. The proposed amendments will simplify regulatory oversight and code enforcement activities and enable more predictable and consistent decision-making by city staff.
5. The proposed amendments will expand home occupation business opportunities to dwellings in all zones while ensuring compatibility with residential uses; and
6. The Planning Commission has conducted a public hearing and has considered the recommendations by staff of the Planning and Economic Development Divisions concerning the proposed amendments to the home occupation regulations; and
7. The proposed amendments are consistent with the applicable provisions of the City of Everett Comprehensive Plan; and
8. The proposed amendments bear a substantial relation to public health, safety or welfare; and
9. The proposed amendments promote the best long-term interests of the Everett community.

NOW, THEREFORE, THE PLANNING COMMISSION RECOMMENDS THE FOLLOWING:

1. The Planning Commission recommends that the City Council amend the Regulations, attached hereto as Exhibit A-1 with the following prohibited uses added to proposed EMC 19.05.067(J):
 - a. Adult retail or adult use business
 - b. Retail sales of firearms or ammunition

PLANNING COMMISSION CHAIR

PLANNING COMMISSION SECRETARY

DATED: JULY 20, 2021

For: Commissioner Adkins, Commissioner Finch, Commissioner Lavra, and Chair Yanasak

Against: Commissioner Zelinski

Absent: Commissioner Holland, Commissioner McGinn, and Commissioner Lark

Abstain:

EXHIBIT A-1

Everett Municipal Code

JULY 20, 2021 PROPOSED CODE AS REVISED

19.04.100, 19.05.067, and 19.08.120 Home occupations

19.04.100 Use definitions, residential.

“Home occupation” means a business carried out in a dwelling by a resident of that dwelling.

19.05.067 Home occupations.

Home occupations are permitted in any dwelling provided the home occupations comply with the requirements in this subsection.

- A. Any person engaging in a home occupation shall register as a business with the city clerk’s office and shall be subject to the city business and occupations tax.
- B. Home occupations shall comply with all other local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.
- C. The home occupation shall be secondary to the residential use of the property;
- D. The home occupation shall be carried on entirely within a dwelling or accessory building by the occupant thereof and employees as allowed in this subsection;
- E. The home occupation shall be conducted in such a manner as to give no outward appearance of a business, affect the appearance of the building(s) as a residence, nor manifest any characteristics of a business;
- F. No noise, vibration, dust, smoke, light, glare, or odor shall be emitted other than is commonly associated with a residential use. The maximum permissible noise levels of Noise Control District I applies to all home occupations;
- G. The home occupation shall be fully enclosed within the residence or accessory building with no outside storage of equipment or materials allowed;
- H. No stock in trade shall be displayed on the premises;
- I. Signage is prohibit in accordance with EMC 19.36.030(A)(13) for residential zones;
- J. Prohibited home occupations include, but are not limited to:
 - 1. Veterinary clinic,
 - 2. Automobile or other vehicle sales, service, fueling, body repair and painting, or commercial parking,
 - 3. Wedding or event venues;
 - 4. Any home occupation of a nature which is similar to those listed in this subsection 19.05.067.J or which creates impacts on surrounding properties which are similar to those created by the uses listed herein;
- K. No more than two people other than residents of the dwelling may work on the property at any time;
- L. If the home occupation is the type in which classes are held or instruction is given, not more than five students are allowed in any one class or instruction period and not more than ten students are allowed on the property on any day;

- M. If the home occupation is the type with client or customer visits, not more than two clients or customers are allowed on the property at any time, and not more than ten clients or customers are allowed on the property on any day;
- N. Employees shall only be allowed to work, and students, customers, and clients shall only be allowed to do business on the property from eight o'clock a.m. to six o'clock p.m. on weekdays or from nine o'clock a.m. to five o'clock p.m. on weekends and holidays;
- O. The number of business vehicles is limited to two;
- P. Parking of any vehicles associated with the home occupation shall use legal on-site or off-site parking spaces and shall comply with the provisions of EMC 19.34.105;
- Q. No receipt or delivery of products shall be permitted except as is commonly associated with residential use. The gross vehicle weight of delivery vehicles shall not exceed eighteen thousand pounds;
- R. Garage Sales shall not be considered a home occupation and are subject to the limitations in EMC 19.05.068.H.1.

19.08.120 Home occupations.

This section is repealed.