

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: June 1, 2020  
Reviewed by: NA

**SUBJECT:** Ordinance No. 2020-05 Second Reading to Consider Amendments to Section 20.20.040 “Home Occupations” of the Albany Municipal Code

**REPORT BY:** Anne Hersch, AICP, Planning Manager

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**SUMMARY**

The Planning & Zoning Commission and City staff have prepared draft Code amendments related to Home Occupation regulations contained in Section 20.20.040 “Home Occupations” of the Albany Municipal Code.

**STAFF RECOMMENDATION**

That the Council adopt Ordinance No. 2020-05 approving amendments to Section 20.20.040 “Home Occupations” of the Albany Municipal Code- Second Reading - Pass to print.

**BACKGROUND**

At the May 18, 2020 City Council meeting, the City Council voted 5-0 to approve the ordinance for first reading.

**DISCUSSION**

The Ordinance is before Council for Second Reading – Pass-to-Print. If approved, a summary of the Ordinance will be published, and the Ordinance will be posted at each of the City’s posting locations (City Hall, Community Center, Senior Center, and the City’s website). The Ordinance will go into effect 30 days following adoption.

**Attachments**

1. Ordinance No. 2020-05
2. Correspondence Received May 20, 2020

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**ORDINANCE NO. 2020-05**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING SECTION 20.20.040  
“HOME OCCUPATIONS” OF THE ALBANY MUNICIPAL CODE**

**WHEREAS**, Chapter 20 “Planning & Zoning” was comprehensively updated and adopted in 2004; and

**WHEREAS**, home occupation regulations are contained in Section 20.20.040 of the Albany Municipal Code; and

**WHEREAS**, Assembly Bill 5 has created an increased demand for business licenses and home occupation permits for independent contractors in the City of Albany; and

**WHEREAS**, the City Attorney has provided recommendations on proposed ordinance amendments; and

**WHEREAS**, on March 11, 2020 the Planning & Zoning Commission adopted Resolution 2020-02, a Resolution of Intention to amend Section 20.20.040 “Home Occupations” of the Albany Municipal Code; and

**WHEREAS**, a public hearing notice was published in the West County Times and posted in three public places pursuant to California Government Code Section 65090 on April 17, 2020 for the virtual public hearing held on April 29, 2020; and

**WHEREAS**, the Planning & Zoning Commission held a public hearing on April 29, 2020 to discuss proposed amendments to Home Occupations and adopted Resolution 2020-02 forwarding a recommendation to City Council to amend Section 20.20.040 “Home Occupations” of the Albany Municipal Code; and

1           **WHEREAS**, a public hearing notice was published in the West County Times and posted  
2 in three public places pursuant to California Government Code Section 65090 on May 8, 2020  
3 for the virtual public hearing held on May 18, 2020; and  
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5           **WHEREAS**, the City Council held a public hearing on May 18, 2020 to discuss  
6 proposed amendments to Section 20.20.040 “Home Occupations” of the Albany Municipal Code.  
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8           **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS**  
9 **FOLLOWS:**  
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11           **SECTION 1: CHAPTER 20 “PLANNING & ZONING” OF THE ALBANY**  
12 **MUNICIPAL CODE, SECTION 20.20.040 TITLED “HOME OCCUAPTIONS” IS**  
13 **HEREBY REPEALED AND REPLACED AS FOLLOWS:**  
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15           **A. Purpose.** The regulations contained in this section are intended to prescribe conditions  
16 under which nonresidential activities may be conducted in conjunction with, but  
17 incidental to, residential uses, thus assuring that such activities are not detrimental to the  
18 residential character of the neighborhood in which they are located.

