

**Sec. 142-109. - Commercial use of single-family homes prohibited.**

- (a) *Intent and purpose.* The land development regulations restrict residential properties to residential and compatible accessory uses. Commercial uses on residential properties are prohibited, with limited exceptions. While residents are entitled to enjoy the use of their property consistent with the applicable regulations, in order to ensure and protect the enjoyment, character and value of residential neighborhoods and buildings, the provisions herein are established.
- (b) *Definitions.*
  - (1) *Use of residential property or use of the property* in this section shall mean occupancy of residential property for the purpose of holding commercial parties, events, assemblies or gatherings on the premises.
  - (2) *Advertising or advertisement* shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, upon the premises, as may be viewed through various traditional media, including, but not limited to, newspaper, magazines, flyers, handbills, television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.
- (c) *Regulations: Determination of commercial use.*
  - (1) Accessory use of residential property shall be deemed commercial and not permitted, except as otherwise provided for in the Code, if:
    - a. *Compensation to owner.* The owner, lessee or resident receives payment or other consideration, e.g., goods, property or services, in excess of \$100.00 per party or event for the commercial use of the property, including payment by any means, direct or indirect, including security deposits; or
    - b. *Goods, property or services offered or sold.* Goods, property or services are offered for sale or sold on or at the property, during use of the property; however, this subsection shall not apply, if:
      - 1. All of the goods, property or services offered are donated to or for charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws; or
      - 2. All of the proceeds from sales are directly payable and paid to charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal

Revenue Code, as amended, or in accordance with applicable election laws. An organization or candidate may reimburse donors for goods or property donated; or

3. The sale is of the property itself or personal property of the owner or resident (excluding property owned by a business), and if publicly advertised, comply with subsection (3) below;
  4. Notwithstanding the restrictions in subsections (1)b.1—3., limited commercial use of the property by the owner or resident for the sale of goods, property or services shall be allowed under the following criteria. The event:
    - i. Is by private invitation only, not publicly advertised;
    - ii. Creates no adverse impacts to the neighborhood;
    - iii. The activity and its impacts are contained on the property;
    - iv. Parking is limited to that available on-site, plus 11 vehicles legally self-parked near the property, with no busing or valet service; and
    - v. Frequency is no greater than one event per month; or
  - c. *Admittance fees.* Use of the property by attendees requires an admittance or membership fee or a donation, excluding donations directly payable and paid by attendees to charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws; or
  - d. Any advertising that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.
- (2) *Signs or advertising.* Signs or other forms of advertising in connection with goods, property or services offered in connection with commercial use of the property, including the actual goods, property (except real property and structures thereon) or services, shall not be visible from the public right-of-way. This section shall not be construed to prohibit the display of real estate for sale or lease signs for the property.
- (3) *Real estate open houses.* The following events are permitted: Open houses (open to the public) organized for the purpose of promoting the sale or lease of the residence where the open house is located, to potential buyers or renters, or events organized by the listing agent limited to licensed real estate brokers and/or agents, subject to the following:
- a. No sale or display of goods, property or services by sponsoring businesses unrelated to the property; and
  - b. No charging admittance fees.
  - c. Events described in this subsection must end by 8:00 p.m.
- (d) *Enforcement.*
- (1) Violations of this section shall be subject to the following fines. The special master

shall not waive or reduce fines set by this section.

- a. If the violation is the first violation .....\$2,500.00
- b. If the violation is the second violation within the preceding 18 months  
\$7,500.00
- c. If the violation is the third violation within the preceding 18  
months .....\$12,500.00
- d. If the violation is the fourth or greater violation within the preceding 18  
months .....\$20,000.00

Fines for repeat violations shall increase regardless of location.

- (2) In addition to or in lieu of the foregoing, the city may close down the commercial use of the property and/or seek an injunction against activities or uses prohibited under this section.
- (3) Any city police officer or code compliance officer may issue notices for violations of this section, with alternative enforcement as provided in section 1-14 and chapter 30 of this Code. Violations shall be issued to the homeowner, and/or to any realtor, real estate agent, real estate broker, event planner, promoter, caterer, or any other individual or entity that facilitates or organizes the prohibited activities. In the event the record owner of the property is not present when the violation occurred, a copy of the violation shall be provided to such owner.
- (4) Charitable, religious or political organizations or candidates for public office shall receive one courtesy notice in lieu of the first notice of violation only, after which fines will accrue starting with the first violation as prescribed. No courtesy notice in lieu of first notice of violation shall be available if a courtesy notice in lieu of first notice of violation has already been granted in the preceding 18-month period, regardless of location.
- (5) The city recognizes peoples' rights of assembly, free expression, religious freedom, and other rights provided by the state and federal constitutions. It is the intent of the city commission that no decision under this section shall constitute an illegal violation of such rights, and this section shall not be construed as such a violation.
- (6) The city manager or designee may adopt administrative rules and procedures to assist in the uniform enforcement of this section.
- (e) *No variances shall be granted from this section.* This section does not authorize commercial activities in residential neighborhoods that are otherwise prohibited or regulated by applicable law, unless expressly provided for herein.

(Ord. No. 2008-3598, § 1, 2-13-08; Ord. No. 2014-3854, § 1, 4-23-14)