

REFERENCE TITLE: home-based businesses; restrictions; prohibition

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1162

Introduced by
Senators Kaiser: Farnsworth, Mesnard, Rogers, Shamp, Wadsack

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-462.10; AMENDING SECTION 11-820, ARIZONA REVISED
STATUTES; RELATING TO PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 6.1, Arizona Revised
3 Statutes, is amended by adding section 9-462.10, to read:

4 9-462.10. Restriction on regulation; home-based businesses;
5 no-impact home-based businesses; exceptions;
6 definitions

7 A. A HOME-BASED BUSINESS SHALL BE ALLOWED AS A USE BY RIGHT IF THE
8 HOME-BASED BUSINESS DOES NOT SUPERSEDE ANY DEED RESTRICTION, COVENANT OR
9 AGREEMENT RESTRICTING THE USE OF LAND, A MASTER DEED OR ANY OTHER DOCUMENT
10 APPLICABLE TO A COMMON INTEREST OWNERSHIP COMMUNITY.

11 B. A MUNICIPALITY MAY NOT PROHIBIT A NO-IMPACT HOME-BASED BUSINESS
12 OR REQUIRE A PERSON TO APPLY FOR, REGISTER OR OBTAIN A PERMIT, LICENSE,
13 VARIANCE OR OTHER TYPE OF PRIOR MUNICIPAL APPROVAL TO OPERATE A NO-IMPACT
14 HOME-BASED BUSINESS.

15 C. A MUNICIPALITY MAY ESTABLISH REASONABLE REGULATIONS ON A
16 HOME-BASED BUSINESS IF THE REGULATIONS ARE NARROWLY TAILORED FOR THE
17 FOLLOWING PURPOSES:

18 1. PROTECTING THE PUBLIC HEALTH AND SAFETY, INCLUDING EXISTING
19 MUNICIPAL REGULATIONS RELATED TO FIRE AND BUILDING CODES, HEALTH,
20 SANITATION, TRANSPORTATION OR TRAFFIC CONTROL AND SOLID OR HAZARDOUS
21 WASTE, POLLUTION AND NOISE CONTROL.

22 2. LIMITING OR PROHIBITING THE USE OF A HOME-BASED BUSINESS FOR THE
23 PURPOSES OF MAINTAINING A STRUCTURED SOBER LIVING HOME, SELLING ILLEGAL
24 DRUGS OR LIQUOR, PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING OR OTHER
25 ADULT-ORIENTED BUSINESSES.

26 3. ENSURING THAT THE BUSINESS ACTIVITY IS:

27 (a) COMPATIBLE WITH RESIDENTIAL USE OF THE PROPERTY AND THE
28 SURROUNDING RESIDENTIAL AREA.

29 (b) SECONDARY TO THE USE OF THE PROPERTY AS A RESIDENTIAL DWELLING.

30 (c) COMPLYING WITH STATE AND FEDERAL LAW AND APPLICABLE TAXES.

31 D. A MUNICIPALITY MAY NOT REQUIRE A PERSON AS A CONDITION OF
32 OPERATING A HOME-BASED BUSINESS TO:

33 1. APPLY FOR REZONING OF THE PROPERTY FOR COMMERCIAL USE.

34 2. OBTAIN A HOME-BASED BUSINESS LICENSE OR OTHER GENERAL BUSINESS
35 LICENSE.

36 3. INSTALL OR EQUIP FIRE SPRINKLERS IN A SINGLE-FAMILY DETACHED
37 RESIDENTIAL DWELLING OR ANY RESIDENTIAL DWELLING WITH NOT MORE THAN TWO
38 DWELLING UNITS.

39 E. A QUESTION ABOUT WHETHER AN ADOPTED MUNICIPAL REGULATION
40 COMPLIES WITH THIS SECTION SHALL BE A JUDICIAL QUESTION, AND THE
41 MUNICIPALITY THAT ENACTED THE REGULATION SHALL ESTABLISH BY CLEAR AND
42 CONVINCING EVIDENCE THAT THE REGULATION COMPLIES WITH THIS SECTION.

43 F. FOR THE PURPOSES OF THIS SECTION:

44 1. "GOODS" MEANS ANY MERCHANDISE, EQUIPMENT, PRODUCTS, SUPPLIES OR
45 MATERIALS.

1 2. "HOME-BASED BUSINESS" MEANS ANY BUSINESS FOR THE MANUFACTURE,
2 PROVISION OR SALE OF GOODS OR SERVICES THAT IS OWNED AND OPERATED BY THE
3 OWNER OR TENANT OF THE RESIDENTIAL PROPERTY.

4 3. "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, CHILD, SIBLING,
5 PARENT, GRANDPARENT, GRANDCHILD, STEPPARENT, STEPCHILD OR STEPSIBLING OF
6 THE HOMEOWNER OR TENANT, WHETHER RELATED BY ADOPTION OR BLOOD.

7 4. "NO-IMPACT HOME-BASED BUSINESS" MEANS:

8 (a) BUSINESS ACTIVITIES THAT ARE LIMITED TO THE SALE OF LAWFUL
9 GOODS OR SERVICES.

10 (b) A BUSINESS THAT EMPLOYS ONLY THE FOLLOWING:

11 (i) RESIDENTS OF THE PRIMARY DWELLING.

12 (ii) IMMEDIATE FAMILY MEMBERS OF RESIDENTS OF THE PRIMARY DWELLING.

13 (iii) NOT MORE THAN THREE INDIVIDUALS WHO ARE NOT RESIDENTS OF THE
14 PRIMARY DWELLING.

