



POLICY NUMBER - 8.12
POLICY SUBJECT - 8.12 Residential Use

1. POLICY PURPOSE

- Provide for and promote the existence of small businesses that are able to operate within existing residential areas
- Provide a flexible approach to the assessment of applications for people wanting to undertake a home based activity
- Recognise the advantages of home based activities to the community

2. POLICY SCOPE

This policy applies to Persons wishing to undertake residential use development within the Shire of Merredin.

3. LEGISLATIVE REQUIREMENTS

- Local Planning Scheme no.6

4. POLICY STATEMENT

Objectives

- Provide for and promote the existence of small businesses that are able to operate within existing residential areas
- Provide a flexible approach to the assessment of applications for people wanting to undertake a home based activity
- Recognise the advantages of home based activities to the community

Policy Statement

There are many advantages and benefits in providing an appropriate mix of non-residential land uses that are compatible in areas which are predominantly residential. Benefits include:

- Contributing to a positive work and lifestyle balance by providing more opportunities for residents to spend more time at home;
- Providing economic benefits to the community by reducing the initial setup costs for new and small businesses. Once businesses grow beyond the provisions of a home activity, it is expected that they be relocated to a more appropriate land use zone; and
- Increased level of passive surveillance and safety within the residential area due to an increased number or residents within their local neighbourhood during general business hours.

4.1 Intent

Many forms of home businesses can be compatible with the residential environment. The aim of the Residential Use Policy is to ensure that no business activity within a residential area:

- creates nuisances,

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- causes hazard, or
- detracts from the amenity of a residential area.

In accordance with the Local Planning Scheme No.6 non-residential uses shall be compatible in character, scale and operation with the predominant residential use.

The Residential Use Policy is intended to ensure consistency in Council decision making in relation to home businesses and is enforceable through the provisions of Local Planning Scheme no.6.

4.2 Classification

For the purposes of this Policy, the following classifications for all ~~home-occupation Residential Use~~ activities will apply:

Home Business

A Development notification/application must be completed and submitted for Council's consideration including a site plan of the dwelling including parking, access, any proposed signage and floor area of the business.

A Home Business relies on clients visiting the site and has these additional characteristics:

'Home business means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

- Does not employ more than 2 people not members of the occupier's household;*
- Will not cause injury to or adversely affect the amenity of the neighbourhood;*
- Does not occupy an area greater than 50 square metres;*
- Does not involve the retail sale, display or hire of goods of any nature;*
- In relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
- Does not involve the use of an essential service of greater capacity than normally required in the zone;'*

No more than two clients/customers are to be present at any one time and any external sign displayed is not to exceed 0.5 square meters. 2 additional parking bays (to the residential requirement) must be provided onsite and is to be shown on the site plan.

~~Home Occupation~~

~~A Development notification/application must be completed and submitted for Council's consideration including a site plan of the dwelling including parking access, any proposed signage and floor area of the business.~~

~~*'Home occupation means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —*~~

- ~~*Does not employ any person not a member of the occupier's household;*~~
- ~~*Will not cause injury to or adversely affect the amenity of the neighbourhood;*~~
- ~~*Does not occupy an area greater than 20 square metres;*~~
- ~~*Does not display a sign exceeding 0.2 square metres; (ie. 40cm x 50cm)*~~
- ~~*Does not involve the retail sale, display or hire of goods of any nature;*~~

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- ~~f.—In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and~~
- ~~g.—Does not involve the use of an essential service of greater capacity than normally required in the zone;'~~

~~No more than one (1) client/customer is to be present at any one time. 1 additional parking bay (to the residential requirement) must be provided onsite and is to be shown on the site plan.~~

Home Store

A Development notification/application must be completed and submitted for Council's consideration including a site plan of the dwelling including parking access, any proposed signage and floor area of the business. A home store is not to employ more than two people not members of the occupier's household.

'Home store means any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling;'

Shop: 'means a premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet'

Two parking bays must be provided on site and shown on the site plan. An advertising and public comment period will apply. No more than two clients/customers are to be present at any one time and any external sign displayed is not to exceed 0.5 square meters.

