



## Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

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**Case:** TA2019003 – Home Base Business

**Hearing Date:** September 10, 2020

**Supervisor District:** All

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**Applicant:** Commission-initiated

**Request:** Text Amendment to amend Chapter 5, Rural-190 Rural Zoning District, Section 501, Articles 501.2.10 & 501.2.18 and Chapter 6 Single Family Residential R1-35 Zoning District, Section 601, Articles 601.2.8 & 601.2.14. of the Maricopa County Zoning Ordinance (MCZO).

**EROP:** This item is being processed through the County's Enhanced Regulatory Outreach Program (EROP). This matter was discussed at the February 27, 2020 Stakeholder meeting.

**Municipal Comments:** No comments received from EROP Notification process.

**Support/Opposition:** 1 e-mail in opposition received after the February 27, 2020 Stakeholder meeting.

**Recommendation:** **Approval**

**Discussion:**

This text amendment will amend the Maricopa County Zoning Ordinance (MCZO), Chapter 5 Rural-190 Rural Zoning District, Section 501, Articles 501.2.10 & 501.2.18 and Chapter 6 Single Family Residential R1-35 Zoning District, Section 601, Articles 601.2.8 & 601.2.14.

This amendment will add language to the existing home occupations to include immediate family to the non-resident employees permitted within the Maricopa County Zoning Ordinance and will eliminate the Home Occupation and Home Daycare land use applications. This amendment is necessary to bring the ordinance into alignment with state law.

**Comments:**

An e-mail was received from Kip Micuda with Hildebrand Law, P.C. indicating the proposed changes goes beyond statute. The e-mail indicated that the proposed language would allow for unlimited employees if somehow related to occupants. The relation effectively removes the limit the original rule imposed (see attached e-mail and memo). Staff responded that the proposed text amendment would bring the MCZO in alignment with current state law, ARS §11-820.6.

Proposed changes are shown in legislative edit format. New language to be added is underscored in blue font. Language to be deleted is struck through in red font.

**SECTION 501. RURAL-190** (Rural Zoning District - 190,000 Square Feet Per Dwelling Unit)

**ARTICLE 501.2. USE REGULATIONS:** A building or premises shall be used only for the following purposes:

10. Home occupations, subject to the following:<sup>\*10, \*39, \*41</sup>

- a. The entrepreneur of a home occupation shall reside in the dwelling on the property in which the business operates.
- b. The number of persons who are employed in connection with the occupants, but who are non-residents of the dwelling on the property in which the business operates, shall not exceed **three**, **UNLESS THE NON-RESIDENT EMPLOYEES ARE AN IMMEDIATE FAMILY MEMBER (SPOUSE, CHILD, SIBLING, PARENT, GRANDPARENT, GRANDCHILD, STEP PARENT, STEP CHILD, STEP SIBLING) WHETHER RELATED BY ADOPTION OR BLOOD.**
- c. The business shall be conducted entirely within a completely enclosed building, other than allowance for limited outdoor storage per item 'n' below. Physical business activity other than storage may occur within the area described per item 'n' below except that no mechanical equipment or power tools shall be operated out of doors, and in no instance shall any outdoor activity exceed the height of screening and not to exceed **eight (8) feet**.
- d. The home occupation shall not interfere with the delivery of utilities or other services to the area.
- e. The business shall not generate any noise (if the noise would be considered to have an adverse impact on the surrounding residential neighborhood per the Maricopa County Noise Ordinance), vibration, smoke, dust, odors, heat, glare, or electrical interference with radio or television transmission in the area that would exceed that normally produced by a dwelling unit in a zoning district used solely for residential purposes.
- f. No mechanical equipment or power tools shall be used, except that used for normal household purposes if the noise would be considered to have an adverse impact on the

