

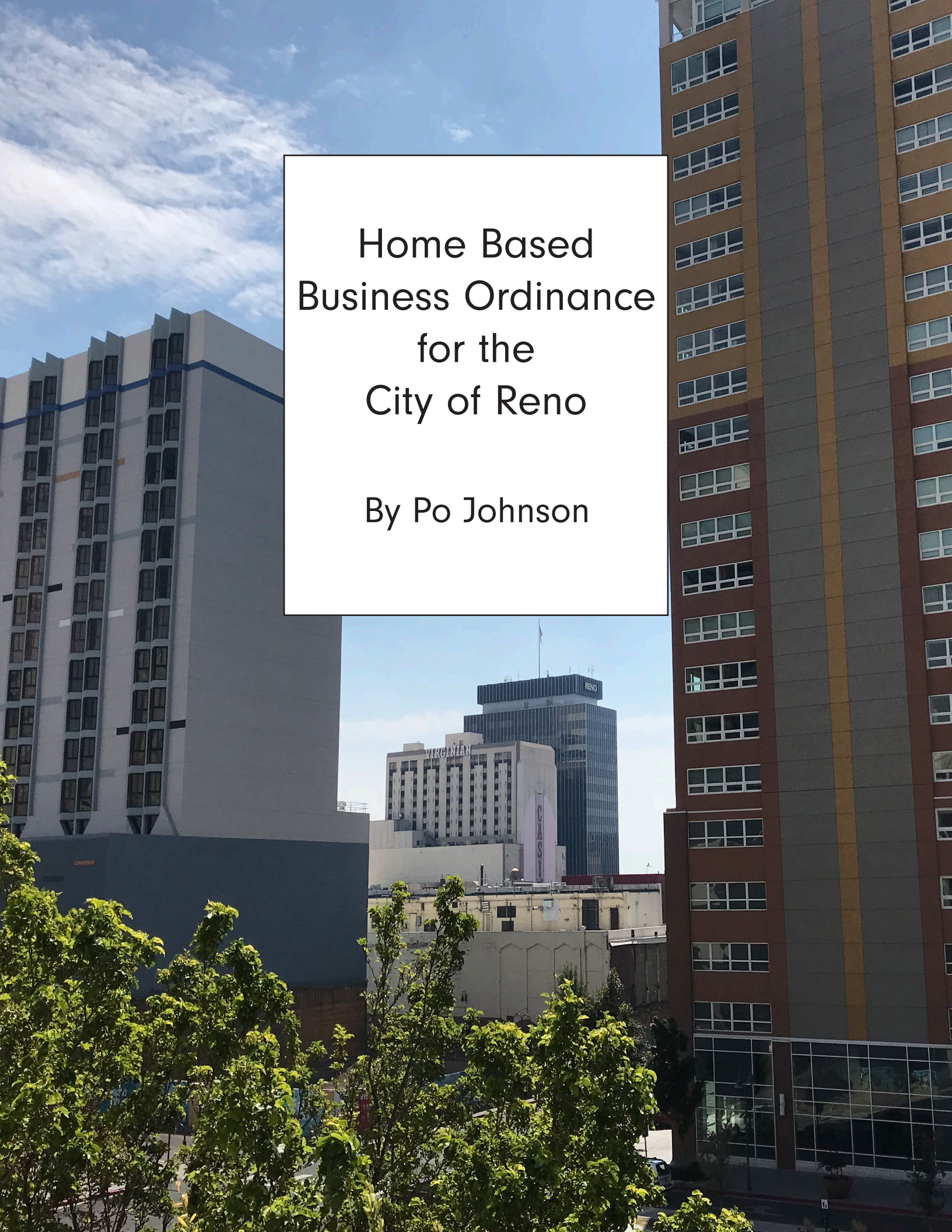
Home Based Business Ordinance for the City of Reno

A Senior Project presented to the Faculty of the City and Regional Planning Department
California Polytechnic State University – San Luis Obispo

In Partial Fulfillment of the Requirements for the Degree Bachelor of science in Urban and
Regional planning

By Po Johnson

June 2023



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Approval Page

City & Regional Planning Department
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Table of Contents

Introduction.....	3
Background.....	5
Location.....	5
State of Nevada.....	5
City of Reno.....	5
Definitions.....	7
Police Power.....	7
Customary Use.....	8
Residents.....	8
Legal Precedence.....	9
Court Cases.....	9
Pratt v. Building Inspector of Gloucester (1953).....	9
Parks v. Board of Adjustment of City of Killeen (1978).....	10
Commissioners of Bellefonte v. Coppola (1982).....	10
Case Studies.....	11
Fresno County Home Occupation Ordinance.....	12
City of Delano Home Occupation Ordinance.....	13
Applicability.....	14
Home Based Business Ordinance.....	17
Intent and Purpose.....	17
Definitions.....	17
Generally.....	18
Performance Criteria.....	18
Procedure.....	20
Relevance of the Ordinance.....	22
References.....	24
Appendices.....	26

Introduction

Homes operate as more than simply spaces where individuals may privately sleep, eat, and live. They serve complex purposes that vary from place to place, culture to culture, and from individual to individual. Constantly evolving needs of commercial enterprises and the often rigid development patterns of cities resulting from zoning land uses creates a conflict where businesses can not always operate in the environments which are best for the business and the community. Home based businesses, also known as home occupations offer a slight remedy for the discrepancy (Wunder, 2000). By allowing smaller and less impactful businesses to operate within the residential home of the business owner, home based businesses allow for a more affordable and flexible operation for local businesses that may not have the capital to rent, own, or develop their own commercial property to operate in (Wunder, 2000).