Home Office

~~A Home Office does not require planning approval. It is required that appropriate notification be submitted on the commencement of the home office (please contact the Shire of Merredin for a Development notification/application form).~~

~~A Home Office is where one room in the home is designated for office purposes and office work is the sole activity of the business (eg. professional office, secretarial service etc.). A Home Office does not employ any person not a member of the occupier's household.~~

~~According to the current Shire of Merredin Town Planning Scheme a home office is defined as~~

~~'a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not—~~

- ~~a.—entail clients or customers travelling to and from the dwelling;~~
~~b.—involve any advertising signs on the premises; or~~
~~c.—require any external change to the appearance of the dwelling;'~~

~~'Office means premises used for administration, clerical, technical, professional or other like business activities'~~

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~~*A Mobile Business could be classified at a Home Office as it is a business from which all work is conducted at the client's home, a minor amount of material is required to be stored on site and only minor home office use is involved (eg. mobile tradesperson eg. electrician, mobile personal body care eg. hairdresser). A mobile business may be classified differently if it intends to operate between the hours of 7pm-7am due to various noise considerations that must be considered.~~

~~Note: Should any Home Office develop to the extent that its operation causes complaint, the occupant of the dwelling will need to demonstrate compliance with the definition of Home Office or make an application for planning approval.~~

4.3 Residential Use

Assessment ~~Assessment~~ Criteria

The following control criteria shall be considered in assessing each application for approval to conduct a Residential Use:

- The following limitations are imposed on any Residential Use:
 - Shall not cause injury to or prejudicially affect the amenity of the neighbourhood or cause the unsightly appearance of the house or domestic outbuildings or the land on which the business is conducted. With reference to the amenity of the neighbourhood, a Residential Use will be assessed in regards to the following;
 - the transporting of materials or goods to or from the dwelling;
 - the hours of operation, which should generally be limited to the normal business hours of 8am to 5pm Monday- Friday; and
 - the emissions of noise, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water or waste products, electrical interference or light.
 - Traffic – The business should not attract more than the normal residential volume of traffic into the street and generally should not involve the calling of clients to the house (home store exception). A Residential Use should not give rise to any level of pedestrian or vehicular traffic substantially beyond that which is normal to the locality in which the business is located.
 - Parking – All vehicles associated with the business should be parked on the lot and the number of vehicles should not exceed the number of parking facilities normally required for a single dwelling (unless otherwise specified). No more than one (1) commercial or industrial vehicle shall be permitted to be parked on a lot in conjunction with a Residential Use.
 - Noise – Noise from vehicles or equipment associated with the business should not be disruptive to neighbours and should not occur during unreasonable hours (between 7pm and 7am).
 - Safety – the safety of pedestrians/residents should not be threatened, particularly by

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an increase in turning and manoeuvring vehicles or an obstruction of roadway vision.

- Interference – There should be no adverse interference with adjacent residents caused by any of the factors mentioned in the limitations criteria.
- Appearance - The appearance of the premises should not be significantly different from a standard residential premises and all things such as commercial vehicles, plant and equipment, materials, etc should be adequately screened from view.
- Services – The business must not require greater than standard residential services and the operation of the business should not in any way affect the services to adjacent lots.
- Does not entail a source of power other than an electric motor of not more than 0.373 kilowatts (0.5hp)
- Scale of Operation – The scale of operation of the business should at all times be maintained at a level compatible with the permitted classification and assessment criterion.

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While not requiring a ~~Residential Use Permit Development Approval~~ Home Office/Mobile Business may be subject to provisions of the *Health Act 1911, Food Act 2008, Building Act 2011* and all subsidiary regulations

4.4 Applications

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~~Home Office/Mobile Business~~

~~A Mobile Business/Home Office is deemed to comply with the provisions of this Policy and does not require Council approval. However, persons wishing to carry on a Mobile Business/Home Office are required to notify the Council and register details of the business activity, name and residential address with the Council using the same Development Notification/Application form.~~

Non-conforming Residential Use

A person seeking approval for a Residential Use, which does not fall into the Home Business/~~Occupation~~/Store/~~Office~~ category, shall apply for planning approval in accordance with the provisions of Local Planning Scheme No.6 and is required to fill out the same Development notification/application form. ~~An advertising and public comment period of 14 days will apply.~~

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~~Note: due to the health risks posed, home activities involving the penetration of human skin will not be supported (ie. body piercing, tattooing and electrolysis)~~

Advertising

Local Planning Scheme No.6 will determine whether or not public notification of the proposed Residential Use is required to be placed in the local newspaper for public comment. Officers may require, where it considers appropriate, the written agreement of the owner of the premises if leased or rented as well as letters of support from neighbouring residents.