*surrounding residential neighborhood per the Maricopa County Noise Ordinance.*

- g. No toxic, explosive, flammable, radioactive, or other similar material shall be used, sold, or stored on the site.*
- h. There shall be no change to the residential appearance of the premises, except that a separate business entrance shall be permitted. A maximum four (4) square foot sign shall be permitted, and the sign shall otherwise meet the requirements of Article 1402.2 of this Ordinance.*
- i. Unless a passenger vehicle accessory to the residence or an employee, not more than **one vehicle** used in commerce shall be permitted in connection with the home occupation. Said vehicle shall be stored in an enclosed garage.*
- j. The number of customers, clients, or students on the premises shall not exceed **five** at any time.*
- k. No non-resident employees, customers, clients, or students shall be permitted on the premises for business purposes between the hours of **10:00 p.m.** and **7:00 a.m.***
- l. Deliveries from commercial suppliers (vehicle weight greater than 10,000 lbs.) shall not restrict traffic circulation, and shall occur between **8:00 a.m.** and **5:00 p.m.**, Monday through Friday.*
- m. If the home occupation requires that any non-resident employees, customers, clients, or students visit the property, a minimum of **one (1) additional off-street parking space** shall be provided per Chapter 11, Section 1102. of this Ordinance. The maximum number of additional off-street parking spaces permitted shall be **six**.*
- n. The outdoor storage of materials shall be limited to a maximum of **25%** of the total lot area and shall not be located within any required front or street side yard. Any outdoor storage shall be completely fenced with a solid masonry wall or wood fence to obstruct the view to a height equal to the elevation of the tallest materials to be stored with a maximum height of stored materials of **eight feet**.*
- o. All outdoor lighting shall be shielded so as not to direct or reflect light upon adjoining land, shall not be constructed*

within **20 feet** of any adjoining property under other ownership, and shall not exceed **20 feet** in height.

- p. ~~A Home Occupation Conditional Use Permit issued to one person shall not be transferable to any other person, is not attached to the land, and is not transferable from one place of residence to another.~~
- q. ~~The home occupation shall not begin operation without an approved Conditional Use Permit per Section 1303 of this Ordinance. However, **IF** these conditions cannot be met, a Special Use Permit per Section 1301 of this Ordinance shall be required.~~

18. Home daycare for up to four (4) children with the following stipulations:<sup>29</sup>

- ~~a. A land use permit from Maricopa County is required establishing the use of the residence as day care.~~
- b. The ~~permit holder~~ **OWNER/OPERATOR** of the daycare shall reside in the dwelling unit in which the daycare operates.
- c. The rear and/or side yard is enclosed and provides a minimum of 75 sq. ft. per each child occupying the outdoor activity area.
- d. There shall be no signs, advertising, display or other indications of the daycare on the premises.
- e. The total number of children under compensated care shall not exceed **four (4)** at any one time.
- f. The residential address of the business shall not be listed in any business directly or in any advertising.
- g. There shall be no change to the residential appearance of the premises, including the creation of separate or exclusive business entrance(s).
- h. No pick-up or drop off of children shall be permitted on the premises between the hours of 10:00 p.m. and 6:00 a.m.