While home based businesses provide affordable accommodation for less impactful small businesses, they can additionally impact neighbors and communities with negative externalities when not properly regulated (Wunder, 2000). Noise increases, increased traffic, lights, advertisements, and exposure to industrial chemicals are some of the negative forces and impacts upon which home based businesses can sometimes result in for neighbors. As a result, developing concise and applicable home based business ordinances for municipalities is crucial to maintaining a balance between accessibility for small businesses, and maintaining the residential character that some residents and community members desire within their neighborhoods.

Throughout the City of Reno and the Greater Truckee Meadows Metropolitan Area, contemporary needs of businesses and strict single family zoning in some neighborhoods, combined with the lack of existing home based business regulation for the municipality have had significant impacts on the enforcement of existing home based businesses, and the character of existing neighborhoods (Penrose, 2023). The city has undergone recent population increases and a sprawling suburban development pattern, which has led to previously fringe ranch lands used for agricultural purposes to be within close contact to

residential developments, and has led to limited space for affordable commercial business operations (City of Reno, 2017). While unregulated home based businesses have had significant impacts in all forms within the community, home based agricultural businesses and activities such as the raising of animals and the cultivation of small to medium agricultural operations on semi-rural and suburban parcels have led to significant problems. Impacts concerning health and safety problems for residential neighbors, local water bodies, and the general well being of local neighborhoods are common as a result of the growth of home based agricultural businesses. The increasing presence of poultry on residential properties within the city has been estimated to have led to increases in coyote and other native predator sightings in urban neighborhoods (Nevada Department of Wildlife, 2021). While the City of Reno does not currently have a home based business ordinance, home based businesses within Washoe County, the county that Reno is located within are subject to regulation by the Washoe County home occupation ordinance updated in 2014. The current ordinance does not regulate home based businesses, but rather establishes a framework for home based business operations to receive business licenses for taxation measures as well as some general building and fire code requirements (Washoe County, 2014). The ordinance does not reference or regulate uses or businesses relating to animal husbandry or agricultural cultivation on residential zoned properties, nor does it concern the impacts of traffic, noise, lights, visuals, or other externalities.

With little existing legislative remedies to ensure that impacts from home based businesses are minimized, and to provide affordable accommodation to support local small businesses, a home based business ordinance would be a beneficial tool for the municipality. Such an ordinance would provide the city with a tool to maintain balance between the desires of residents, and the needs of small business owners. The proposed home based business ordinance will support and facilitate the creation of small local businesses without requiring significant commercial and office space development, construction, or rezoning, and appropriately maintain the culture and spirit of the community. As put forth in this report, the development, adoption, and enforcement of a home based business ordinance is recommended to mitigate and reduce possible harmful

impacts of home based business on neighbors, communities, the environment, and the economy.

Background

Locations

State of Nevada

Located in the western United States, the State of Nevada has long had a history of entrepreneurship and rural character. Nevada's laissez-faire government attitudes towards business, and relatively affordable land costs has historically made the state a favorable location to do business, especially for small and local businesses (Nevada Governor's Office, 2023). Recently, increases in population as a result of domestic migration from other states has exacerbated demand for residential and commercial properties for new residents and businesses all throughout the state, especially within urban areas of Las Vegas to the south of the state, and Reno to the north west (Nevada Governor's Office, 2023). Legislatively, as a result of the rural history of the state, most of the municipalities and counties operate and govern with a general hands-off approach with many property allowances. The combination of rapid population growth, land use patterns which fail to meet evolving needs, and limited government action, The state is in need of more legislative approaches which respect and meet the cultural and economic expectations of the changing state.

City of Reno

Within the western edge of northern Nevada, the City of Reno, with a population of 268,851 people has long been the major urban center of the mostly rural Great Basin and eastern Sierra Nevada regions (City of Reno, 2017). As a tourism destination and distribution hub, the economy of the City of Reno has long been dependent on gaming, tourism, and national shipping. In recent years, the city has experienced significant population

growth and has utilized sprawling suburban patterns of development, relying on single family homes and strip malls. Reliance on strip mall developments anchored by large chain stores and restaurants provides little affordable space for small and local businesses to operate as strip mall spaces often charge larger overheads than many businesses may be able to afford. Increased commercial space demand and limited supply has created an unfavorable business environment for small businesses (Garcia, 2023).

