

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038



COUNCILMEMBERS
Barbara E. Brenner
Sam Crawford
Kathy Kershner
Bill Knutzen
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WHATCOM COUNTY COUNCIL
AGENDA REVISION NOTICE
FOR MARCH 30, 2010
(DISTRIBUTED AT 11:15 A.M. ON MARCH 30, 2010)

PLEASE DELETE FROM COUNCIL, INTRODUCTION:

3. ~~Ordinance amending Whatcom County Code 2.02, County Council (AB2010-143A) (hearing to be scheduled)~~ On File
4. ~~Ordinance amending Whatcom County Code 2.03, Boards and Commissions (AB2010-143B) (hearing to be scheduled)~~ On File
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SECOND AGENDA REVISION NOTICE
FOR MARCH 30, 2010
(DISTRIBUTED AT 3:45 P.M. ON MARCH 30, 2010)

PLEASE ADD THE FOLLOWING TO COUNCIL, INTRODUCTION:

8. Ordinance amending the Whatcom County Code, Title 20, to clarify and revise the definition and standards of home occupations (AB2010-047) (from 1/26, 2/9, 3/16)

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Michelle Stiles	MS	12.29.09	RECEIVED JAN 05 2010 WHATCOM COUNTY COUNCIL	1/12/2010	Introduction
Division Head: Wain Harrison				1/26/2010	Planning and Development Committee
Dept. Head: David Stalheim	DKR	12/31/09		1/26/2010	Council
Prosecutor: Royce Buckingham	R/B	12.31.09		2/09/2010	P & D/Council
Purchasing/Budget: Brad Bennett				3/16/2010	P & D Committee
Executive: Pete Kremen	PK	1-5-10		3/30/2010	P & D Committee

TITLE OF DOCUMENT:
Ordinance clarifying and revising the definition and standards of home occupations within Whatcom County's zoning code, Title 20.

ATTACHMENTS:
(1) Memorandum
(2) Ordinance

<i>SEPA review required?</i> (x) Yes () NO	<i>Should Clerk schedule a hearing?</i> () Yes (x) NO
<i>SEPA review completed?</i> (x) Yes () NO	<i>Requested Date:</i>

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

The proposal is to amend the Whatcom County Zoning Code (WCC) Title 20 to clarify and revise the definition and standards of "home occupation." Incorporating the proposed definition and standards of home occupation into already existing chapters of Whatcom County Zoning Code for consistency and predictability in implementation.

<p>COMMITTEE ACTION: 1/26/2010: Held in committee 2/09/2010: Staff submitted a substitute version (3rd version 2/9/10). The committee is holding in committee indefinitely and asks staff to make more changes. 3/16/2010: Amended. Hold in committee in two weeks.</p>	<p>COUNCIL ACTION: 1/12/2010: Introduced</p>
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Related County Contract #:	Related File Numbers: AB2009-230	Ordinance or Resolution Number:
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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

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SPONSORED BY: _____

PROPOSED BY: _____

INTRODUCTION DATE: _____

ORDINANCE NO. _____

Amending Whatcom County's zoning code, Title 20, for the purposes of clarifying and revising the definition and standards of home occupations throughout the code.

WHEREAS, An interim ordinance amending home occupations was introduced to council on September 15, 2009.

WHEREAS, The proposed amendment to the Whatcom County Official Zoning Ordinance was initiated to the docket by Whatcom County Planning and Development Services, and was given file number PLN2009-00007.

WHEREAS, Notice of the proposed amendment was sent to the Department of Community, Trade and Economic Development (CTED) and other state agencies on August 18, 2009. On August 24, 2009 CTED notified Whatcom County that notice of the proposed amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from CTED, to date.

WHEREAS, On September 11, 2009, the Whatcom County State Environmental Policy Act (SEPA) Official issued a SEPA threshold Determination of Non-Significance (DNS) in regards to the proposed text amendment, a non-project action. The comment period for this determination ended on September 25, 2009. No comments were received regarding this determination.

WHEREAS, Notice of the Planning Commission hearing for the proposed text amendment was published in the Bellingham Herald on November 29, 2009.

WHEREAS, A Whatcom County Planning Commission public hearing was held on the subject amendment December 10, 2009. The Planning Commission voted to recommend approval to the Whatcom County Council with a 5-2 vote.

