

Key

Red underlined text provides either the section reference or a use name change in the draft

Text highlighted in turquoise deals with grandfathering language and will be addressed in the coming months

Text with ~~red strikethrough~~ has not been included in the draft Zoning Code

3/15/13

Division 59-A-3. Building and Use-and-Occupancy Permits; Registration of Certain Uses.

Sec. 59-A-3.1. Building permit.

(a) **Building permits generally.** A building permit must be issued by the director before any building or other structure can be erected, moved, structurally altered, added to, or enlarged and before any excavation can be started. A building permit is not required for any building or structure to be used exclusively for purposes of agriculture upon land used exclusively for agriculture. However, a building permit is required for any: (i) building or structure to be used for a purpose that is not exclusively agricultural in nature, including special exception uses, even though located on otherwise agricultural land, and (ii) any equestrian facility building or structure intended for use by participants or spectators at an equestrian event. Sec. 8.4.1.A

(b) A building permit may be issued only for proposed work that conforms to the uses and amount of development authorized under this chapter or other applicable law and for which the adequacy of public facilities is determined after:

- (1) Review of a preliminary plan of subdivision or site plan if required under this chapter or chapter 50; or
- (2) Building permit review if required under chapter 8. Sec. 8.4.1.D

59-A-3.11. Building permit for public utility equipment.

Building permits shall not be required for any structure and its appurtenant cross arms carrying overhead electric power and energy transmission and distribution lines that carry 69,000 volts or less, and items of equipment installed and maintained by a public utility subject to regulation by the State Public Service Commission; nor for poles or structures used for street lights, fire alarm boxes, traffic signals or similar municipal equipment installed by the state or a political subdivision thereof. ~~Notwithstanding the public service agency provisions of the building code of the county adopted under chapter 8,~~ building permits shall be obtained for any structure carrying overhead electric power and energy transmission and distribution lines and accessory structures that transmit in excess of 69,000 volts, and transmission pipelines and accessory structures, for the purpose of determining compliance with this chapter. ~~Applications for such permits may be submitted on a project basis showing property boundaries and locations of such structures and such other information as may be required by the director.~~ In addition, permits shall be obtained for public utility buildings and public utility structures not otherwise permitted, in which cases the fee schedules of the building code shall apply. Sec. 8.4.1.A

59-A-3.12. Building permit for special exception.

~~—(a)— In this section all references to the Board also apply to the Hearing Examiner for any special exception subject to the jurisdiction of the Hearing Examiner under Section 59-G-1.12.~~

(b) A building permit must not be issued for any building or other structure which would be constructed, reconstructed or altered under a special exception or variance unless the construction complies with all terms and conditions set by the Board or the Hearing Examiner in the resolution or decision granting the special exception or variance, including any exhibits referred to in the decision. Sec. 8.4.1.D.2.a

(c) The County may suspend or revoke any building permit for construction if the construction does not comply with all terms and conditions set by the Board. Sec. 8.4.1.D.2.d

(d) This section does not prohibit the Department, in its exercise of reasonable discretion, from allowing minor adjustments during construction which do not substantially alter the size, location or external appearance of the structure or the use or conditions of the special exception. The Department must immediately notify the Board of any deviations from the special exception plans approved by the Board. Sec. 8.4.D.2.b

(e) Any change proposed during construction which would substantially alter the location or external appearance of the structure, or modify the use or condition of the special exception requires Sec. 8.4.1.D.C (requires an amendment) a rehearing before the Board after at least 30 days' notice to all persons entitled to notice of the original application. Deleted this last portion of sentence

~~59-A-3.13. Nonissuance pending appeal.~~

~~A building permit must not be issued during the time permitted by law or rule of court to file an appeal from: Sec.~~

~~—(a)— A final decision by the District Council granting an application for a map amendment.~~

~~—(b)— A final decision by the District Council on reconsideration granting a map amendment.~~

~~—(c)— A decision of the Board granting a special exception or variance, or a decision of the Board reversing a denial of a building permit by the Director.~~

~~—(d)— A decision of the Hearing Examiner granting a special exception.~~

~~—(e)— A decision of judgment of a court in a proceeding which seeks to affirm, reverse, modify or nullify a decision of the District Council or Board of Appeals set forth in paragraphs (a) through (d) of this subsection or to remand the same to the Council or Board. Nor shall a building permit be issued during the pendency of such court proceedings or a proceeding before the Board of Appeals; provided, that nothing herein shall be construed to prohibit the issuance of a building permit for any use which would have been permitted under this Chapter for the subject property immediately prior to a decision set forth in paragraphs (a) through (d) hereof unless such use will not be permitted under the requested change in classification or grant which was the subject of such decision.~~

