



# memorandum

**DATE:** February 15, 2011

**TO:** Michael S. Flad, City Manager

**FROM:** Greg Herrmann, Community Development Director  
By: Terre Hirsch, Assistant Community Development Director  
License and Code Services Administrator

**SUBJECT: REVIEW OF THE HOME OCCUPATION ORDINANCE**

## **PURPOSE**

The purpose of this report is to provide Council with the Home Occupation Task Force (Task Force) and the Planning Board's recommendations to the Home Occupation Ordinance (Ordinance).

## **BACKGROUND**

The Ordinance provides regulatory zoning oversight for commercial business activities in single family and multi-family residences. This oversight is provided through the establishment and enforcement of restrictions, standards, and conditions. A copy of the Ordinance is attached as Exhibit A.

The Ordinance has been in effect for over 50 years and has been discussed numerous times by the current Council, past Councils, past and present Home Occupation Task Forces, and past and present Planning Boards. These discussions resulted in the Ordinance being amended twice; first in 1998 when 14 changes were approved in order to make the Ordinance less restrictive; and the second amendment was in 2006 allowing music lessons to take place in residences.

In December 2009, Council directed staff to form another Task Force to determine if the Ordinance should be amended once again. The Task Force consisted of five Burbank residents. Midway through deliberations, one member resigned reducing the Task Force to four members. The Task Force members were:

- Ms. LaVerne Thomas (Burbank resident at large)
- Mr. Max Cannon (Burbank resident at large)
- Mr. Larry Auzene (Burbank Association of Realtors Board Member)
- Mr. Eric Michael Cap (Burbank Home Occupation Owner) - resigned
- Dr. Keith Sanneman (Burbank Chamber of Commerce Board Member)

The Task Force was responsible for providing Council with recommendations concerning the entire Ordinance with direction to specifically focus on whether to allow employees and clientele

to come and go from home occupations which could thereby increase vehicular and pedestrian traffic in residential zones.

The Task Force meetings were public meetings conducted under the provisions of the Brown Act. The five meetings took place between January 28, 2010 and March 25, 2010 and were promoted through public notices, TV6 promotions, newspapers, City Council announcements, and the City of Burbank website. During these meetings the Task Force studied all provisions of the Ordinance as well as home occupation ordinances from other local jurisdictions, including cities and counties. Attached as Exhibit B are the minutes from the Task Force meetings.

Council also directed staff to refer the Ordinance to the Planning Board after the Task Force completed its study and recommendations. The Ordinance was presented to the Planning Board on November 8, 2010. A copy of the Planning Board staff report is attached as Exhibit C, and a copy of the minutes from that meeting is attached as Exhibit D.

## **ANALYSIS**

Most California cities, including the City of Burbank, regulate commercial business activity conducted from residences through the enforcement of home occupation ordinances. These ordinances establish criteria intended to provide appropriate oversight for commercial business activities taking place in residential zones. These criteria are the restrictions, conditions, and regulations of home occupation ordinances which assure that residential commercial business activities will not disrupt, become a nuisance, disturb, or modify the residential character of neighborhoods.

As such, past and present Burbank City Councils have been interested in this ordinance as the primary tool for allowing reasonable and appropriate commercial business activities to be conducted from residential properties. This is accomplished by placing a priority on protecting the character of residential neighborhoods as well as residential property values. As noted by the Task Force's deliberations, in addition to the Planning Board's considerations, all restrictions, conditions, and regulations of the Ordinance should be relatively easy to enforce in order for it to properly protect the character of residential neighborhoods.

The Task Force thoroughly discussed the current provisions of the Ordinance. They focused on whether it would be beneficial to neighborhoods to allow employees and/or clientele to come and go from home occupation premises. Overall, the Task Force recommended not to amend the Ordinance allowing employees or clientele to visit home occupations because of: disruptions which would occur from additional vehicular and pedestrian traffic; insufficient on-street and off-street parking which would compound existing parking problems throughout the city; safety concerns; and, it would increase opportunities for the adult entertainment industry to legally film from Burbank residences. The Task Force felt that if the Ordinance were to be amended to allow limited amounts of daily, weekly, or monthly clientele or employee visits, it would create undue enforcement problems because of the difficulty in verifying compliance with the amount of allowable visits.

After the Planning Board reviewed both the Ordinance and the deliberations/recommendations of the Task Force, the Planning Board concurred with the Task Force's conclusions and

recommendations. Exhibit D contains a quote from Planning Board member Hovanessian which best describes the Planning Board’s thoughts,...“The [current] ordinance is well drafted...it is important to preserve and protect the quality of life for residential neighborhoods and therefore [Planning Board member Hovanessian] does not feel that the ordinance needs to be modified.”

### Task Force and Planning Board Recommended Ordinance Amendment

The Task Force and Planning Board recommend an amendment to one regulation of the Ordinance pertaining to determining the allowable size of commercial vehicles which are kept on home occupation premises. Attached as Exhibit E is a copy of BMC, Title 10- 1-672 (j) which describes the current allowable size of commercial vehicles used in conjunction with a home occupation. The current measurement is “a suspension weight of one ton or less, and the vehicle is utilized for residential purposes at least 51 percent of the time on a weekly basis”.

The Task Force determined, and staff agreed, that using suspension weight as criteria is difficult to ascertain as this measurement methodology is not congruent with other Burbank Municipal Code sections. Currently, any motor home greater than 22 feet in length may not be parked, stored, or kept within a residential front yard setback. The newly adopted Large Non-Commercial Vehicle Ordinance also uses vehicle length calculations to determine appropriate vehicle size.

Both the Task Force and Planning Board agree that using vehicle size, which is recommended to be 22 feet in length and eight feet in height, is consistent with other code sections pertaining to vehicles kept in residential zones. The Task Force recommendation includes that if a trailer is attached to the commercial vehicle, a combination of the two vehicles cannot exceed 22 feet in length, and neither vehicle can be over eight feet in height. Neither the Task Force nor the Planning Board desired to change this code section with respect to the home occupation commercial vehicle being used at least 51 percent of the time for residential purposes. Therefore, the recommendation does not include any concern over this portion of the code.

### **RECOMMENDATION**

Staff recommends Council direct staff to return with an amendment to the Home Occupation Ordinance amending BMC, Title 10-1-672 (j) such that the length of a commercial vehicle allowed to be on a home occupation premises, including any attached trailer or apparatus, be no greater than 22 feet in length and eight feet in height.

### **EXHIBITS**

- A** Current Home Occupation Ordinance
- B** Minutes from Home Occupation Task Force Meetings
- C** November 8, 2010 Planning Board Home Occupation Staff Report
- D** Minutes from November 8, 2010 Planning Board Meeting
- E** BMC, 10-1-672 (j) Size Limits of Home Occupation Vehicles