WHEREAS, The County Council has adopted the following findings of fact:

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FINDINGS OF FACT

1. Whatcom County Planning and Development staff has compiled a list of issues with the current zoning code that are causing confusion and difficulty in implementation. Among these items were the regulations regarding home occupations.
2. The text amendment will clarify development regulations for the public to clearly understand what the standards are for home occupations.
3. Staff sent an initial draft on October 12, 2009 to a stakeholder group of community members who provided feedback. Three comments were received from the public and one council member provided feedback prior to the Planning Commission public hearing indicating support for the proposal to amend the Home Occupation requirements.
4. Notice of the proposed amendment was sent to the Department of Community, Trade and Economic Development (CTED) and other state agencies on August 18, 2009. On August 24, 2009 CTED notified Whatcom County that notice of the proposed amendment had been received and had been forwarded to other interested parties as required. No comments regarding the proposed amendment have been received from CTED, to date.
5. Pursuant to Whatcom County Code (WCC) 20.90.050, as of December 2, 2009, Whatcom County Planning and Development Services has: evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) - RCW 36.70A; and considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

1 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:
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4 Section 1. The Official Whatcom County Zoning Ordinance, Title 20 is hereby
5 amended as shown on Exhibit A.
6

7 Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions
8 of this ordinance shall not affect or impair the validity of the ordinance as a whole or
9 and part thereof other than the part so declared to be invalid.
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12 **ADOPTED** this ____ day of _____, 2010_.
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17 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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22 _____
Dana Brown-Davis, Clerk of the Council

Sam Crawford, Council Chair

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29 APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

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31 _____
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33 Civil Deputy Prosecutor

Pete Kremen, County Executive

() Approved () Denied

Date Signed: _____
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2 **EXHIBIT A**
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5 **Chapter 20.20**

6 **URBAN RESIDENTIAL (UR) DISTRICT**

7 **20.20.100 Accessory uses.**

8 .101 Home occupations pursuant to WCC ~~20.9784.180150~~.

9 ~~(1) The occupation or profession shall be carried out wholly within the principal or accessory~~
10 ~~buildings; and~~

11 ~~(2) Not more than two persons outside the immediate family shall be employed in the home~~
12 ~~occupation.~~

13
14 .105 Family day care homes subject to the requirements of WCC ~~20.9784.180150~~ for home
15 occupations.

16 **CHAPTER 20.22**

17 **URBAN RESIDENTIAL – MEDIUM DENSITY (URM) DISTRICT**

18 **20.22.100 Accessory uses.**

19 .101 Home occupations pursuant to WCC ~~20.9784.180150~~.

20 .105 Family day care homes subject to the requirements of WCC ~~20.9784.180150~~ for home
21 occupations.

22 **CHAPTER 20.24**

23 **URBAN RESIDENTIAL MIXED (UR-MX) DISTRICT**

24 **20.24.100 Accessory uses.**

25 .101 Home occupations pursuant to WCC ~~20.9784.180150~~.

26

1 .105 Family day care homes subject to the requirements of WCC 20.9784.180150 for home
2 occupations.

3 **CHAPTER 20.32**

4 **RESIDENTIAL RURAL (RR) DISTRICT**

5 **20.32.100 Accessory uses.**

6 .101 Home occupations pursuant to WCC 20.9784.180150.

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8
9 .105 Family day care homes subject to the requirements of WCC 20.9784.180150 for home
10 occupations.

11 **CHAPTER 20.34**

12 **RURAL RESIDENTIAL-ISLAND (RR-I) DISTRICT**

13 20.34.100 Accessory uses.

14 .101 Home occupations pursuant to WCC 20.9784.180150.

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16 .105 Family day care homes subject to the requirements of WCC 20.9784.180150 for home
17 occupations.

18 **CHAPTER 20.35**

19 **ELIZA ISLAND (EI) DISTRICT**

20 **20.35.100 Accessory uses.**

21 .101 Home occupations pursuant to WCC 20.9784.180150.

22
23 .107 Family day care homes subject to the requirements of WCC 20.9784.180150 for home
24 occupations.

25 **CHAPTER 20.36**

26 **RURAL (R) DISTRICT**

27 **20.36.100 Accessory uses.**

28 .101 Home occupations pursuant to WCC 20.9784.180150.

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.108 Family day care homes subject to the requirements of WCC 20.9784.180150 for home occupations.

CHAPTER 20.37
POINT ROBERTS TRANSITIONAL ZONE (TZ) DISTRICT

20.37.100 Accessory uses.

.101 Home occupations pursuant to WCC 20.9784.180150.

.106 Family day care homes subject to the requirements of WCC 20.9784.180150 for home occupations.