The City of Reno Master Plan adopted in 2017 contains the policy stating the desire to “Support and encourage the expansion of existing businesses when not in conflict with the City’s efforts to diversify its economy through its targeted efforts” (City of Reno, 2017). It lacks mention of policies or programs to expand spaces for commercial activities and uses within the city, and does not mention solutions to increasing conflicts between unregulated home based businesses and agricultural businesses and residential neighborhoods. Additionally, approximately 60% of the city’s area is zoned exclusively for single family residences (City of Reno, 2023). While the city currently does not regulate home based businesses, with regulation coming in the form of Washoe County business licensing rules, enforcement of home based business operations in the city is irregular and often gives privileges to some businesses through under enforcement in some neighborhoods of the city, while over enforcing businesses in other neighborhoods (Penrose, 2023). Regulation of the permitting process in Washoe County relies on the Board of Administrative Review. The Board of Administrative Review, found in both Washoe County and the City of Reno reviews ministerial permits for completeness and compliance with regulations and ordinances. The Board of Administrative Review does not hold any discretionary authority but rather determines if a permit is sufficient. More complex or controversial permits to be decided on, or permits which the Board can not sufficiently

decide on are diverted to the Planning Commission for review and recommendations on how the Board should act (Washoe County, 2014).

The combination of rising commercial rents, an overreliance on single family residential zoning, and limited municipal planning efforts to mitigate affordability and accessibility problems for small and local businesses in the city means that the city is in need of legislative action to regulate home based businesses as an alternative for some commercial needs. Establishing clear standards and regulations for home based business operations will provide a basis for more accountable and fair enforcement, while still respecting the culture and neighborhood character of the community, and meeting the economic needs of the region.

Definitions

Regulation of home based businesses involves utilizing the right of a municipality to regulate and police certain activities and practices within its jurisdiction. Additionally, home based businesses concern businesses which are operated wholly within the residence of the business owner and are considered customary uses for the specific jurisdiction or land use. Establishing definitions for the bounds of municipal police power, customary uses, and residents provides background as to what may be regulated and signifies the space in which case law and case studies function concerning the issue. The relationship between the three definitions outlines how and why the municipality may regulate home based businesses.

Police Power

The police power of local municipalities is derived from the United States Constitution and the Tenth Amendment. Additionally, the Nevada Constitution Article VIII, § 8 gives local incorporated cities and counties within the state the power to govern local land uses and regulate activities that can occur on private property (Nevada Const. art.VIII pt. 8). As a

result, local municipalities such as the City of Reno have legal standing to regulate whether or not an individual can operate a business on their private property, as well as the nature of the activities that can be allowed on such private property.

Customary Use

The police power of the local municipality to restrict home based businesses is limited as a result of what is considered customary use of a residential property. Customary use refers to a type of occupation, use, or business that is customarily carried on in the home, not a specific occupation or business customarily carried on in a particular development, neighborhood or community where the homeowner lives as defined in *Commissioners of Bellefonte v. Coppola* (Commissioners v. Coppola, 1982). What uses or businesses are considered customary varies from place to place and the culture of the neighborhood or community. Current cases outline that it is not the job of local jurisdictions to regulate general uses on a discretionary basis if the municipality does not have legislation or ordinances which dictate what uses or activities are or are not allowed on certain residential properties.

Resident

A resident of the dwelling unit includes individuals, either related or unrelated who occupy the residence for an extended period of time (Washoe County, 2014). Historically, some home based business ordinances have defined residents as individuals who live in the dwelling and are additionally familially related. Enforcement and definitions of what a familial relation signifies is often difficult and fails to consider unrelated individuals who often reside together in dwellings. As such, relationships between residents are not strictly defined or enforced and rather definitions of residents concern individuals who do not have to commute to the dwelling to be employed at the home based business.

Legal Precedence

In order to develop an ordinance that meets the needs of both the residents who will use it, and the municipality that will defend and enforce it, the ordinance must be in line with the existing legal precedence established by a combination of court decisions which establish the bounds of legally acceptable regulation, and case studies which provide best practices for regulation language and approaches.

Court Cases

Pratt v. Building Inspector of Gloucester (1953)

Pratt v. Building Inspector of Gloucester (1953): The case concerns a suit between a neighbor of a property and the City building inspector in the City of Gloucester, Massachusetts. Pratt, the neighbor to the Milne family, argued that the construction of and operation of a horse stable on the Milne property is against the single family zoning of the property. Additionally, Pratt stated that since horse stables were not stated as an allowed use in residential zones, but were allowed in commercial zones, that Milne's property was not property zoned to allow for a horse stable. The court dismissed the lawsuit and held that since horse stables were not explicitly stated as a banned use in single family zones, and since Milne received a permit to construct a horse stable, then the direct written permission of the City council overrides the zoning code (Pratt v. Building Inspector, 1953). From this case, it is crucial to note that any home based business ordinance must recognize and regulate the possible uses that one can have in their home, and different effects that each business has on their neighbors. Since horse stables were not referenced in the single family residential zone, it was up to the discretion of the City council to determine what use they believed was appropriate for any property. Ordinances developed to regulate home based businesses allow for a more

ministerial approach to business allowances and more general regulation of business types.

