



Legislation Details (With Text)

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On agenda: 3/15/2021
Final Action: 3/22/2021 **Ord. No.** Ord 126293

Title: AN ORDINANCE relating to land use regulation of home occupations; adopting interim regulations to allow home occupation businesses to operate with fewer limitations during the COVID-19 civil emergency, amending Seattle Municipal Code Section 23.42.050, and adopting a work plan.

Sponsors: Dan Strauss, M. Lorena González, Teresa Mosqueda

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Presentation (added 2/24/21), 3. Central Staff Memo, 4. Amendment 1 (added; 3/9/21), 5. Amendment 1 (added; 3/15/21), 6. Signed Ordinance 126293, 7. SEPA Checklist, 8. SEPA Notice, 9. SEPA Decision, 10. Affidavit of Publication

Date	Ver.	Action By	Action	Result
3/22/2021	3	City Clerk	attested by City Clerk	
3/22/2021	3	Mayor	returned	
3/22/2021	3	Mayor	Signed	
3/17/2021	3	City Clerk	submitted for Mayor's signature	
3/15/2021	2	City Council	passed as amended	Pass
3/10/2021	1	Land Use and Neighborhoods Committee	pass as amended	Pass
2/24/2021	1	Land Use and Neighborhoods Committee	discussed	
2/22/2021	1	City Council	referred	
2/18/2021	1	Council President's Office	sent for review	
2/18/2021	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to land use regulation of home occupations; adopting interim regulations to allow home occupation businesses to operate with fewer limitations during the COVID-19 civil emergency, amending Seattle Municipal Code Section 23.42.050, and adopting a work plan.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds and declares that:

A. On February 29, 2020, Governor Inslee proclaimed a State of Emergency for all counties throughout

the State of Washington as a result of the confirmed person-to-person spread of COVID-19 in Washington State.

B. The COVID-19 disease, caused by a coronavirus that spreads easily from person to person and which may cause serious injury and death, has spread throughout King County and the City of Seattle.

C. On March 3, 2020, Mayor Durkan issued a Proclamation of Civil Emergency declaring a civil emergency within the City of Seattle based on the confirmed spread of COVID-19 in King County and resulting deaths.

D. In recognition of the danger that hospitals may become overwhelmed with COVID-19 patients unless the spread of the disease is slowed, on March 23, 2020, Governor Inslee imposed a stay-home order throughout Washington State prohibiting all people in the State from leaving their homes or participating in gatherings with only limited exceptions for participating in essential activities or essential business services. While the order initially was for a term of two weeks, the Governor has issued subsequent orders limiting business and economic activity to prevent the further spread of the coronavirus and maintain hospital capacity for people with severe cases of COVID-19.

E. Limitations on business and economic activity disproportionately impact small businesses, which are less likely to have financial reserves to withstand extended periods of closure or limited operations.

F. The changes in this ordinance are designed to allow small businesses, which may at one-time have operated out of a storefront or other commercially-leased location, to operate more easily out of a home. This is especially important given the length of time that the State shutdown order has been in place, because much in-person business activity continues to be limited.

G. Providing regulatory flexibility for home-based businesses, while maintaining some performance standards to mitigate neighborhood impacts associated with auto-oriented businesses, will keep more small businesses operating and speed the economic recovery once COVID-19 restrictions are lifted.

H. The City Council determines that the foregoing creates a basis for adopting interim regulations under

RCW 36.70A.390 which authorizes adoption of the ordinance without a required pre-adoption public hearing and a SEPA threshold determination. Following the standard process would delay the proposed changes for several months. During that period, for the reasons discussed above, more small businesses may fail leading to increased unemployment. This would stymie the City's and region's recovery from the COVID-19 emergency.

I. The City has legal authority to establish interim measures pursuant to the authority granted by Article 11, Section 11 of the Washington Constitution, the Growth Management Act, RCW 36.70A.390, and *Matson v. Clark County*, 79 Wn. App. 641 (1995).

Section 2. Section 23.42.050 of the Seattle Municipal Code, last amended by Ordinance 126131, is amended as follows:

23.42.050 Home occupations

A home occupation of a person residing in a dwelling unit is permitted outright in all zones as an accessory use to any residential use permitted outright or to a permitted residential conditional use, subject to the following requirements:

A. The occupation is clearly incidental to the use of the dwelling unit as a dwelling.

B. Commercial deliveries and pickups to the dwelling unit are limited to one per day Monday through Friday. No commercial deliveries or pickups are permitted on Saturday, Sunday or federal holidays.