Chapter 20.40
AGRICULTURE (AG) DISTRICT

20.40.100 Accessory uses.*

.110 Home occupations pursuant to WCC 20.84.150, ~~when in compliance with the following:~~

- ~~(1) The occupation or profession shall be carried out wholly within the principal or accessory buildings; and~~
- ~~(2) Not more than two persons outside the immediate family shall be employed in the home occupation.~~

.112 Family day care homes subject to the requirements of WCC 20.9784.180150 for home occupations.

Chapter 20.42
RURAL FORESTRY (RF) DISTRICT¹

20.42.100 Accessory uses.

.105 Home occupations pursuant to WCC 20.84.150, ~~when in compliance with the following:~~

1 ~~(1) The occupation or profession shall be carried out wholly within the principal or accessory~~
2 ~~buildings; and~~

3 ~~(2) Not more than two persons outside the immediate family shall be employed in the home~~
4 ~~occupation. (Ord. 2008-045 Exh. A, 2008; Ord. 2008-018 Exh. A, 2008; Ord. 2003-029 § 1 (Att.~~
5 ~~A § 13), 2003; Ord. 96-056 Att. A § J1, 1996; Ord. 92-094, 1992; Ord. 91-023, 1991; Ord. 89-~~
6 ~~10, 1989; Ord. 88-29, 1988; Ord. 87-84, 1987).~~

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8 **Chapter 20.60**
9 **NEIGHBORHOOD COMMERCIAL CENTER (NC) DISTRICT**

10 **20.60.100 Accessory uses.**

11 .104 Family day care homes and mini-day care homes; provided that such uses conform to the
12 definition of home occupation, WCC ~~20.9784.180150~~, and further; provided that the single
13 family residence is a legally non-conforming use.

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15 **Chapter 20.61**
16 **SMALL TOWN COMMERCIAL (STC) DISTRICT**

17 **20.61.100 Accessory uses.**

18 .102 Home occupation (pursuant to WCC ~~20.9784.180150~~).

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20 **Chapter 20.62**
21 **GENERAL COMMERCIAL (GC) DISTRICT**

22 **20.62.100 Accessory uses.**

23 .104 Family day care homes and mini-day care homes; provided, that such uses conform to the
24 definition of home occupation, WCC ~~20.9784.180150~~, and further; provided that
25 such uses require a conditional use permit if located within airport overlay zone 2 or 3 as shown
26 in Whatcom County Comprehensive Plan Appendix H.

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28 **Chapter 20.63**
29 **TOURIST COMMERCIAL (TC) DISTRICT**

30 **20.63.100 Accessory use**

1 .104 Family day care homes and mini-day care homes; provided that such uses conform to the
2 definition of home occupation, WCC ~~20.9784.180~~150, and further; provided that the single
3 family residence is a legally non-conforming use.

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5 **Chapter 20.64**
6 **RESORT COMMERCIAL (RC) DISTRICT**

7 **20.64.100 Accessory uses.**

8 .110 Family day care homes and mini-day care homes; provided that such uses conform to the
9 definition of home occupation, WCC ~~20.9784.180~~150.

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11 **Chapter 20.80**
12 **SUPPLEMENTARY REQUIREMENTS**

13 **20.80.470 Exemptions.**

14 The following types of signs shall be exempt from the regulations of this section and zoning
15 districts; provided, that such signs shall conform to the general provisions of this section.

16 (1) Addresses (internal lighting permitted), family names, cottage names, entrance and exit signs,
17 ~~home occupation signs~~, up to two square feet; provided, that they are on-premises.

18 **Chapter 20.84**
19 **VARIANCES, CONDITIONAL USES, ADMINISTRATIVE APPROVAL USES**
20 **AND APPEALS**

21 **20.84.150 Home Occupation**

22 (1) The following home occupation requirements shall be regarded as cumulative regardless of
23 the number of home occupations on the site;

24 (2) No more than two people at one time, other than household members residing on the
25 premises, shall be engaged in such occupations.

26 (3) The use of the property for home occupations shall be clearly accessory to its use for
27 residential purposes.

28 (4) In all zones except RR, RR-I, EI, UR, URM, and URMX, home occupations shall not exceed
29 a total of 1250 square feet of building floor area, whether located in the dwelling, accessory
30 structure(s) or combination thereof; in accessory structures built before 1975, home occupations
31 shall not exceed a total of 8000 square feet of building floor area. In the RR, RR-I, EI, UR,
32 URM, and URMX zones home occupations shall not exceed a total of 500 square feet of

1 building floor area, whether located in the dwelling, accessory structure(s) or combination
2 thereof.