Parks v. Board of Adjustment of City of Killeen (1978)

Parks v. Board of Adjustment of City of Killeen (1978): The case concerns a suit between Parks, a neighbor to the Baxter residence and the Board of Adjustment of the City of Killeen, Texas. Baxter operated a music school out of their home in a single family residential zone. Parks argued that the amount of noise and traffic generated by the school was detrimental to the quality of life of the neighborhood. The county dismissed the suit and held that a small music school akin to the one operated by Baxter was a customary use for a residential property, meaning that while not explicitly stated that it is an allowed use in single family residential zones as per the City ordinance, it is a use that can reasonably be expected. The court additionally held that if the City Board of Adjustment desired to regulate noise and traffic, that can be done without limiting the explicit uses within private properties (*Parks v. Board of Adjustment, 1978*). The case provides a basis for how an ordinance can regulate home based business uses and their relative impacts. The court in the case dismissed the suit as the plaintiff argued for a limitation of the use in the property as a result of the impacts it had, rather than an argument specific to the use. Such understandings are crucial as some uses can be reasonably expected to occur on a residential property without causing significant damage to the well being of the community and therefore can not be regulated.

Commissioners of Bellefonte v. Coppola (1982)

Commissioners of Bellefonte v. Coppola (1982): The case concerns a suit against Coppola, who operates a small woodworking business specializing in golf club repair on his property in a residential zone. The Commissioners of Bellefonte argued that Coppola's business had caused significant harm to the community and was not within the uses allowed by

zoning and the Commissioners determined that the use was not customary. The court sided in favor of Coppola and established bounds and a general test for how a business use can be considered customary for a residential use (Commissioners v. Coppola, 1982). The test asks:

Is the use and business highly specialized?

Is the work confined to the property?

Is the work confined to jobs sent to the business rather than advertised?

Noting the three questions, the court stated that the bounds for what is considered a customary use and what is not can not easily be determined in a general sense and rather should be decided for each individual community. Since Coppola's work was entirely within their property, their customers were brought to them by word of mouth only, and since the work did not have common equivalents elsewhere in the community, the court held that the use was customary and allowed. The case provides the most recent bounds to how home based businesses can be regulated and constructs a general test from which legislation and ordinances can be based.

Case Studies

Using home occupation and home based business ordinances from other cities and towns provides a basis on strengths and weaknesses to certain practices and regulatory approaches. Recognition and analysis of approaches and their impacts is crucial to the development of regulations for home based businesses for the City of Reno. The Cities of Delano and Fresno within the State of California were selected due to their greater geographic and social contexts and the problems faced in comparison to those within the City of Reno, and greater Great Basin region, including rapid population growth, significant reliance on single family homes, and a comparatively laissez-faire governing style.

City of Delano

The Home Occupation Ordinance outlined in Section 20.11.170 of the City of Delano Municipal Code specifies the condition for approval, and approval process for home occupations within residential properties and zones in the city (City of Delano, 2023). The ordinance utilizes a non-business specific approach, instead regulating the relationship between the business and the residence, as well as the impacts of the business on the local neighborhood. The ordinance allows home occupations within residential properties and zones to apply for a permit allowing the commercial operation, and must comply with the conditions outlined in the permit and ordinance to continue to operate the business in the home. Businesses which defy the conditions for operation are subject to permit removals and removal of allowances for the home occupation on the property.

Conditions for the operation and approval of home occupations are dependent on the manner in which the home occupation impacts surrounding residences and the greater community. Impact regulation is included in Section 20.11.170.2.h which states

“The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emissions of sounds, noises, vibrations, dust, electrical interference, fire hazard, glare or any other hazard or nuisance to any greater extent than normally found in a residential area.”

The regulation is vague in its criteria for “greater extent than normally found in a residential area”. Standards of acceptable colors, materials, construction, lighting, signs, emissions, sounds, vibrations, dust, fire hazards, glare, electrical interferences, and other impacts vary from property to property, and community to community. Additionally, monitoring of whether or not home occupations satisfy regulated conditions is dependent on citizen reporting with residents being

encouraged to report home occupations which cause impacts greater than normally found in a residential area to the local City and authorities.

While the home occupation ordinance for the city contains significant takeaways concerning the strengths and weaknesses of vague impact based regulation, it also showcases the manner in which a permit based approach can be utilized to promote continuous condition compliance by the home occupation or home based business of municipal regulations.