**SECTION 601. R1-35** (Single-Family Residential Zoning District -  
35,000 Square Feet Per Dwelling Unit)

**ARTICLE 601.2. USE REGULATIONS:** A building or premises shall be used only for the following purposes:

8. Home occupations, subject to the following:<sup>\*11, \*42, \*44</sup>
  - a. The entrepreneur of a home occupation shall reside on the property in the dwelling in which the business operates.
  - b. The number of persons who are employed in connection with the occupants, but who are non-residents of the dwelling on the property in which the business operates, shall not exceed **three**, **UNLESS THE NON-RESIDENT EMPLOYEES ARE AN IMMEDIATE FAMILY MEMBER (SPOUSE, CHILD, SIBLING, PARENT, GRANDPARENT, GRANDCHILD, STEP PARENT, STEP CHILD, STEP SIBLING) WHETHER RELATED BY ADOPTION OR BLOOD.**
  - c. The business shall be conducted entirely within a completely enclosed building, other than allowance for limited outdoor storage per item 'n' below. Physical business activity other than storage may occur within the area described per item 'n' below except that no mechanical equipment or power tools shall be operated out of doors, and in no instance shall any outdoor activity exceed the height of screening and not to exceed **eight (8) feet**.
  - d. The home occupation shall not interfere with the delivery of utilities or other services to the area.
  - e. The business shall not generate any noise (if the noise would be considered to have an adverse impact on the surrounding residential neighborhood per the Maricopa County Noise Ordinance), vibration, smoke, dust, odors, heat, glare, or electrical interference with radio or television transmission in the area that would exceed that normally produced by a dwelling unit in a zoning district used solely for residential purposes.
  - f. No mechanical equipment or power tools shall be used except that used for normal household purposes if the noise would be considered to have an adverse impact on the surrounding

*residential neighborhood per the Maricopa County Noise Ordinance.*

- g. No toxic, explosive, flammable, radioactive, or other similar material shall be used, sold, or stored on the site.*
- h. There shall be no change to the residential appearance of the premises, except that a separate business entrance shall be permitted. A maximum four (4) square foot sign shall be permitted, and the sign shall otherwise meet the requirements of Article 1402.2 of this Ordinance.*
- i. Unless a passenger vehicle accessory to the residence or an employee, not more than **one vehicle** used in commerce shall be permitted in connection with the home occupation. Said vehicle shall be stored in an enclosed garage.*
- j. The number of customers, clients, or students on the premises shall not exceed **five** at any time.*
- k. No non-resident employees, customers, clients, or students shall be permitted on the premises for business purposes between the hours of **10:00 p.m. and 7:00 a.m.***
- l. Deliveries from commercial suppliers (vehicle weight greater than 10,000 lbs.), shall not restrict traffic circulation and shall occur between **8:00 a.m. and 5:00 p.m.**, Monday through Friday.*
- m. If the home occupation requires that any non-resident employees, customers, clients, or students visit the property, a minimum of **one (1) parking space** shall be provided per Chapter 11, Section 1102 of this Ordinance. The maximum number of additional off-street parking spaces permitted shall be **six**.*
- n. The outdoor storage of materials shall be limited to a maximum of **25%** of the total lot area and shall not be located within any required front or street side yard. Any outdoor storage shall be completely fenced with a solid masonry wall or wood fence to obstruct the view to a height equal to the elevation of the tallest materials to be stored with a maximum height of stored materials of **eight feet**.*
- o. All outdoor lighting shall be shielded so as not to direct or reflect light upon adjoining land, shall not be constructed*

within **20 feet** of any adjoining property under other ownership, and shall not exceed **20 feet** in height.

~~p. A Home Occupation Conditional Use Permit issued to one person shall not be transferable to any other person, is not attached to the land, and is not transferable from one place of residence to another.~~

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14. Home Daycare for up to **four (4)** children with the following stipulations:<sup>\*28</sup>

~~a. A land use permit from Maricopa County is required establishing the use of the residence as day care.~~

b. The ~~permit holder~~ **OWNER/OPERATOR** of the daycare shall reside in the dwelling unit in which the daycare operates.

c. The rear and/or side yard is enclosed and provides a minimum of 75 sq. ft. per each child occupying the outdoor activity area.

d. There shall be no signs, advertising or other indications of the daycare on the premises.

e. The total number of children under compensated care shall not exceed four (4) at any one time.

f. The residential address of the business shall not be listed in any business directory or in any advertising.

g. There shall be no change to the residential appearance of the premises, including the creation of separate or exclusive business entrance(s).

h. No pick-up or drop off of children shall be permitted on the premises between the hours of 10:00 p.m. and 6:00 a.m.

### Next Steps:

A projected timeline for completion includes a tentative Board of Supervisors hearing date of October 7, 2020 with adopted language to become effective 30 days later, November 6, 2020.