~~—(f)— A building permit may be issued, however, while an appeal from the grant of a sectional map amendment by the District Council may be filed or is pending if the permit is for development and use in accordance with the zoning classification imposed on the property by the sectional map amendment. Such a building permit shall contain a condition that the development shall comply with all the requirements of the zoning classification imposed by the sectional map amendment and whatever project plans and site plans may have been approved by the Planning Board under the optional method of development. The development pursuant to such building permit (i.e., the construction of footings on the site) shall be deemed to have a vested interest to continue and be used in accordance with the provisions of the zoning classification imposed by the sectional map amendment.~~

~~59-A-3.14. Rejection of application pending zoning map amendment.~~

~~In order to facilitate the orderly coordination of the issuance of building permits with the county zoning procedures, as set forth in this Code, applications for building permits shall be rejected if all or any part of such application lies within the boundaries of an application for an amendment to the zoning map, filed in accordance with the applicable provisions of this chapter. However, no such application shall be rejected under the provisions of this subsection if such application would otherwise satisfy the requirements of both the existing zoning classification and the proposed zoning classifications of the application for an amendment to the zoning map. Any application rejected under the provisions of the subsection may be resubmitted without an additional fee and shall be acted upon following the final disposition by the district council of the amendment to the zoning map; provided, that whenever action by the district council on any such zoning map amendment is still pending, on the whole or any part of the land covered by a building permit application, after the passage of 6 months from the date of the original submission of the building permit application, an application for a building permit rejected in accordance with the provisions of this subsection may be refiled without an additional fee and shall not be rejected again under the provisions of this subsection.~~

Sec. 59-A-3.2. Use-and-occupancy permit.

59-A-3.21. Generally.

A use-and-occupancy permit certifying compliance with this Chapter must be issued by the Director before any building, structure, or land can be used or can be converted, wholly or in part, from one use to another. Sec. 8.4.2.A.1 However, a use-and-occupancy permit is not required for:

- (a) Land or buildings used exclusively for agricultural purposes.
- (b) A use for which a valid occupancy permit was issued and not revoked before June 1, 1958.
- (c) A child day care facility for up to 8 children.
- (d) A transitory use. Sec. 8.4.2.A.2

59-A-3.22. Use-and-occupancy permit for a special exception.

Before any building, structure or land can be used for or converted to a special exception use, the Director must issue a use-and-occupancy permit certifying compliance with the requirements, representations and conditions contained in the opinion of the Board, the Hearing Examiner or the District Council, as specified in Section 59-G-1.1. Sec. 8.4.2.D.2 The Director must not issue a use-and-occupancy permit until:

~~—(a)—The applicant has certified to the Department that construction or alteration has been completed and any screening or landscaping has been installed, in accordance with the opinion; and~~

(b) The Department has determined, on the basis of a thorough final inspection, that the property conforms to the plans and conditions specified by the opinion; except that Sec. 8.4.2.D.3

(c) A temporary use-and-occupancy permit may be issued for a period not to exceed 90 days upon evidence that landscaping and screening must be delayed because of adverse weather or other conditions beyond the control of the applicant. Sec. 7.5.3.A.2. General Landscaping Requirements

59-A-3.23. Use-and-occupancy permits for temporary construction administration or sales offices. Sec. 3.5.15. Use standards for temporary construction administration or sales office

No temporary construction administration or sales office is to be used until a conditional use-and-occupancy permit, certifying compliance with this chapter, has been issued by the director. The conditions of the use-and-occupancy permit are as follows:

(a) A temporary construction administration or sales office must not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and must not cause any unreasonable noise, vibrations, fumes, odors, dust, glare or physical activity as defined and regulated elsewhere in the Code.

(b) If at the time of permit issuance, a temporary construction administration or sales office, including any associated trailer, building or portable toilet, that is located within 100 feet of an occupied, residentially developed property and is to be maintained in the same general location for one year or more, it must be attractively landscaped and maintained in good condition so that such temporary use will not adversely affect nearby residential development.

(c) A temporary outdoor storage yard for construction equipment or building materials and supplies that is located within 300 feet of any occupied residentially developed property, is to be maintained in the same general location for more than one year, and which is limited to the construction of buildings or structures within the same site or subdivision, must be effectively screened from the residential development by natural features, a solid fence not more than 6 1/2 feet in height, or any other means that will provide visual protection to nearby residents.