City of Fresno

The Home Occupation Guidelines from Section 12-105-H-7 of the City of Fresno Municipal Code dictate allowances and requirements for commercial operations within residential homes and properties within the city (City of Fresno, 2023). Unlike the Home Occupation Ordinance from the City of Delano, the City of Fresno provides examples of specific business operations and types that would be allowed and considered as acceptable home occupations inline with the guidelines and regulations. The guidelines and regulations set forth in the section concerning the evaluation of home occupations include definitions of resident employees, the requirement that home occupations solely operate within a single room of the residence, as well as general performance based criteria.

The general performance based criteria includes the restriction of “materials or mechanical equipment not recognized as being part of normal household or hobby uses”, restrictions on vehicular and pedestrian traffic beyond what is normally expected for a residential neighborhood. Akin to the home occupation ordinance for the City of Delano, the guidelines and criteria for performance standards do not establish concise baselines for which increases in traffic, noise, and appearances can be based upon.

The inclusion of business types and activities that would be allowed under the home occupation guidelines provide a clear picture for what the city ordinance is

meant to allow and not allow within residential zones. While its inclusion provides a clearer understanding of the goals and outcomes of the regulation, it also limits allowances for particular businesses and risks becoming outdated as technologies, and working environments change. For example, the ordinance was developed before the COVID-19 Pandemic and the contemporary work from home movement and does not take into account the scope of work and business opportunities that can be performed online. The guidelines also provide a list of acceptable equipment that can be used in home occupations including “typewriters, adding machines, portable hairdryers, permanent wave machines, filing cabinets, and desks”, with no note or inclusion of modern technological advances such as computers, cell phones, or the internet. By providing a set list of specific allowed businesses and equipment, the City is not able to keep up with rapid changes in technology and work culture that may impact what types of businesses can operate from a residence and what types of businesses individuals may want to operate.

Overall, in analyzing both Section 20.11.170 of the City of Delano Municipal Code and Section 12-105-H-7 of the City of Fresno Municipal Code, the strengths and weaknesses of the permit application and renewal process, the specific business type allowances, and performance based standards are shown. To take advantage of the opportunities of the legal tools and minimize the shortcomings, a more concise set of performance standards should be utilized to allow for a broad array of business opportunities, while creating more easily understood criteria to weigh impacts for business owners, residents, decision makers, and enforcement bodies.

Applicability

Utilizing the strengths and opportunities of the case law and case study ordinances regulating home based businesses, legal tools can be applied to craft an effective ordinance that best meets the needs of the community. The following standards are to be applicable to the proposed home based business ordinance for the City of Reno:

- **Performance Standards:** Regulating businesses based on dictated performance standards rather than discriminating what types of businesses or business activities would be or would not be allowed is a common best practice. Restrictions of activities based on the impacts that they may cause and mediating such impacts are additionally legally defensible as in the case of *Parks v. Board of Adjustment of the City of Killeen*. Municipalities may regulate noise, traffic, structure appearances, and other externally impacting factors, while still not limiting the explicit uses within private properties (*Parks v. Board of Adjustment, 1978*). Performance based standards which allow businesses to operate in residential properties so long as they do not significantly impact neighboring properties was a tool utilized by both the City of Fresno and the City of Delano and would be inline with the political and economic culture of the City of Reno as it does not explicitly dictate what operations or businesses may operate in residences, opting instead for regulation of ways in which general businesses operating in residences may impact the health and well being of neighbors.

- **Concrete Impact Baselines:** Standards upon which the impacts that a home based business or home occupation can be measured against is crucial to the effectiveness of performance standards. Both the City of Fresno and the City of Delano did not employ concrete impact baselines for their traffic and noise performance standards. The legal precedence in terms of court cases do not specifically describe the bounds of numerically quantifying performance standard bounds, but do allow municipalities to regulate home occupations and home based businesses within what is reasonably acceptable for the land use designation as in the case of *Commissioners of Bellefonte v. Coppola* and the customary use test, and in the ruling of *Pratt v. Building Inspector of Gloucester* which outlined what criteria a municipality may use to designate uses inline with community character. So long as the performance standards and baselines for impacts such as noise, parking, traffic, runoff, and other externalities are considered reasonable to the character of the community and the land use designations applied, they may be specifically and numerically quantified (*Commissioners v. Coppola, 1982*).

- **Permit Application System:** The requirement of home based business owners to apply for and reapply for a permit to allow akin to the process established in the City of Delano home occupation ordinance allows for the municipality to more clearly dictate the allowances and standards to business owners, as well as allow for a more consistent enforcement and consequence structure. When business owners are required to apply for a permit to operate a business in their residence, then the local planning and governing body may more clearly have an understanding of the anticipated impacts of the business and ways in which to enforce. Additionally, the requirement of a permit means that the municipality has a tangible tool to punish actors who continually do not obey the standards agreed to in the permit, while allowing for the possibility of regaining permit status when standards are met. The case law surrounding the issue does not restrict the use of a permit, but highlights in *Parks v. Board of Adjustment of City of Killeen* that revoking a permit must be done solely due to violations of performance standards (*Parks v. Board of Adjustment, 1978*).