3 ~~(5) There shall be no external display or storage of materials, merchandise, or equipment. There~~
4 ~~shall be no change in the outside appearance of the building or premises or other visible evidence~~
5 ~~of a home occupation inconsistent with the residential character of the dwelling or neighborhood,~~
6 ~~other than one sign, not exceeding eight square feet in area, non-illuminated and mounted on the~~
7 ~~property.~~

8 (6) No traffic shall be generated by such home occupations in greater volume than would
9 normally be expected in the applicable zoning district and is appropriate for the road
10 classification which serves the property.

11 (7) Home occupations may use or store vehicles, in accordance with the following:

12 1. The total number of vehicles used in connection with the home occupations shall be
13 permitted as follows:

14 a. On a lot of record one acre or less in the RR, RR I, EI, UR, URM, and
15 URMX zones; two vehicles, each of which shall not exceed 60,000 lbs.gvw, and
16 which may include heavy equipment.

17 b. On a lot of record one acre or greater, up to five acres; two vehicles, which
18 may include heavy equipment regardless of weight;

19 ~~c. On a lot of record which is five acres or less; two vehicles, which may~~
20 ~~include heavy equipment regardless of weight;~~

21 d. On a lot of record which is greater than five acres; three vehicles, which
22 may include heavy equipment regardless of weight;

23 e. On a lot of record which is greater than ten acres; four vehicles, which may
24 include heavy equipment regardless of weight.

25 2. The vehicles shall not be stored within any required setback areas of the lot or adjacent
26 roadways and shall be adequately screened from adjacent neighboring residences or
27 roadways.

28 3. The parking area for the vehicles shall not be considered part of the outdoor storage
29 area provided for in subsection (5) of this section.

30 (8) Any need for parking generated by the conduct of such home occupations shall comply with
31 the off-street parking requirements as specified in this title. In addition, parking shall be
32 provided for nonresident employees.

33 (9) No equipment, process, or materials shall be used in such home occupations which creates
34 noise, vibration, glare, fumes, odors or electrical interference beyond the property line, or outside

1 the building, in sufficient amounts and of such characteristics and duration as is likely to be
2 injurious or cause damage to human health, plant or animal life, or property, or which
3 unreasonably interferes with enjoyment of life and property.

4 (10) Sales are limited to merchandise manufactured or repaired on the premises and/or items
5 accessory to a service provided to patrons who receive services (such as hair care products for a
6 beauty salon), telephone, mail order, catalog, e-commerce sales, or other electronic commerce
7 sales. In no case shall home occupations consist of only retail sales. Fees rendered for services
8 for the sole use or purpose of providing merchandise or equipment (such as tanning beds, copy
9 machines, or similar products) shall be prohibited.

10 (11) The maximum nameplate horsepower rating of the electrical motors of any single piece of
11 machinery operating in the home occupations shall be five horsepower and no equipment shall
12 be three-phase motors. The electrical service for home occupations shall not exceed 200 amps.

13 (12) The following activities, which include but are not limited to: mortuaries, funeral homes,
14 automobile, truck and heavy equipment repair and auto body work or auto body painting,
15 parking and storage of heavy equipment, storage of building materials for use on other
16 properties, are prohibited as home occupations.

17 (13) Customers/clients are prohibited on the premises prior to 7:00 a.m. and after 8:00 p.m.
18 unless an exception is specifically granted by the administrator.

19 **Chapter 20.97**
20 **DEFINITIONS**

21 **20.97.180 Home occupation.**

22 **“Home occupation” means an small scale occupation conducted in a on a**
23 **property, within a dwelling unit; and/or permitted accessory structure by the**
24 **operator who resides on the property, provided, that:**

25 ~~**(1) No more than two on-site persons, other than family members residing on the**~~
26 ~~**premises, shall be engaged in such occupation.**~~

27 ~~**(2) The use of the dwelling unit for the home occupation shall be clearly**~~
28 ~~**incidental and subordinate to its use for residential purposes by its occupants**~~
29 ~~**and not more than 25 percent of the usable floor area of the dwelling unit shall**~~
30 ~~**be used in the conduct of the home occupation.**~~

31 ~~**(3) There shall be no outside storage or change in the outside appearance of the**~~
32 ~~**building or premises inconsistent with the residential character of the dwelling**~~
33 ~~**or neighborhood, or other visible evidence of the conduct of such home**~~
34 ~~**occupation, other than one sign, not exceeding eight square feet in area,**~~

