



- 28 A. *Purpose and intent.* The purpose of a home occupation business registration is to allow a  
29 home occupation that is compatible with the neighborhood. The specific intent of a home  
30 occupation business registration is to:
- 31 1. Protect residential areas from any negative impacts associated with home occupations.
  - 32 2. Allow residents a broad choice in the use of their homes as a place for income and  
33 livelihood.
  - 34 3. Establish criteria and standards for conducting home occupations within zoning  
35 districts in which a residence is permitted.
- 36 B. *Conditional Use Permit.* A home occupation business registration is required for a proposed  
37 business in any residential structure regardless of the zoning district. However, the business  
38 owner may receive a business registration in compliance with Title XI, §110 for a proposed  
39 business in a residential structure in a nonresidential zoning district if the property complies  
40 with all other codes and ordinances, e.g., parking, landscaping, drainage, building code  
41 requirements. All home occupations shall be required to obtain a home occupation business  
42 registration from City Hall. The fee to obtain a home occupation registration shall be  
43 \$\_\_\_\_\_.
- 44 C. *General conditions.* A home occupation is permitted in any residential structure or accessory  
45 building(s) subject to the following conditions:
- 46 1. Hours of Operation must begin no earlier than 7:00 a.m. and end no later than 8:00 p.m.
  - 47 2. No more than one person, in addition to the permanent occupants residing on the  
48 premises, shall be engaged in a home occupation at the residence.
  - 49 3. The home occupation use of a dwelling shall be clearly incidental and subordinate to its  
50 residential use. Not more than 25 percent of the dwelling's gross floor area, not to  
51 exceed 500 square feet, shall be used in conducting the home occupation; this square  
52 footage limitation shall not apply to a babysitting service or childcare.
  - 53 4. Any home occupation or storage in connection with any home occupation shall be  
54 completely enclosed within the dwelling or accessory building(s) and limited to  
55 services and items which are necessary to conduct the home occupation or have been  
56 ordered by a customer, but have not been delivered to the customer. However, no  
57 alcoholic beverages for sale shall be stored on the premises.
  - 58 5. There shall be no direct sale of products off display shelves or racks. Retail sales shall  
59 only be conducted if product orders are placed earlier by telephone/fax, mail, computer  
60 or at a sales party.  
61 Sales or service to customers shall be arranged by appointment and scheduled so that  
62 not more than one customer vehicle is at the dwelling. This requirement shall include  
63 the sale of firearms but does not apply to a sales party or babysitting service.
  - 64 6. There shall be no change in the outside appearance of the building or premises, except as  
65 described in Paragraph 6 below, or other visible evidence of the conduct of a home  
66 occupation.  
67 There shall be no outside storage of business-related equipment or supplies except one  
68 company-owned vehicle only, which is one ton or smaller and also used for personal

69 transportation purposes, shall be exempt from this condition. Only this vehicle shall be  
70 permitted to have signs and advertising in accordance with the vehicle sign provisions  
71 within the sign code.

72 7. Signs shall not be permitted to advertise a home occupation business or its products,  
73 except a sign two square foot in size, non-illuminated, mounted flush against the home.

74 8. No equipment or process shall be used in a home occupation that creates noise,  
75 vibration, glare, fumes, odor or electrical interference detectable at the property line. No  
76 equipment or process shall be used which creates visual or audible interference for any  
77 radio or television receivers on and near the premises, which exceeds that normally  
78 found in a residential area.

79 9. There shall be no toxic (pesticides, herbicides, rodenticides), explosive, highly  
80 flammable, combustible, corrosive, radioactive or other restricted materials used or  
81 stored on the premises of a home occupation beyond the amount kept at a normal  
82 residential dwelling or on hand to operate or maintain equipment and permitted by the  
83 Uniform Fire Code as adopted by the City.

84 10. No home occupation shall cause an increase in the use of any public utility (water,  
85 sewer, electricity, or garbage collection) to double. The combined utility usage of the  
86 dwelling and home occupation shall not exceed two times the average usage for the 12  
87 months prior to the home occupation beginning.

88 D. *Permitted home occupations and conditions.* Permitted home occupations shall be classified  
89 into categories of similar uses. For the purpose of this section, the use categories shall be  
90 professional office, professional service, instructional service, home artisan business, small  
91 item repair service and babysitting/childcare home occupations. Non-specified home  
92 occupations similar to those listed below may be permitted by the Planning and Zoning  
93 Commission.