Home Based Business Ordinance

The following Home Based Business Ordinance is proposed for the City of Reno and is based on existing home based business and home occupation ordinances from multiple different municipalities, and has been modified to fit the needs of the City of Reno. It has been modified to comply with key takeaways from case studies, case law, and general background information and needs of the community.

SECTION 4.04.010 - INTENT AND PURPOSE

The City of Reno recognizes the need for some citizens to use their place of residence for limited non-residential activities and uses. However, the City believes that the need to protect the integrity, health, safety, and quality of life of its residential areas is of utmost concern. A “home based business” permit is the method used to allow and to regulate non-residential activity and uses within the residentially zoned properties of the city.

In essence, the objective of a “home based business” permit is to allow a limited commercial or industrial type of activity in a residentially zoned parcel only to an extent that no neighbors or passersby will be aware, by outward appearance, of the activity. In practice, a “home based business” permit gives the permittee the legal right to use their residence for a business, but not to the extent that pedestrian and vehicular traffic are generated.

4.04.020 - DEFINITIONS

- A. Home Based Business: An accessory use of a dwelling unit for gainful employment involving provision or sale of goods and/or services and the creation of handicrafts and artwork. A home based business is incidental to the primary use of the building as a residence.
- B. Home Based Business Permit: A written agreement between the City of Reno and a resident who wishes to establish a home based business at their residence. Said permit shall establish the extent and duration of the home based business, as well

as grant permission for the proposed use. In addition, the home based business permit will establish conditions of approval and procedures for revocation and renewal.

- C. Board of Administrative Review: The Board of Administrative Review as created by Section 4.05.010 of this code.
- D. Planning Department: The Development Services Administration Director or a member of their staff assigned by them to administer this chapter of the code.

4.04.030 - GENERALLY

The regulations set forth in this chapter shall apply to all residential dwelling units, irrespective of zoning district or neighborhood.

4.04.040 - PERFORMANCE CRITERIA

Applications for a home based business permit shall be evaluated and investigations conducted using the following criteria, which shall be incorporated as minimum conditions of approval.

1. The activity is one that is not inconsistent with the use of the premises as a dwelling and is considered a customary use to the property.
2. There shall be no exterior evidence of the conduct of a home based business
3. A home based business shall be conducted only within an enclosed living area of the dwelling unit or the garage and shall not occupy more than 150 square feet of the dwelling. Home based businesses shall not be permitted outside on the property or in any accessory structure or trailer.
4. Electrical or mechanical equipment that creates visible or audible interferences in radio or television receivers or causes detectable fluctuations in line voltage outside the dwelling unit or that creates noise not normally associated with residential uses shall be prohibited.
5. Only the actual residents of the dwelling unit shall engage in the home based business. No employees may commute from outside of the residential lot to the home based business.

6. A home based business shall not create additional vehicular traffic to the residence exceeding a 50% increase of expected trips to the residence as calculated by the most recent Institute of Traffic Engineers Trip Generation Manual.
7. Storage or display of materials, goods, supplies, or equipment related to the operation of a home based business is prohibited, except that samples of goods sold or job-related materials may be carried in vehicles used for business purposes.
8. No advertising is permitted on site, including business signs on vehicles.
9. No advertising shall carry the residential address of the applicant
10. Only one home based business per dwelling unit shall be permitted.
11. On-site sales or training promotion shall not be permitted.
12. Home-based business uses which involve livestock, animal husbandry, or crop cultivation in compliance with the additional following regulations are permitted as accessory uses:
 - a. Parcels with a lot size less than 1-acre shall not be permitted to hold hoofed animals including but not limited to: horses, cattle, goats, pigs, and sheep for commercial purposes.
 - b. The raising or keeping of animals that are common to zoos, are carnivorous, poisonous or are not native to North America shall not be permitted in residential parcels for commercial purposes.
 - c. Animal enclosures shall be located at least 50-feet from any previously existing dwelling, swimming pool, patio, or other living area on property.
 - d. All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.
 - e. All animal enclosures, including but not limited to pens, coops, cages, and feed areas shall be constructed to restrict the access of predators in

accordance with the Nevada Department of Wildlife and Nevada Department of Agriculture guidelines.

- f. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation on any public road, adjoining property, or in any drainage channel.
- g. In no case shall fertilizer or irrigation use from agricultural cultivation be detectable in the ground or surface water of neighboring properties.
- h. The use shall not require agricultural machinery for the regular operations of the home-based business.

Persons with demonstrated physical handicaps may be permitted special consideration by the Board of Administrative Review. The applicant may request waiver of a portion or all of one or more of the foregoing requirements. This special request shall be considered by the Board of Administrative Review, at a public hearing, after notice to property owners within 300-feet of the subject property. The Board of Administrative Review may only grant waivers on the basis of applicant's physical inability to function within said requirements.