1 ~~nonilluminated and mounted on the property. A larger sign up to 32 square feet~~
2 ~~may be approved by the hearing examiner by conditional use permit.~~

3 ~~(4) No traffic shall be generated by such home occupations in greater volume~~
4 ~~than would normally be expected in the applicable zoning district and is~~
5 ~~appropriate for the road classification which serves the property.~~

6 ~~(5) Any need for parking generated by the conduct of such home occupation shall~~
7 ~~meet the off-street parking requirements as specified in this title. At least one~~
8 ~~additional space shall be provided for each nonresident on-site employee.~~

9 ~~(6) No equipment, process, or materials shall be used in such home occupation~~
10 ~~which creates noise, vibration, glare, fumes, odors or electrical interference~~
11 ~~beyond the property line, or outside the dwelling unit if conducted in a duplex or~~
12 ~~multifamily structure, in sufficient amounts and of such characteristics and~~
13 ~~duration as is likely to be injurious or cause damage to human health, plant or~~
14 ~~animal life, or property, or which unreasonably interferes with enjoyment of life~~
15 ~~and property.~~

16 ~~(7) Manufacturing shall be limited to the small-scale assembly of already~~
17 ~~manufactured parts but does not preclude the production of small handcrafted~~
18 ~~items, furniture, or other wood-based products, or agricultural products.~~

19 ~~(8) Sales in connection with the activity are limited to merchandise~~
20 ~~manufactured or repaired on the premises, items accessory to a service (such as~~
21 ~~hair care products for a beauty salon), catalog or e-commerce sales, or other~~
22 ~~products related to or incidental to the primary business.~~

23 ~~(9) Customers/clients are prohibited on the premises prior to 7:00 a.m. and after~~
24 ~~8:00 p.m. unless an exception is specifically granted by the administrator.~~

25 ~~(10) The portion of the structure housing the home occupation shall comply with~~
26 ~~life/safety regulations. (Ord. 2001-012 § 1, 2001).~~

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**WHATCOM COUNTY
PLANNING &
DEVELOPMENT SERVICES**
5280 Northwest Drive
Bellingham, WA 98226



David Stalheim
Director
J.E. "Sam" Ryan
Assistant Director

M E M O R A N D U M

TO: Whatcom County Council Members

THROUGH: David Stalheim

FROM: Wain Harrison, Long Range Planning Supervisor
Michelle Stiles, Planner

DATE: March 23, 2010

SUBJECT: Home Occupation Size Limits

Staff would respectfully request one more opportunity to discuss the subject of area of Home Occupation in accessory structures existing on or before 1975. Our suggestion and recommendation is to limit the maximum square foot area of the Home Occupation for these accessory structures not to exceed 2500 square feet. This is the current level in the zoning ordinance that requires a conditional use permit, pursuant to a cottage industry (please see attached table). Staff understands the Council's position in regards to allowing existing barns/outbuildings to be allowed an exception that bypasses the administrative review for these structures. However, the position of allowing the square footage over the conditional use threshold seems to be less defensible and appropriate. 2500 square feet is a large area for a Home Occupation. In contrast, 8000 square feet, an 80' x 100' building, is the equivalent of a building in a commercial business park like Copac Warehouse Industrial Center (as an example) in the Light Impact Industrial (LII) zone. The impacts to a given neighborhood from a business utilizing up to 8000 square feet could be potentially quite dramatic.

Comparison of Home Occupation and Cottage Industry Standards

3/23/2010

	Home Occupation *current proposal*	Cottage Industry	Cottage Industry
Use	Accessory use (outright permitted)	Administrative use	Conditional use
Zones	UR, URM, URMX, RR, RRI, EI, R, TZ, AG, RF, NC, STC, GC, TC, RC	RR, RRI, EI, R, AG, RF	R, TZ, AG, RF
# of employees	2 employees at one time	2 employees	4 employees
Size	500sqft in RR, RR-I, UR, URM, URMX; 1,250sqft in all other zones & 8,000sqft in buildings built prior to 1975	1,250sqft in RR; 2,500sqft in all other zones	1,250sqft in TZ; 2,500sqft in all other zones
Outside storage	N/A	10,000sqft or 25% of site whichever is less	25% or 1 acre whichever is less
Sign	8sqft	8sqft	Up to 32sqft
Min. lot size	N/A	1 acre min. lot size	N/A