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Renewals

Any ~~Development Approval for~~ Residential Uses ~~Permit~~ shall be required to be renewed annually. Renewal notices are issued by the Council before the end of each calendar year, however it is the permit holder's responsibility to ensure the

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~~Residential Use Permit~~ Development Approval is renewed if they wish to carry on the business.

Conditions of Approval

An approval to conduct a Residential Use is subject to the following:

- ~~a-a)~~ A ~~Residential Use Permit~~ Development Approval is issued to a specific occupier of a particular parcel of land/building.
- ~~b-b)~~ A ~~Residential Use Permit~~ Development Approval shall not be transferred or assigned to any other person.
- ~~c-c)~~ A ~~Residential Use Permit~~ Development Approval shall not be transferred from the land/building in respect of which it was granted.
- ~~d-d)~~ Council may at its discretion refuse to renew the ~~permit~~ or rescind the ~~permit~~ Development Approval at anytime where the ~~Residential Use Permit~~ Development Approval holder has contravened the conditions imposed upon it, any other provisions of this Policy or any other provisions of the Local Planning Scheme.
- ~~e-e)~~ Council may, consistent with the Local Planning Scheme, impose any conditions of approval which it considers necessary to ensure that the Residential Use is compatible with the locality in which it is located.

4.5 Schedule of Fees

Mobile Business/Home Office No Fee Required – Registration Only

Home Business/~~Occupation~~/Home Store application- current statutory fees & charges apply. Home Business/~~Occupation~~/Home Store annual renewal-current statutory fees & charges apply.

4.6 Council Assessment Procedure

The following procedure should be followed by Council Officers/Council in assessing individual applications:

In considering an application for a ~~Home Occupation~~ Residential Use, Officers shall:

- ~~(a-a)~~ Determine whether the nature of the operation meets the requirements of the Residential Use definitions. If not, the activity cannot be considered as a Home Business/~~Occupation~~/Store/~~Office~~;
- ~~(b-b)~~ Determine whether the applicant has submitted all of the required documentation to support the requested Residential Use classification;
- ~~(c-c)~~ If not satisfactory in terms of (b), require the applicant to supply such further information as may be necessary to satisfy the Policy.
- ~~(d-d)~~ If satisfactory, a decision may be made based on the provisions set out in the Scheme Text and the application requirements.

Having determined the suitability or otherwise of the application. Officers should (if applicable):

- ~~(a-a)~~ Notify and seek comment from occupiers of premises within a 50 metre distance of the premises from which the ~~Home Occupation~~ Residential Use is to be conducted;
- ~~(b-b)~~ Place an advertisement in a registered newspaper generally circulating in the district advising the nature of the business proposed and that objections are to be submitted to the Shire of Merredin in writing.
- ~~(c-c)~~ Where planning consent for a Residential Use is granted in accordance with the provision of the Scheme and other criteria, the Council shall limit the period

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of validity of such consent to one **calendar** year.

5. KEY POLICY DEFINITIONS

N/A

6. ROLES AND RESPONSIBILITIES

Executive Manager of Development Services ~~XX~~ is responsible for the implementation of this policy.

7. MONITOR AND REVIEW

This policy will be reviewed by Council every two years.

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Document Control Box			
Document Responsibilities:			
Owner:	CEO	Decision Maker:	Council
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Compliance Requirements			
Legislation	Health Act 1911 Food Act 2008 Building Act 2011		
Document Management			
Risk Rating		Review Frequency	Next Due
Version #	Action	Date	Records Reference
1.	Adopted	5 September 2000	CMRef 27632– Home Occupation Policy rescinded at review below.
2.	Reviewed	17 February 2015	CMRef 81522