**Recommendation:**

Staff recommends the Commission motion for **Approval** of TA2019003.

Prepared by: Rachel Applegate, Senior Planner  
Reviewed by: Darren V. Gerard, AICP, Planning Manager

Attachments: 8/6/2020 ZIPPOR Packet (13 pages)





## Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

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**Case:** TA2019003 – Home Base Business

**Meeting Date:** August 6, 2020 (ZIPPOR)

**Supervisor District:** All

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**Applicant:** Commission-initiated

**Request:** Text Amendment to amend Chapter 5, Rural-190 Rural Zoning District, Section 501, Articles 501.2.10 & 501.2.18 and Chapter 6 Single Family Residential R1-35 Zoning District, Section 601, Articles 601.2.8 & 601.2.14. of the Maricopa County Zoning Ordinance (MCZO).

**EROP:** This item is being processed through the County's Enhanced Regulatory Outreach Program (EROP). This matter was discussed at the February 27, 2020 Stakeholder meeting.

**Municipal Comments:** No comments received from EROP Notification process.

**Support/Opposition:** 1 e-mail in opposition received after the February 27, 2020 Stakeholder meeting.

**Recommendation:** **Initiate**

### Discussion:

This text amendment will amend the Maricopa County Zoning Ordinance (MCZO), Chapter 5 Rural-190 Rural Zoning District, Section 501, Articles 501.2.10 & 501.2.18 and Chapter 6 Single Family Residential R1-35 Zoning District, Section 601, Articles 601.2.8 & 601.2.14.

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Proposed changes are shown in legislative edit format.

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h. No pick-up or drop off of children shall be permitted on the premises between the hours of 10:00 p.m. and 6:00 a.m.

#### **Recommendation:**

Staff recommends the Commission **initiate** TA2019003.

#### **Next Steps:**

If the Commission takes action to initiate the proposed text amendment, the amendment would be scheduled for the September 10, 2020 Planning and Zoning Commission. A projected timeline for completion includes a tentative Board of Supervisors hearing date of October 7, 2020 with adopted language 30 days after Board hearing for completion by November 6, 2020.

Prepared by: Rachel Applegate, Senior Planner  
Reviewed by: Darren V. Gerard, AICP, Planning Manager

Attachments: 2/27/20 EROP Stakeholder Meeting sign in sheet (1 page)  
Kip Micuda, Attorney Hildebrand Law, P.C. E-mail in opposition to Text Amendment (4 pages)





**From:** [Kip Micuda](#)  
**To:** [Darren V. Gérard \(PND\)](#)  
**Cc:** [Rachel Applegate \(PND\)](#)  
**Subject:** RE: TA2019003  
**Date:** Tuesday, March 31, 2020 10:14:27 AM  
**Attachments:** [Memo.CtyRule.02.pdf](#)

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Hi Darren:

I hope you are well. I just realized I sent the wrong format of my memo. Here is a pdf. If you need anything else, please let me know. Do you mind giving me the time/location of the meeting? Need I ask before to make a statement?

I very much appreciate the referral to the citation. I looked at it. Seems the proposed change goes significantly beyond the statute. That said, I am keenly aware of my lack of expertise on this particular matter. If you or someone has the time to explain the drive/import of the change, I will listen. I learn new things all the time. If it makes sense, I will have no issue withdrawing my objection.