15 (c) BUSINESS ACTIVITIES THAT:

16 (i) DO NOT GENERATE ON-STREET PARKING OR A SUBSTANTIAL INCREASE IN
17 TRAFFIC IN THE RESIDENTIAL AREA.

18 (ii) OCCUR INSIDE THE RESIDENTIAL DWELLING.

19 (iii) ARE NOT VISIBLE FROM THE STREET.

20 (iv) DO NOT VIOLATE ANY REGULATION ESTABLISHED PURSUANT TO
21 SUBSECTION C OF THIS SECTION.

22 Sec. 2. Section 11-820, Arizona Revised Statutes, is amended to
23 read:

24 11-820. Restriction on regulation; home-based businesses;
25 no-impact home-based businesses; exceptions;
26 definitions

27 ~~A. Any ordinance authorized by this chapter shall not restrict or~~
28 ~~otherwise regulate the owner of a home-based business that holds a valid~~
29 ~~license from:~~

30 ~~1. Making residential property improvements to add doors, shelving~~
31 ~~or display racks for use by the home-based business.~~

32 ~~2. Displaying a temporary commercial sign on the residential~~
33 ~~property during business hours, if the sign is not more than twenty-four~~
34 ~~inches by twenty-four inches.~~

35 ~~3. Selling or offering for sale any goods.~~

36 ~~4. Generating traffic, parking or delivery activity that does not~~
37 ~~cause on-street parking congestion or a substantial increase in traffic~~
38 ~~through the residential area.~~

39 ~~5. Having more than one client on the property at one time.~~

40 ~~6. Employing any of the following:~~

41 ~~(a) Residents of the primary dwelling.~~

42 ~~(b) Immediate family members.~~

43 ~~(c) One or two individuals who are not residents of the primary~~
44 ~~dwelling or immediate family members.~~

1 ~~B. This section does not preclude a county from imposing reasonable~~
2 ~~operating requirements on a home-based business or a residential property~~
3 ~~used by a home-based business.~~

4 A. A HOME-BASED BUSINESS SHALL BE ALLOWED AS A USE BY RIGHT IF THE
5 HOME-BASED BUSINESS DOES NOT SUPERSEDE ANY DEED RESTRICTION, COVENANT OR
6 AGREEMENT RESTRICTING THE USE OF LAND, A MASTER DEED OR ANY OTHER DOCUMENT
7 APPLICABLE TO A COMMON INTEREST OWNERSHIP COMMUNITY.

8 B. A COUNTY MAY NOT PROHIBIT A NO-IMPACT HOME-BASED BUSINESS OR
9 REQUIRE A PERSON TO APPLY FOR, REGISTER OR OBTAIN A PERMIT, LICENSE,
10 VARIANCE OR OTHER TYPE OF PRIOR COUNTY APPROVAL TO OPERATE A NO-IMPACT
11 HOME-BASED BUSINESS.

12 C. A COUNTY MAY ESTABLISH REASONABLE REGULATIONS ON A HOME-BASED
13 BUSINESS IF THE REGULATIONS ARE NARROWLY TAILORED FOR THE FOLLOWING
14 PURPOSES:

15 1. PROTECTING THE PUBLIC HEALTH AND SAFETY, INCLUDING EXISTING
16 COUNTY REGULATIONS RELATED TO FIRE AND BUILDING CODES, HEALTH, SANITATION,
17 TRANSPORTATION OR TRAFFIC CONTROL AND SOLID OR HAZARDOUS WASTE, POLLUTION
18 AND NOISE CONTROL.

19 2. LIMITING OR PROHIBITING THE USE OF A HOME-BASED BUSINESS FOR THE
20 PURPOSES OF MAINTAINING A STRUCTURED SOBER LIVING HOME, SELLING ILLEGAL
21 DRUGS OR LIQUOR, PORNOGRAPHY, OBSCENITY, NUDE OR TOPLESS DANCING OR OTHER
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25 SURROUNDING RESIDENTIAL AREA.

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28 D. A COUNTY MAY NOT REQUIRE A PERSON AS A CONDITION OF OPERATING A
29 HOME-BASED BUSINESS TO:

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35 DWELLING UNITS.

36 E. A QUESTION ABOUT WHETHER AN ADOPTED COUNTY REGULATION COMPLIES
37 WITH THIS SECTION SHALL BE A JUDICIAL QUESTION AND THE COUNTY THAT ENACTED
38 THE REGULATION SHALL ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT THE
39 REGULATION COMPLIES WITH THIS SECTION.

40 ~~E.~~ F. For the purposes of this section:

41 1. "Goods" means any merchandise, equipment, products, supplies or
42 materials.

43 2. "Home-based business" means any business for the ~~limited~~
44 manufacture, provision or sale of goods or services that is owned and
45 operated by the owner or tenant of the residential property.

1 3. "Immediate family member" means a spouse, child, sibling,
2 parent, grandparent, grandchild, stepparent, stepchild or stepsibling,
3 whether related by adoption or blood.

4 ~~4. "License" means any permit, certificate, approval, registration,
5 charter or similar form of authorization that is required by law and that
6 is issued by any agency, department, board or commission of this state or
7 of any political subdivision of this state for the purpose of operating a
8 business in this state or to an individual who provides a service to any
9 person and the license is required to perform that service.~~

10 4. "NO-IMPACT HOME-BASED BUSINESS" MEANS:

11 (a) BUSINESS ACTIVITIES THAT ARE LIMITED TO THE SALE OF LAWFUL
12 GOODS OR SERVICES.

13 (b) A BUSINESS THAT EMPLOYS ONLY THE FOLLOWING:

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