In cases where the Planning Department is undecided about the conformance of the use with these guidelines, the department may issue temporary approval for a specific time period or refer the application to the Planning Commission for approval, conditional approval, or denial. In making a determination, the Planning Department may consider adjacent property owners' comments and any other information regarding the use. If referred to the Planning Commission, notice to adjoining property owners shall be given in accordance with Section 4.04.050E.

4.04.050 - PROCEDURE

- A. **Application:** Application for a home base business shall be made to the Planning Department on a form provided by the department and shall be accompanied by the prevailing filing fee as established by resolution of the City Council. The Development Services Administration Director will make a decision and notify

the applicant in writing within 15 calendar days of the date the application is received.

- B. **Scope:** In cases where the Planning Department considers the application not within the scope of the home based business criteria, the application will be denied.
- C. **Time Limit:** All home based business permits shall be valid for a period of one year from initial date of approval.
- D. **Voiding of Permit:** The Planning Department may void any home based business permit for noncompliance with the criteria set forth in this chapter. Revocation may take place at any time prior to the expiration date of the permit. If the permit is revoked or is not renewed, it becomes null and void, and said use shall be terminated.
- E. **Appeal to Planning Commission:** The decision of the Planning Department concerning approval or revocation shall be final unless a written appeal is filed with the Planning Commission within ten (10) calendar days of the decision. An appeal may only be filed by the applicant or persons residing within 300 feet of the subject property.
- F. **Inspection:** Home based business applicants shall permit a reasonable inspection of the premises by the Planning Department to determine compliance with this chapter. Home based businesses shall be field checked annually by the Planning Department staff to determine compliance.
- G. **Renewal:** Home based business permits may be renewed annually provided there has not been any violation of the provisions of this chapter. Requests for renewals shall be submitted to the Planning Department in writing, accompanied by the prevailing renewal fee, as established by City Council resolution, one month prior to expiration of the permit. Should a home based business comply with regulations, and not have any complaints or ordinance violations during the time frame of their current permit, they shall have their renewal fee waived and be eligible for automatic permit renewal.

Appendix 1 includes the permit application form for home based businesses both in English and Spanish.

Relevance of the Ordinance

The home based business ordinance developed for the City of Reno provides the city with a regulation of home based businesses that is more applicable to the contemporary needs of the community beyond the minimally established regulations outlined in the Washoe County Home Occupation Ordinance.

In terms of the specific issue of the intersection and impact of agricultural uses on neighboring residential land uses, the proposed ordinance, while not covering all of the specifics and nuances of animal husbandry and crop cultivation as a home-based business acts as a starting point from which the City can regulate general uses which are not considered customary on traditional residential lots. *Pratt v. Building Inspector of Gloucester* outlined the need for home-based business ordinances to clearly outline a general sense of what is and is not allowed within residential properties as well as provide regulations for the impacts of such uses on neighboring properties. The ordinance proposed outlines in §4.04.040.12.a. and b. that depending on the size of the lot larger hoofed animals are not allowed for lots less than 1 acre in area, and that animals identified as zoo animals are not to be allowed on any lot for commercial purposes. The regulation satisfies the requirement outlined in *Pratt v. Building Inspector of Gloucester* that there is a clear, and general distinction as to what types of animals and agricultural uses are allowed on a residential property. Additionally, the ordinance satisfies the customary use guidelines developed in *Parks v. Board of Adjustment of City of Killeen* and *Commissioners of Bellefonte v. Coppola*. Since the City of Reno is not in a region that is generally considered to be agricultural due to the climate and topography, it is not reasonably expected that a homeowner would have livestock or crop cultivation on their residential properties, especially properties smaller than 1 acre within the central City's urban neighborhoods. The regulations in §4.04.040 additionally concern the three part test for customary uses by providing explicit regulations ensuring that the business within the home is confined to the property, and not allowed to advertise. The first part of the test requiring that the business be highly specialized was not regulated to be in

compliance with the general libertarian governmental approach taken by the City of Reno. Rather, impacts from business operations such as noise, traffic, lights, fumes, and other byproducts were regulated instead. Should the City desire to regulate home-based businesses and uses in a more specific sense, regulations akin to the proposed §4.04.040.12.a. which limits uses based on the size of lots and the uses in a general sense would satisfy the customary use test requirement that businesses be highly specialized and consistent with local interpretations of what should be allowed on residences.

References

City of Delano (2023). Code of Ordinances - City of Delano.

https://library.municode.com/ca/delano/codes/code_of_ordinances.

City of Fresno. (2023). Code of Ordinances - City of Fresno.

https://library.municode.com/ca/fresno/codes/code_of_ordinances.

City of Reno. (2017). Reimagine Reno - The City of Reno Master Plan.

<https://www.reno.gov/home/showpublisheddocument/69070/63787887133450000>
[0](#).

City of Reno. (2023). Community Development Map.

<https://www.reno.gov/services/city-maps-mapserver>

Commissioners of Bellefonte v. Coppola, 453 A.2d 457 (Del. 1982)

Garcia, J. (2023, February 8). Survey: Experts say market conditions ‘unfavorable’ for Northern Nevada. Northern Nevada Business Weekly.

