

# Running a business from home

## “Home Activities” & “Home Businesses”



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### Introduction

In some cases, it is possible for a person to run a business from their home.

If a business meets strict criteria, it is called a “Home Activity” and no Council approval is required.

Other businesses, that do not meet the Home Activity criteria, require Development Approval from the Council. A Development Application must therefore be lodged with the Council, and Development Approval obtained, before the business starts. These businesses, if approved, are called “Home Businesses”.

A “Home Activity” and a “Home Business” are very similar as both must not cause nuisance to neighbours and both will be limited in terms of their size (floor area and staff numbers) and operation.

The main difference between a “Home Activity” and a “Home Business” is the floor area that can be used, and the requirement to obtain a Development Approval from the Council. These differences are discussed in more detail in this brochure.

### What is a Home Activity?

A home activity is:

- a) an activity that does not detrimentally affect the amenity of the locality or any part of the locality (*that is, a business that doesn't annoy your neighbours with smells, noise, unreasonable traffic, visitors cars and so on*);
- b) an activity that does not require or involve:-
  - assistance by more than one person who is not a resident in the dwelling;
  - use (whether temporary or permanently) of a floor area exceeding 30 square metres;
  - the imposition on the services provided by any public utility organisation of any demand or load greater than that which is ordinarily imposed by other users of the services in the locality;
  - the display of goods in a window or about the dwelling or its curtilage; or
  - the use of a vehicle exceeding three tonne tare in weight.

### When is an approval from the Council required?

If a business meets all of the criteria in the Home Activity definition above, then Development Approval from the Council is not required. You are however encouraged to write to Council and provide the details of your proposed business. Council will write back to you and advise whether, in Council's opinion, your proposed business is suitable or not. Council will then keep this information on file for future reference.

If a business does not meet one or more of the criteria of the home activity definition (or an existing home activity changes or grows such that it no longer meets one or more of the criteria), then the business is not a home activity and Development Approval from the Council is required. In this situation, a development application must be lodged with the Council, and the business cannot operate unless a Development Approval is gained.

A Development Approval is made up of Development Plan Consent (Planning Consent) and Building Rules Consent (Building Consent).

Once both Planning Consent and Building Consent are given, the Council is able to give a Development Approval.

An application may be made for planning consent in the first instance, followed by building rules consent once planning consent is obtained.

Alternatively, an applicant can lodge all relevant details and seek both consents and full Development Approval all at once.

For further information on the “Development Application Process” and “Information to be submitted with a Development Application”, please refer to other Council Information Brochures.

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### What kinds of businesses are not Home Activities?

If you are in any doubt as to whether a business complies with the home activity criteria, you are advised to seek assistance from Council by writing to the Development and Regulatory Services Department and outlining the details of your proposed business.

Businesses that are likely to cause complaints and which can not be classified as home activities include:

- noisy activities;
- activities that interfere with electrical equipment, television and radio reception;
- activities that cause smoke, smell, fumes or dust;
- activities that cause traffic and parking nuisance as a result of visitors or deliveries to the property;
- activities that have goods visible for sale or hire.

Some of the businesses that Council finds to typically fail in meeting the Home Activity definition are businesses involving panel beating and spray painting, servicing and repair of vehicles, manufacturing and assembling of goods, and retail sale of goods.

### Applications for Home Businesses

Use of part of a house or a residential property for a small office, consulting room or other non-industrial business that does not meet the Home Activity criteria may be appropriate in some cases.

A separate Information Brochure is available, detailing and explaining what information must be submitted with a Development Application.

In brief, when you lodge an application for a Home Business, the following should be submitted to Council:

- A completed Development Application Form
- The relevant fees\*, including lodgement fee, planning assessment fee, and Category 3 notification and advertisement fees

- A current copy of the Certificate of Title for the property
- Two copies of a site plan
- Two copies of floor plans of the house and other buildings on the land that are proposed to be used as part of the Home Business, clearly showing what areas are proposed to be used for what purpose
- Two copies of written information about the proposed Home Business, including:
  - the activities that are to be conducted on the property
  - employee numbers and whether they are residents of the site
  - deliveries to and from the site
  - waste generated (and how that waste will be stored and removed from the site)
  - expected visitors/clients to the site including anticipated numbers, frequency, scheduling of appointments etc
  - plant and equipment necessary for the business
  - location of vehicle parking for staff and visitors
  - any advertising signage proposed (note that, signs should be fairly small and discrete)

*\*(refer to the Fee Schedule on the back of the Development Application Form for the current value of these fees)*

### Criteria for Home Businesses

When assessing applications for Home Businesses, the Council will assess the proposal against the criteria in the Council's Development Plan.