(d) Any temporary construction administration or sales office, including an outside storage area, located more than 100 feet from an occupied, residentially developed property may be approved for more than one year but not for more than 3 years except that extensions may be approved by the director for additional two-year periods in accordance with the extension provisions of subsection (f).

(e) Any temporary construction administration or sales office, including an outside storage area, located within 100 feet of an occupied, residentially developed property cannot be approved for more than one year except that extensions may be approved by the director for additional one-year periods in accordance with the extension provisions of subsection (f). In addition, if a public hearing is held on the extension, then the applicant must demonstrate to the director that a more appropriate location for such use, farther removed from the residential development, does not exist on the site or subdivision. This finding will not be required if the extension requested does not exceed 6 months.

(f) The procedures applicable to requests for extensions of a temporary use-and-occupancy permit for a temporary construction administration or sales office, and/or an outdoor storage yard, as follows:

(1) A request for an extension of time for a temporary construction administration or sales office, including an outside storage area for construction equipment and materials, must be filed on forms supplied by the director.

(2) In requesting an extension, the applicant must also demonstrate compliance with the applicable landscaping and screening requirements that pertain to uses existing longer than one year.

(3) If a construction administration or sales office, including an outside storage area, is to be moved less than 200 feet from the originally approved location, then continuance of the use must be in accordance with the extension provisions of subsection (f). If such use moves more than 200 feet from the originally approved location, then a new temporary use-and-occupancy permit is required in accordance with all of the provisions of section 59-A-3.23.

(4) The applicant for an extension must provide notice by certified mail to all owners of property that adjoin such use stating that an extension has been requested and that the owners if they wish to comment, must submit their comments concerning the extension to the director within 20 days.

(5) If any adjoining property owner opposes continuance of the use, the director must hold a public hearing prior to making a decision on the requested extension. A notice of such public hearing must be sent to all adjoining property owners.

(6) The director's decision on an extension must be made within 5 workdays of the closing of the hearing record. In approving an extension, the director may add further reasonable conditions to the use-and-occupancy permit. The director may deny an extension, with reasons for the denial stated in writing.

59-A-3.24. Use-and-occupancy permit for child day care facility.

Before any building may be used as a child day care facility for more than 8 children, the Director must issue a use-and-occupancy permit certifying compliance with this Chapter and Chapter 8. [Sec. 8.4.2.A](#)

Sec. 59-A-3.3. Application for building and use-and-occupancy permits.

59-A-3.31. Generally.

~~Applications for building or use and occupancy permits shall be filed in duplicate on forms provided therefor, obtainable at the office of the director. No application for building or use and occupancy permits shall be accepted by the director, unless all of the information required on the application and accompanying plans has been furnished by the applicant.~~

59-A-3.32. Building permit. [Sec. 8.4.1.B](#)

Each application for a building permit shall be accompanied by duplicate copies of a plat drawn to scale showing:

- (a) The lot upon which the building is proposed to be erected; lot dimensions, lot and block numbers and subdivision name, if any.
- (b) The name and width of abutting streets.
- (c) The location, dimensions and use of existing buildings and other structures on the lot.
- (d) The location, dimensions and proposed use of buildings and other structures for which a permit is requested.
- (e) Front and rear yard widths.
- (f) North point, date and scale of plan.

59-A-3.33. Use-and-occupancy permit. [Sec. 8.4.2.B](#)

Each application for a use-and-occupancy permit shall be accompanied by duplicate copies of a plat drawn to scale showing:

- (a) The lot on which a use is proposed; lot dimensions, lot and block numbers and subdivision name, if any.
- (b) The location, extent and layout for the proposed use and any other pertinent information.
- (c) North point, date and scale of plan.

59-A-3.34. Review by commission.

The Director must not issue a building permit for: (1) construction of a new principal structure; (2) construction that increases the gross floor area of an existing commercial structure; or (3) construction that substantially increases the

gross floor area of any one-family structure, until the application has been submitted to the Commission or its designee for review for conformity with this Chapter. [Sec. 8.4.1.D.4](#)

Sec. 59-A-3.4. Registration of a home occupation or home health practitioner's office.

59-A-3.41. Requirement.

