

18.40.110 HOME BASED BUSINESSES

A. Generally. A home based business is a use that is considered accessory to a dwelling unit. Buildings combining live/work arrangements located in districts where both the residential and nonresidential uses to be combined are permitted are not subject to the requirements of this section.

1. Home Based Business as Accessory Use. The use shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the dwelling or adversely affect the uses permitted in the residential district of which it is a part. The home based business may not be conducted in an accessory structure, and shall comply with the standards of subsection C below.

2. Home Based Business by Conditional Use Permit. The use shall be secondary to the use of the lot for residential purposes and shall not be incompatible with the character of the zoning district thereof or adversely affect the principal uses permitted in the residential district of which it is a part. When a home based business has been established through the CUP process, it means that the owner, lessee or other persons who have a legal right to the use of the dwelling also have the right to conduct the home based business whether in the principal or an accessory structure. The home based business shall comply with the standards of subsection D below.

B. Purpose of Provisions.

1. Accessory Use. It is in the intent of this section to eliminate as accessory home based businesses for all uses except those that conform to the standards set forth in this section. In general, an accessory home based business is a use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence with the exception of permitted signage as allowed by Chapter 18.52, BMC. The standards for home based businesses included in this section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. A clearly accessory or incidental status in relation to the residential use of the main building is the criteria for determining whether a proposed accessory use qualifies as an of right home based business.

2. Conditional Use. It is the intent of this section to provide, through the conditional use process established in Chapter 18.34, BMC, opportunities for home based businesses which are more intensive in nature than those which would be allowed as an accessory use. In general, a home based business approved through the conditional use process is an accessory use which complies with the requirements of this title and is subordinate to the primary use of the particular lot for residential purposes. The standards for home based businesses included in this section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. A secondary, but not incidental, status in relation to the residential use of the main building is the criteria for determining whether a proposed use may, under certain circumstances, qualify as a home based business which may be approved by the conditional use process. As stated in 18.34.010, BMC, conditional uses start from the presumption that they are incompatible with the zoning district but may under specific and limited conditions become compatible. Unless such conditions are found, there is no right to the practice of a home based business which does not comply with the terms of an accessory home based business as listed in this section.

C. Necessary Conditions for Accessory Use. Accessory home based businesses are permitted accessory uses in residential districts only so long as all the following conditions are observed;

1. Such home based business shall be conducted by resident occupants in their residence with not more than one on-premise halftime nonresident employee;
2. No more than 25 percent of the gross area of all structures shall be used for such purpose;
3. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure;
4. No home based business shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for dwelling and home based business purposes exceeds the average for residences in the neighborhood;
5. There shall be no outside storage of any kind related to the home based business;
6. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time. Depending on the individual circumstances of each application, an additional off-street parking space may be required; and
7. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home based business exists.

D. Necessary Conditions for Conditional Use. Home based businesses permitted through the conditional use permit process are allowed in residential districts only so long as all the following conditions are observed:

1. Such home based business shall be conducted by resident occupants with not more than one on-premise halftime nonresident employee;
2. No more than 30 percent of the gross area of all structures shall be used for such purpose;
3. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure beyond that allowed in a residential use;
4. No home based business shall cause an increase in the use of anyone or more utilities operated by the City of Bozeman so that the combined total use for dwelling and home based business purposes exceeds the average for residences in the neighborhood;
5. There shall be no outside storage of any kind related to the home based business;
6. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that allowed by this title;
7. Home based business by conditional use permit may only be allowed on lots occupied by single-household detached dwellings;
8. Such conditional use shall be subject to all conditions set forth in this title, except the provisions of 18.48.060, BMC, Landscape Performance Standards; and
9. All permits required by the City, including, but not limited to, building permits and business licenses, shall be received prior to establishing the home based business.

E. Complaints. Complaints by citizens of Bozeman may be cause for termination of the home based business. However, should such complaint be filed, the operator is entitled to an appeal to the City Commission for a public hearing. The City Commission shall determine whether or not the filed complaint identifies sufficient violation of this title to warrant termination or modification of the home based business.

F. Examples of the Uses that Frequently Qualify as Home Based Businesses. The following are examples of uses which can typically be conducted within the limits of the restrictions established in

this section and thereby may qualify as home based businesses. Uses which may qualify as home based businesses are not limited to those named in this subsection (nor does the listing of a use in this subsection automatically qualify as a home based business):

1. Generally Permitted Uses: accountant, architect, artist, attorney-at-law, author, consultant, dressmaking, home offices, individual musical instrument instruction, individual tutoring, insurance, millinery and realtor.

2. Considered for Conditional Uses: barber, beauty salon, contractors office (no construction activity or storage of materials and/or equipment on site), small group musical instrument instruction, masseuse, pet grooming and tailor.

G. Uses That Are Prohibited.

The following uses, by the nature of their character or the investment of operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for residential purposes. Therefore, the following uses shall not be permitted as home based businesses: adult businesses; auto repair, minor or major; carpentry work; dance instruction; dental offices; medical offices; mobile oil and lube services; painting of vehicles, trailers or boats; private schools with organized classes; radio or television repair; and upholstery.

H. Home Based Business Procedures.

1. Notice of Intent to Operate an Accessory Home Based Business. Any individual applying for a business license, with the intent of operating the business from his/her home, shall acknowledge by signature his/her understanding of the requirements and conditions of this title.

2. Home Based Business Allowed Through a Conditional Use Permit. Any individual seeking to operate a home based business, which is greater in scope than that allowed by an accessory home based business, shall make application for a conditional use permit under the terms of Chapter 18.34, BMC. The Planning Director shall determine if a home based business requires a conditional use permit.

3. Appeal to City Commission. Any person may appeal the Planning Director's action relating to a home based business to the City Commission as provided for by Chapter 18.66, BMC.