19           **B. Prohibited Activities.** The following items are prohibited from use as a home occupation  
20 as they would clearly violate the principle of home occupation as herein defined and  
21 would not be businesses which could be carried on clearly incidental to the residential use  
22 and without destroying the residential character of the property or neighborhood:

- 23           1. Automobile repair;
- 24           2. Barber shops and beauty parlors;
- 25           3. Clinics and hospitals; also veterinarian clinics and hospitals;
- 26           4. Kennels and other boarding for pets;
- 27           5. Offices for physicians, dentists and other medical practitioners, except that a  
28 practitioner, in conducting the business through house calls, may use the home for

1 clerical and similar work;

- 2 6. Other uses which, in the opinion of the Community Development Director, conflict  
3 with the purpose of this section.

4 **C. Requirements.** Home occupations shall be carried out in strict compliance with the  
5 following requirements:

- 6 1. The operation, conduct or maintenance of the home occupation shall not create or  
7 maintain either during daylight or night hours any disturbance or nuisance  
8 including, but not limited to noise, odor and light.
- 9 2. No structural alterations, either visible or otherwise, which tend to diminish the  
10 residential character of the residence will be required to be made or will be made to  
11 the residence building in order to conduct, operate or maintain the business.
- 12 3. That existing garages that are required for off-street parking spaces shall not be  
13 modified or used so as to preclude the normal parking and storage of family  
14 vehicles.
- 15 4. Businesses or home occupations located in accessory structures shall not  
16 adversely affect the enjoyment and use of adjacent residential properties, including  
17 but not limited to impacts from noise, odor, and light.

18 **D. Business License Required.** The home occupation or business shall, make application  
19 and pay the required fee for a business license pursuant to the City Code or such  
20 applicable ordinance or ordinances of this City as may be hereinafter enacted.

21 **E. Enforcement.** The Community Development Director or designee is hereby authorized  
22 and directed to enforce the provisions of this section, including issuance of penalties as  
23 detailed in the City's Master Fee Schedule.

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**SECTION 2: PUBLICATION AND EFFECTIVE DATE.**

This ordinance shall be posted at three public places within the City of Albany and shall become effective thirty days after the date of its posting.

**PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on the 1st day of June 2020, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

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NICK PILCH, MAYOR

**From:** [City Clerk](#)  
**To:** [citycouncil](#)  
**Cc:** [Anne Hersch](#)  
**Subject:** FW: regarding home occupation requirements and uses  
**Date:** Wednesday, May 20, 2020 10:19:21 AM

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-----Original Message-----

From: carole fitzgerald [REDACTED]  
Sent: Wednesday, May 20, 2020 10:13 AM  
To: City Clerk <CityClerk@albanyca.org>  
Subject: regarding home occupation requirements and uses

Warning: This email originated from outside the City of Albany. Think before you click!

Good morning Council Members

I reviewed your Monday evening hearing of Ordinance 2020-5 The Home Occupation ordinance. Thank you for your time and discussion of the issue which I raised in previous correspondence.

In the ordinance Section #6 there are PROHIBITED USES of activities that are detrimental to the character of the neighborhood, including noise, odor, light, etc.

and

In the section on REQUIREMENTS ..shall not create during daylight or nighttime any disturbance including noise, odor, and light.

Since the Community Development staff, told me last week that "music lesson instruction was being given an exemption" and could offer instruction until 9:00 pm I wrote to you that perhaps requiring soundproofing should be required.

Two council members, Maas and Nason expressed concern that this would be a journey down the Rabbit Hole. Council member Nason went on to express concern that someone's child might be restricted from practicing their instruments, and that we should get use to noises of construction, leaf blowers and such.

Is the Rabbit Hole concern, referring to my suggestion of requiring soundproofing as a prerequisite for granting a home occupation permit?

My concern is that allowing music lessons to be an exemption, is the real Rabbit Hole issue.

- a. Your neighbor's child practicing her/his music is NOT an occupation and should not be considered in this discussion, b. other noise is not the issue here, either.
- c. how do you intend to monitor home occupations which do not have business licenses?

Thank you,

Carole Fitzgerald  
906 Madison street.