Any home occupation (except a no-impact home occupation) or home health practitioner's office that satisfies Section [59-A-6.1](#) and is not required to have a special exception must be registered with the Department. [Sec. 8.4.3A](#) An application for registration must be submitted to the Department. The Department must give the registrant a copy of the applicable requirements under Section [59-A-6.1](#) when the applicant submits the application. The Department must maintain the Home Occupation and Health Practitioner Registry [Sec. 8.4.3.E](#) and issue a Certificate of Registration if the use satisfies Section [59-A-6.1](#). [Sec. 8.4.3.D.](#)

59-A-3.42. Application. [Sec. 8.4.3.B](#)

The application must include an Affidavit of Compliance with those requirements, which the applicant must sign. It must also provide the following information:

- (a) Manner in which the operation of the home occupation satisfies Section [59-A-6.1](#);
- (b) Location of the lot or parcel by street address and either lot and block number or liber and folio;
- (c) Zone in which the lot or parcel is located;
- (d) Area of the lot or parcel, in square feet or acres;
- (e) Total floor area of the dwelling unit and the amount of floor area to be used for the home occupation; floor area of any existing accessory building to be used for the home occupation;
- (f) Location and number of off-street parking spaces;
- (g) Proof of home address; and
- (h) Other pertinent information required by the Department.
- (i) For a home health practitioner's office only, evidence that the practitioner is exempt from Section [59-A-6.1\(d\)\(9\)](#) if applicable. If the practitioner is not exempt, a copy of the use- and-occupancy permit required by Section [59-A-3.21\(a\)](#) must accompany the application, and the practitioner must describe the location of any indoor waiting room for patients. [Sec. 8.4.3.B.10.b](#)

59-A-3.43. Compliance and Enforcement.

- (a) By signature of the Affidavit of Compliance, the applicant for a registered home occupation or home health practitioner's office affirms that he or she resides in the dwelling unit in question and agrees to satisfy Section [59-A-6.1](#) and take whatever action is required by the Department to bring the home occupation or practitioner's office into compliance if complaints of noncompliance are received and verified. [Sec. 8.4.3.B.1](#)
- (b) The Department must record the home occupation in the Home Occupation and Health Practitioner Registry and issue a Certificate of Registration if the Department determines that the application satisfies the applicable requirements of this Chapter. A registered home occupation may begin operation after an approved on-site inspection. The home occupation or practitioner's office must be recorded in the Registry, and the Certificate

must be issued only if the home occupation or practitioner's office, as described, satisfies Section 59-A-6.1. Sec. 8.4.3.E and Sec. 8.4.3.D

(c) The Home Occupation and Health Practitioner Registry must be readily available for public inspection. Sec. 8.4.3.E. If the Department receives a complaint about a registered home occupation or home health practitioner's office, an inspector must inspect the property and determine, within 90 days after receipt of the complaint, whether there is a violation of the provisions of this Section or Section 59-A-6.1. Sec. 8.4.3.F.1

(d) If the Department determines that there is a violation, the Department may issue a warning notice, and the violation must be corrected within 30 days after the warning notice is issued. In the case of any violation that could be remedied with a special exception, a petition must be filed within 60 business days for a special exception for a major home occupation under Section 59-G-2.29. Operation of the registered home occupation or home health practitioner's office may continue until the Board has acted on the petition if the violation is corrected before the application for a special exception is filed. If the Board denies the special exception, the home occupation or home health practitioner's office must cease immediately or operate under the requirements for a registered home occupation or home health practitioner's office. Sec. 8.4.3.F.2

(e) The Department may issue a citation under Section 59-A-1.3: Sec. 8.4.3.F.3

(1) immediately, instead of a warning notice under Subsection (d); or Sec. 8.4.3.F.3

(2) 30 days or more after the warning notice was issued under Subsection (d). Sec. 8.4.3.F.3

Sec. 59-A-3.5. Termination of Home Occupation.

(a) The repair and maintenance of motor vehicles for compensation must not be conducted as a no-impact home occupation. Sec. 3.3.3.G.2.b.xiii The repair and maintenance of motor vehicles may be conducted as a registered home occupation under the non-conforming use provisions of Division 59-G-4 if the use:

(1) was authorized by the Department of Environmental Protection as a registered home occupation under an application filed before October 25, 1994; or

(2) was conducted primarily as a home occupation at a single family detached dwelling under a certificate of registration issued before October 25, 1994 by the Office of Consumer Affairs under Chapter 31A, and all requirements of Section 59-A-3.4 and Section 59-A-6.1(a) and (c) are met by September 20, 1995.

A non-conforming use allowed under (1) or (2) terminates when ownership or occupancy of the residence changes.

(b) The display of furniture not made in the home for sale in the home or at an offsite location must not be conducted as a home occupation. Sec. 3.3.3.H.1 ~~All home occupations of this type must cease operating within 12 months from October 31, 2006.~~