Key criteria for assessment of Home Businesses are:

- only small offices, consulting rooms or other non-industrial businesses are suitable;
- the nature, scale and intensity of the use should not detrimentally affect the amenity of residents living in the area, by the appearance of land and buildings, the inappropriate parking of cars, movement of goods and people, hours of operation, electrical interference, the storage of

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- hazardous substances, or noise or other emissions from the site
- no more than one person who doesn't live on the site should be employed
- the business should not involve the servicing, repair or sale of motor vehicles
- only one commercial vehicle associated with the business should be present at any time
- the area used in conducting the business (including storage) should be fully screened or within an enclosed building or buildings
- no goods should be displayed in any window or about the dwelling or its curtilage
- the floor area used (including storage) should be less than 50m<sup>2</sup> or 30% of the floor area of the dwelling (excluding garage and carport), whichever is the lesser and the primary use of the remaining floor area should be residential
- deliveries to and from the site should only occur between 8.30am and 5pm Monday to Friday and 9am to 1pm on Saturday
- signage should be discreet in scale, with a total advertisement area not exceeding 0.2m<sup>2</sup>, and should feature only muted colours sympathetic to a residential area.

When an application is received, Council staff will publicly notify the application according to Category 3 procedures before assessing the application against the policies in the Development Plan and, in particular, those policies outlined above.

*(Please refer to separate information brochure titled “Public Notification” for further information on Category 3 notification procedures.)*

### **Advertising a Home Activity or a Home Business**

Advertising signs need Council Approval and a Development Application must be lodged with and approved by the Council before an advertising sign is displayed on a property where a home activity or home business is being operated.

Council will not normally allow advertising signs for Home Activities but may consider small advertising signs for Home Businesses. Details of proposed

signs should be lodged as part of a Development Application.

Instead, Council encourages the operators of Home Activities and Home Businesses to use local newspapers, letterbox drops and similar. Advertisements should ideally provide details of the business and services with a contact telephone number rather than the address of the property. This enables the business operator to coordinate customer visits and avoid unnecessary traffic and parking in the area.

Like all homes, the property where the business is located, should have its street number clearly displayed so that clients and customers can easily find the property.

### **Complaints**

Council will investigate complaints made about businesses operating from homes in residential areas to see if the Home Activity criteria is being met or, in the case of Home Businesses, that an approval has been granted and that all conditions of consent are being adhered to.

If the Council finds that a business is operating outside of the Home Activity criteria or the conditions of the Home Business Approval, the Council will take enforcement action if necessary.

### **Are any other Approvals necessary?**

Although a business may have a Development Approval from the Council or may comply with the Home Activity definition under the Development Act and not need Development Approval, there may be requirements under other legislation that apply. For example, businesses involving food preparation or personal services (e.g. hairdressing and beauty treatments) have specific health requirements, and there may be environmental or industry codes, licences or standards for other types of activities.

In all instances, it is your responsibility to check with both the Council and other relevant authorities for any additional requirements.

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Additionally, if you are considering making an application for a Home Business, it is recommended you discuss your proposal with both Council's planning and building staff (or independent consultants) as, in addition to restrictions on the proposed business use discussed in this brochure, there are likely to be other, possibly significant, building alterations and/or requirements needed to satisfy the Building Code of Australia (e.g. disabled access and toilet facilities, fire safety requirements etc).

### Other Information

The Certificate of Title for a property contains information regarding the details of any encumbrances that apply to the land. Properties that form part of a strata title or community title group may also have additional rules that apply to use of the property.

Persons wishing to run a business from home should check their Certificate of Title for any encumbrance restriction and/or the Secretary of their strata/community title group to discuss their proposal.

### Want to Know More?

The above information is advisory only. It is intended to provide a guide and a general understanding of the key points associated with the particular topic. It is not a substitute for reading the relevant legislation or the Development Plan.

It is recommended that if you are intending to start a home business, you seek professional advice or contact the Council for any specific enquiries or for further assistance concerning the use and development of land.

### Contact Details - City of Marion Development and Regulatory Services Section

245 Sturt Road  
Sturt SA 5047

PO Box 21  
Oaklands Park SA 5046

Telephone (08) 8375 6685  
Facsimile (08) 8375 6899

Website <http://www.marion.sa.gov.au>