94 1. *Professional office:* A professional office shall be considered an office for accountants,  
95 appraisers, architects, attorneys, contractors, engineers, financial planners, insurance  
96 agents, consulting services, real estate and similar office uses. Dentist or medical doctor  
97 offices for consulting services only, no testing that would produce medical waste, shall  
98 be permitted home occupations as a professional office. No hazardous waste, including  
99 medical waste, except ordinary household hazardous and medical waste, shall be  
100 generated.

101 2. *Professional and other services including:* A professional service shall be considered  
102 computer programming, beautician, barbershop, direct distribution (Amway, Avon,  
103 Tupperware, etc.), maid service, mail order, ironing, pet grooming, telephone/fax  
104 answering, word processing and similar service use. Beauticians, barbershops, physical  
105 therapists, mental health therapists, and massage therapists licensed by the state shall be  
106 limited to one customer station per property. All credentialed professionals must  
107 provide a copy of their credentials in the application packet with a letter from their  
108 credentialing agency noting permissibility to operate out of their home.

109 3. *Instructional service:* An instructional service use shall be considered educational  
110 tutoring, music lessons and similar instructional services. A maximum of five students  
111 may be at the dwelling at any one time. No music instruments may be amplified. The

112 City's noise ordinance shall be complied with regardless of the number of students at the  
113 dwelling.

114 4. *Home artisan business:* A home artisan business shall be considered artist studios,  
115 cabinet making, dressmaking, engraving, furniture making, hobby crafts, jewelry  
116 making, sewing, tailor, writing studio and similar uses.

117 5. *Small item repair service:* A small item repair service shall be considered bicycle,  
118 computer, television, vacuum cleaner, locksmith, watch, tool, shoe, and similar repair  
119 services. Auto repair, motorcycle repair, lawn mower repair, large appliance repair,  
120 small engine repair and similar large item repair shall not be considered a small item  
121 repair service home occupation.

122 6. *Babysitting service/childcare:* A maximum of six children at one time may be at a  
123 dwelling for babysitting service. More than four children, but no more than 12 at one  
124 time at a dwelling shall be considered childcare which requires compliance with state  
125 licensing regulations and this code for a family childcare home (five to six children) or  
126 a group childcare home (seven to 12 children). In all cases, a home occupation business  
127 registration shall be required.

128 7. *Provisional Services:* A person with a home occupation business registration may travel  
129 to another person's property to, for example, change oil, fix flat tires, replace belts and  
130 hoses, do vehicle detailing on the other person's private vehicles. However, under no  
131 circumstances is the person registered under the home occupation business registration  
132 authorized to perform these services for other people at his/her residence.

133 8. *Prohibited Services:* The following professional service business shall be prohibited as  
134 home occupations. These uses include, but are not limited to, adult bookstores/video  
135 stores/adult amusement establishments, fortune-telling, health and exercise facilities,  
136 massage parlors, palm reading, tattoo and body piercing parlors.

137 E. *Home occupation parking requirements.* The parking requirements for home occupations  
138 shall conform to the following conditions:

139 1. On-street parking near a home occupation for customers or clients shall be permitted  
140 only if the residential appearance of a neighborhood is maintained.

141 2. No more than two client or customer vehicles per hour shall frequent a home  
142 occupation, except for instructional service, babysitting service or childcare.

143 3. Deliveries in connection with and to home occupations shall be limited to:

144 a. No more than one delivery per month from a three-axle vehicle.

145 b. No delivery vehicles with four or more axles.

146 c. On-street parking near a home occupation by delivery vehicles for delivery  
147 purposes only.

148 4. Vehicles larger than one ton shall not be used, stored, or parked by the business  
149 operating as a home occupation at the residence or on the street.

150 5. A home occupation shall not cause the elimination of any required off-street parking  
151 for the main dwelling.

152 F. *Home occupation business registration approval.* Home occupations shall be approved  
153 through the city business registration and licensing process as administered by the Planning  
154 and Zoning Commission as part of the conditional use permitting process.