Thank you,



**Kip M. Micuda**

Attorney

**Hildebrand Law, P.C.**

4900 N. Scottsdale Rd., Suite 1500 Scottsdale, Arizona 85251

Telephone: 480-305-8300 Fax: 480-305-8303

[Kip@hildebrandlaw.com](mailto:Kip@hildebrandlaw.com) • [www.hildebrandlaw.com](http://www.hildebrandlaw.com)

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**From:** Darren V. Gérard (PND) <Darren.Gerard@Maricopa.Gov>

**Sent:** Tuesday, March 31, 2020 10:00 AM

**To:** Kip Micuda <kip@hildebrandlaw.com>

**Cc:** Rachel Applegate (PND) <Rachel.Applegate@Maricopa.Gov>

**Subject:** RE: TA2019003

Mr. Micuda: thank you for your comment. Please note the proposed text amendment is solely to bring the ordinance in alignment with current state law, reference ARS § 11-820.6. This matter is going to be discussed at the May 29<sup>th</sup> ZIPPOR public meeting. Darren

**Darren V. Gérard, AICP**

**Planning Services Manager**

Planning & Development

602-506-7139

[Darren.Gerard@maricopa.gov](mailto:Darren.Gerard@maricopa.gov)

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**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com) <[noreply@civicplus.com](mailto:noreply@civicplus.com)>

**Sent:** Tuesday, March 31, 2020 7:08 AM

**To:** PND Regulatory <[PNDRegulatory@maricopa.gov](mailto:PNDRegulatory@maricopa.gov)>; Kathy Semder (COA)

<[Kathy.Semder@Maricopa.Gov](mailto:Kathy.Semder@Maricopa.Gov)>; Andy Linton (COA) <[Andy.Linton@Maricopa.Gov](mailto:Andy.Linton@Maricopa.Gov)>; Bill Leal (FCD)

<[Bill.Leal@Maricopa.Gov](mailto:Bill.Leal@Maricopa.Gov)>; Kathryn Garcia (PND) <[Kathryn.Garcia@Maricopa.Gov](mailto:Kathryn.Garcia@Maricopa.Gov)>; Blanca Caballero

(AQD) <[Blanca.Caballero@Maricopa.gov](mailto:Blanca.Caballero@Maricopa.gov)>

**Subject:** Online Form Submittal: Citizen Comments

## Citizen Comments

*Each Regulatory Department is committed to providing opportunities for stakeholder input regarding the adoption and amendment of all regulatory requirements. Your input will be collected and forwarded to the appropriate department. You will receive a written response from the applicable department within two business days. We appreciate your comments and your time.*

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Case Number/Rule	TA2019003 - Home Base Business
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Department	Planning and Development
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I would like to	Express opposition
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First Name	Kip
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Last Name	Micuda
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Organization	<i>Field not completed.</i>
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City	SCOTTSDALE
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85262

Zip

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Email [kmicuda@gmail.com](mailto:kmicuda@gmail.com)

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Phone Number 4802319520

---

Phone Type Mobile

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Would you like someone to contact you? *Field not completed.*

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Comments This rule change completely eviscerates the current rule. Why is the change being advanced/proposed? It seems an agenda contrary to the lifestyle of the Rio Verde Foothills is being pursued here.

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If applicable, attach supporting documentation associated with your comment. [Memo.CtyRule.02.wpd](#)

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Email not displaying correctly? [View it in your browser.](#)

***Hildebrand Law, P.C.***

**MEMORANDUM**

**TO:** Maricopa County Planning & Development Department  
<https://www.maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>.

**FROM:** Kip Micuda, Esq.  
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480-231-9520

**DATE:** Tuesday, March 31, 2020

**RE:** TA2019003 (comment)

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The following is comment relative to the proposed text amendment to Maricopa County Zoning Ordinance (MCZO) Chapter 5 Rural-190 Rural Zoning District, Section 501, Articles 501.2.10 & 501.2.18 and Chapter 6 Single Family Residential R1-35 Zoning District, Section 601, Articles 601.2.8 & 601.2.14.

The proposed rule change proposes to add the same language to Sections 501.2.10(b) and 601.2.8(b). The proposed additional language effectively eviscerates the limitations of each rule. While both rules limit the number of employees to three (3), consistent with the purposes of the MCZO, the proposed additional language allows *unlimited* employees if each is somehow *related* to occupants. The relation required is so broad it effectively removes the limit the original rule imposed. The drive for this rule change is curious at best. I urge the change be rejected.