[C. Reserved.] (~~Customer visits are by appointment only.~~)

D. The occupation may be conducted within any legal principal or accessory dwelling unit or structure. Home occupations may be conducted by residents of a principal dwelling unit and/or an accessory dwelling unit. The presence of one home occupation does not preclude a resident of another legally established dwelling unit on the property from also conducting a home occupation.

E. Parking of vehicles associated with the home occupation is permitted anywhere that parking is permitted on the lot.

[F. Reserved.] (~~To preserve the residential appearance of the dwelling unit, there shall be no evidence of the home occupation visible from the exterior of the structure, provided that:~~

- ~~1. Outdoor play areas for child care programs and outdoor activities customarily incidental to the residential use are permitted;~~
- ~~2. Interior and exterior alterations and additions that comply with the development standards of the zone are permitted;~~
- ~~3. Alterations and additions that are required by licensing or construction codes for child care programs are permitted; and~~
- ~~4. Signs identifying the home occupation are permitted subject to compliance with Chapter 23.55, Signs.)~~

G. No outdoor storage is permitted in connection with a home occupation.

[H. Reserved.] (~~Except for child care programs, no more than two persons who are not residents of a dwelling unit on the lot may work in a home occupation, regardless of whether the persons work full or part-time or are compensated.)~~)

[I. Reserved.] (~~The home occupation shall not cause a substantial increase in on-street parking congestion or a substantial increase in traffic within the immediate vicinity.)~~)

J. A maximum of two passenger vehicles, vans and similar vehicles each not exceeding a gross vehicle weight of 10,000 pounds are permitted to operate in connection with the home occupation, independent of commercial deliveries and pickups as provided for in subsection 23.42.050.B.

K. The home occupation shall be conducted so that noise, odor, smoke, dust, light and glare, and electrical interference and other similar impacts are not detectable by sensory perception at or beyond the property line of the lot where the home occupation is located.

L. Notwithstanding the requirements of Table B of Section 23.54.015, while this ordinance is in effect, a home occupation may occupy a required parking space for home occupation business activity.

M. Notwithstanding the requirements of Chapter 23.55, Signs, while this ordinance is in effect, home occupations may have one nonilluminated sign, not exceeding 720 square inches, bearing the name of the home occupation.

N. While this ordinance is in effect, no portion of a home occupation shall be a drive-in business.

O. While this ordinance is in effect, an automotive retail sales and services home occupation shall not cause a substantial increase in on-street parking congestion or a substantial increase in traffic within the immediate vicinity.

P. Changes or modifications to a use, property, or structure made under the interim provisions of this ordinance do not establish an existing non-conformity to development standards or uses. After this ordinance is no longer in effect:

1. A property, use, or structure modified under this ordinance must be returned to conforming status; or

2. If a property, use, or structure was legally non-conforming prior to passage of this ordinance, the property, use or structure may be returned to its prior non-conforming status.

Section 3. Pursuant to RCW 36.70A.390, the Council will hold a public hearing within 60 days of adoption of this ordinance to take public testimony and consider adopting further findings.

Section 4. Under RCW 36.70A.390, the Council approves the following work plan for the development of permanent regulations to address the issues in this ordinance and directs the Seattle Department of Construction and Inspections, in consultation with the Office of Economic Development, to transmit proposed legislation to the Council by July 2021. Interim regulations can be authorized up to one year if accompanied by a work plan. The work plan is set forth below:

WORK PLAN:

Analyze Current Land Uses, Draft Legislation, and Conduct State Environmental Policy Act (SEPA) Review on Interim Regulations	March - May 2021
Publish SEPA Threshold Determination	June 2021

Outreach on proposed permanent legislation	July 2021
Draft permanent legislation and conduct SEPA review on draft permanent legislation	September 2021
Mayor Transmits Legislation to Council	November 2021
Council Deliberations and Public Hearing on Proposed Legislation	December 2021
Legislation Effective	January 2022

Section 5. This ordinance shall automatically expire after the 12-month period unless the same is extended as provided by statute, or unless terminated sooner by the City Council.

Section 6. The provisions of this ordinance are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance is held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 7. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2021, and signed by me in open session in authentication of its passage this _____ day of _____, 2021.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

Monica Martinez Simmons, City Clerk

(Seal)