155 1. *Application.* Application for a home occupation business registration permit shall be  
156 submitted to the Planning and Zoning Commission. The City Clerk or designee shall  
157 provide the appropriate forms. The Planning and Zoning Commission shall review the  
158 complete application for compliance with applicable City codes and regulations per  
159 Title XV, §155.006(k). The applicant must also provide proof of ownership of the  
160 property, or when the applicant is not the property owner, proof of legal right to apply  
161 for the home occupation business registration.

162 2. *Review and scope.* If compliance can be determined through the completed application,  
163 the home occupation business registration will be issued automatically by the Planning  
164 and Zoning Commission. If compliance cannot be determined through the completed  
165 application or questions arise as part of the application review, a more thorough review  
166 and/or inspection will be conducted per Title XV, §155.007.

167 Applications for home occupation business registrations that do not meet the constraints  
168 of this section shall be denied. The denial determination may be completed at either the  
169 time of application, as part of the application review process, or the inspection process.

170 3. *Renewal.* A home occupation business registration shall be renewed each year in  
171 the same manner as other City business permits, provided no provisions of this section  
172 have been violated. Information or confirmation of adherence to the home occupation  
173 requirements may be required as part of the renewal process.

174 G. *Home occupation business registration revocation.* The City may revoke a home  
175 occupation business registration for nonconformance with this section or any city codes. The  
176 following process shall be followed for the revocation of a home occupation business  
177 registration.

178 1. *Scope.* The City may revoke any home occupation business registration for non-  
179 compliance with this section's requirements or any city code. Any home occupation  
180 business registration revoked or not renewed by the renewal deadline shall become null  
181 and void, and such use shall cease. Non-compliance of a home occupation shall be  
182 determined by paragraph G.3.below.

183 2. *Home occupation inspections.* Home occupation business registration recipients shall  
184 allow reasonable inspection of their premises by the City to determine compliance with  
185 this section's requirements, any other section of this code or other city ordinance.  
186 Inspections will be scheduled to meet the needs of both the business owner and the city  
187 official conducting the inspection. If there is evidence of non-compliance with these  
188 regulations, an unscheduled inspection may occur. Inspections will be conducted by the  
189 City Code Enforcement Officer or designee and the Fire Chief or designee.

190 3. *Revocation process.* The procedure to be followed by the City to revoke a home  
191 occupation business registration includes:

192 a. A home occupation business registration shall be revoked for the following  
193 reasons:

194 1) A change in home occupation use.

- 195 2) A failure to renew the business registration and/or license for the home  
196 occupation.
- 197 3) A failure to permit the City to inspect the premises of a home occupation.
- 198 4) The providing of false or incomplete information on the home occupation  
199 business registration application.
- 200 5) A failure of the home occupation to meet any of the requirements of this  
201 section or any other section of this code or other city ordinance.
- 202 b. The steps followed by the City to revoke a home occupation business registration  
203 shall include:
- 204 1) After inspection or failure to allow inspection, the City determines a violation  
205 of this section has occurred.
- 206 2) The City notifies the proprietor of the home occupation of this Code violation  
207 by certified mail. This notification shall include:
- 208 a) A specific description of the violation of this section.
- 209 b) The alternatives available to make the home occupation conform to this  
210 section.
- 211 c) A maximum 30 calendar daytime period to abate the violation to this  
212 section. Violations impacting health, safety and welfare may be given less  
213 than 30 calendar days for abatement.
- 214 d) A description of further action the City will take if the violation is not  
215 abated.
- 216 3) The proprietor of a home occupation shall be notified of the revocation of a  
217 home occupation business registration by certified mail if the violation is not  
218 abated within the period stated within the initial letter explaining the  
219 violations.
- 220 4) The City shall take all necessary actions to enforce this section.
- 221 H. *Appeal.* An appeal concerning any action by the City in regard to this section may be  
222 submitted per \_\_\_\_\_ of this code.
- 223 I. *Violations.* Home occupations are subject to Section xx-xx, Enforcement Provisions, of this  
224 Code and Section x-xx of the Municipal Code.
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227 **PASSED, APPROVED AND ADOPTED by the governing body of the City of**  
228 **Elephant Butte on this 17th day of March 2021.**

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Edna Trager  
Mayor

ATTEST:

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Rani Bush  
Clerk-Treasurer

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