<https://www.nnbw.com/news/2023/feb/08/survey-experts-say-market-conditions-unfavorable-for-northern-nevada-or-are-they/>

Nevada Department of Wildlife. (2021, December 21). Living with Coyotes - Nevada Wildlife. Nevada Department of Wildlife. Retrieved March 18, 2023, from

<https://www.ndow.org/blog/living-with-coyotes/>

Nevada Governor’s Office. (2023). Office of Economic Development.

<https://goed.nv.gov/key-industries/>

Parks v. Board of Adjustment, 566 S.W.2d 365 (Tex. Civ. App. 1978)

Penrose, K. (2023, March 30). Council hears updates on UNR, code enforcement and business licenses. This is Reno.

<https://thisisreno.com/2023/03/council-hears-updates-on-unr-code-enforcement-and-business-licenses/>

Pratt v. Building Inspector of Gloucester, 113 N.E.2d 816 (Mas. SJC. 1953)

Washoe County (2014). County Code - Section 25.

https://www.washoecounty.gov/planning/code_enforcement1/files_forms_reports_manuals/chap25_april14.pdf

Wunder, C. (2000). *Regulating Home-Based Businesses in the Twenty-First Century*. American Planning Association.

<https://www.planning.org/publications/report/9026838/>

Appendices

Appendix 1: Proposed City of Reno Home Based Business Permit Form

CITY OF RENO
HOME-BASED BUSINESS PERMIT APPLICATION
Supplemental Information

Name of Business: _____

Property Address: _____

Business Phone Number: _____ Contact Phone Number: _____

NOTE: The home-based business standards outlined in Section 4.04.010 - 4.04.050 R.M.C. regulate all home-based businesses in the City of Reno. Please read the requirements and standards carefully. You will be required to agree that you will comply with those requirements and standards. **Your responses on this supplemental information sheet must comply with those requirements and standards.**

Total Square Feet of Home: _____ Total Square Footage Used for Business: _____

Description of Business Activities (list type of work performed or product being sold):

Type and amounts of inventory and where inventory is being stored:

List any equipment, including vehicles, used for the business and stored at this address:

List type and amounts of chemicals that are going to be used for the business:

Anticipated business deliveries to the home: _____ per day/per week/per month (circle one)

Number of employees reporting to the home (do not include yourself): _____

Number of customer visits per day to the home: _____

I ATTEST THAT MY RESPONSES TO THESE QUESTIONS ARE TRUE AND ACCURATE. I UNDERSTAND THAT THIS BUSINESS IS SUBJECT TO INSPECTIONS AND SHALL BE REQUIRED TO COMPLY WITH ADOPTED CODES AND ORDINANCES, TO INCLUDE THE HOME BASED BUSINESS STANDARDS.

Print Name

Signature

Date

CIUDAD DE RENO
SOLICITUD DE PERMISO DE NEGOCIO BASADO EN EL HOGAR
Información Complementaria

Nombre de Negocio: _____

Dirección de la Propiedad: _____

Número de Teléfono del Negocio: _____ Número de Teléfono de Contacto: _____

ATENCIÓN: Los estándares de negocios basados en el hogar descritos en la Sección 4.04.010 - 4.04.050 R.M.C. regulan todos los negocios basados en el hogar en la Ciudad de Reno. Por favor, lea atentamente los requisitos y normas. Se le pedirá que acepte que cumplirá con esos requisitos y estándares. **Sus respuestas en esta hoja de información complementaria deben cumplir con esos requisitos y estándares.**

Total de Pies Cuadrados de Vivienda: _____ Total de Pies Cuadrados Utilizados para Negocios: _____

Descripción de las Actividades Comerciales (lista del tipo de trabajo realizado o producto que se vende): _____

Tipo y Cantidades de Inventario y Dónde se Almacena el Inventario:

Enumere Cualquier Equipo, Incluidos los Vehículos, Utilizado para el Negocio y Almacenado en esta Dirección:

Enumere el Tipo y las Cantidades de Productos Químicos que se Utilizarán para el Negocio:

Entregas Comerciales Anticipadas a Domicilio: _____ por día/por semana/por mes (marca uno)

Número de Empleados que se Reportan a la casa (no se incluya a sí mismo): _____

Número de Visitas de Clientes por día a Domicilio:: _____

DOY FE DE QUE MIS RESPUESTAS A ESTAS PREGUNTAS SON VERDADERAS Y PRECISAS. ENTIENDO QUE ESTE NEGOCIO ESTÁ SUJETO A INSPECCIONES Y SE LE EXIGIRÁ QUE CUMPLA CON LOS CÓDIGOS Y ORDENANZAS ADOPTADOS, PARA INCLUIR LOS ESTÁNDARES COMERCIALES BASADOS EN EL HOGAR.

Nombre

Firma

Fecha