

**CITY OF TWIN OAKS
PLANNING AND ZONING COMMISSION MEETING
BOARD CHAMBERS, TWIN OAKS CITY HALL
1381 BIG BEND ROAD
TUESDAY, JULY 26, 2022 6:30 P.M.**

Tentative Agenda

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF THE AGENDA
5. APPROVAL OF THE CONSENT AGENDA
 - a. May 24, 2022 Minutes
6. NEW BUSINESS
 - a. Consideration of amendments to Sections 400.130 and 400.190 of the City of Twin Oaks Municipal Code pertaining to home-based businesses
7. MISCELLANEOUS
8. ADJOURNMENT

Frank Johnson
City Clerk/Administrator

POSTED: July 25, 2022, 10 a.m.

Please note: Any person requiring physical or verbal accommodations should contact the city office 12 hours prior to meeting at 636-225-7873. Copies of public records for this agenda are available on the City's website or at City Hall for public inspection before and at the time of the meeting.

**MEETING MINUTES OF THE
PLANNING & ZONING COMMISSION
TWIN OAKS, MISSOURI
TUESDAY, MAY 24, 2022**

The Planning and Zoning Meeting was called to order at 6:35 p.m.

Members:	Frank Venturella, Chairman	X	Joe Krewson	X
	Roger Loesche	X	Craig Cwiklowski	X
	Jeff Graves	X	Lisa Eisenhauer, Alderman	X
	Ray Slama		Shazia Brown	
	Russ Fortune, Mayor	X		

Also, in attendance was Frank Johnson, City Clerk/Administrator; Paul Rost, City Attorney.

APPROVAL OF THE AGENDA

Commissioner Graves moved, seconded by Commissioner Krewson, to approve the Agenda. Motion passed with the unanimous consent of the Commission.

APPROVAL OF THE CONSENT AGENDA

Mayor Fortune moved to approve the Consent Agenda consisting of the meeting minutes from January 25, 2022. Commissioner Cwiklowski seconded the motion and on voice vote, the motion was announced passed.

NEW BUSINESS

Consideration of amendments to Chapter 410, Sign Regulations, of the Twin Oaks Code of Ordinances

City Clerk/Administrator Frank Johnson stated that the intent of the changes is to clarify when a permit is required for temporary signs. The proposed changes would clearly state that no permit is required for temporary signs and flags on lots with single-family attached or detached uses, and for temporary window signs in commercial districts. Commissioner Krewson asked if the code defines what is considered a temporary sign. City Clerk/Administrator Johnson stated that it does. Chairman Venturella motioned for the Commission to recommend approval of the changes to the sign regulations as proposed. Commissioner Loesche seconded, and the motion passed by unanimous voice vote.

Consideration of amendments to Chapter 400, Section 400.520, of the Twin Oaks Code of Ordinances

City Clerk/Administrator Johnson stated that the proposed amendment would revise the number of citizens on the Planning and Zoning Commission from nine to seven, bringing the total number on the commission with the inclusion of the Mayor and a Board of Aldermen liaison from 11 to nine. Commissioner Loesche asked for clarification on how a quorum is determined. City Attorney Paul Rost stated that it is defined as a majority of the members, i.e. half of the membership plus

one. The quorum is also based on the total number of seats on the commission, regardless of whether they are all filled or not. For example, with 11 members, the quorum is six. If the membership is revised down to nine members, the quorum would be five.

In response to a question from Commissioner Loesche, Mayor Russ Fortune stated the City had recently increased the number to allow for more residents to join the Commission, but the residents appointed to the spots had subsequently backed out. Discussion ensued regarding the reasoning behind expanding the Commission, the difficulty of filling the vacancies, and the impact this has on establishing a quorum for meetings.

Chairman Venturella motioned for the Commission to recommend approval of changing the citizen members on the Planning and Zoning Commission from nine to seven. Commissioner Loesche seconded, and the motion passed by unanimous voice vote.

Consideration of Amendments to Zoning Regulations Pertaining to Off-Street Parking

City Clerk/Administrator Johnson stated that the current parking regulations in the zoning code contain a possible inconsistency with the traffic code. The zoning regulations stipulate that no recreational vehicles, off-road vehicles, trailers, etc. can be parked in any portion of a front yard. However, the traffic code states allows for a vehicle of any kind to be parked in the roadway for up to 72 hours. He stated that, in practice, this mean that residents cannot park such vehicles in their driveway, but they can park them in front of their house for up to three days. In addition, he stated that it can be difficult to enforce the zoning provision, as often by the time a complaint can be responded to, the vehicle in question has already been moved.

Given this, City Clerk/Administrator Johnson asked the Commission if they would be in favor of modifying the zoning regulation to be in line with the traffic code to allow for more consistent enforcement and treatment of recreational vehicles and trailers within the City.

Commissioner Loesche asked for clarification on how much control the City has over the traffic code. City Attorney Rost stated that the City has full control over the traffic code as it pertains to City-maintained streets, which would be all streets in the City limits with the exception of Big Bend Road.

Commissioner Loesche then stated that if such a change was made, it could potentially allow someone to park a recreational vehicle or trailer in their driveway every day, provided it was moved at least once. He also expressed concern over the difficulty of enforcing the 72-hour rule, citing the potential for conflicting accounts of a vehicle's history between the City and residents. Discussion ensued.

Alderman Lisa Eisenhower suggested the zoning regulation be changed to allow for temporary parking of recreational vehicles and trailers in driveways located in the front yard of a residential property for the purposes of loading and unloading. The Commission agreed that this could help address some of the enforcement issues cited by staff, and that they were not in favor of taking the 72-hour rule for on-street parking from the traffic code and adopting it for on-street parking as well.

Chairman Venturella motioned for the Commission to recommend approval of amending the zoning regulations as suggested by Alderman Eisenhauer. Commissioner Graves seconded, and the motion passed by unanimous voice vote.

Consideration of Amendments to Zoning Regulations Pertaining to Rear-Yard Setbacks

City Clerk/Administrator Johnson provided a review of the Commission's previous discussion on the issue of residential lot setbacks. In 2019, the City had its engineer perform a GIS analysis of every residential lot. This analysis showed that there are at least 47 residential properties where the primary structure has at least some level of encroachment on the building setbacks. Of these, 11 could be classified as severe, with two cases where there is no buildable space on the lot per the setbacks.

City Clerk/Administrator Johnson stated these cases are considered to be legal non-conforming uses, and so don't pose any active problem. However, a homeowner who makes any change, extension or alteration of the footprint of the existing structure loses the grandfathered status of the property and therefore must comply with the setback or request a variance. This applies even if the expansion itself is not an encroachment. It also applies to decks that are attached to the primary structure.

City Clerk/Administrator Johnson stated that staff is requesting the Commission's input on whether the variance process is sufficient for addressing these issues as they arise without creating an undue burden on property owners, or if the City should explore some potential revisions to the setback requirements that could lessen the number of legal non-conforming properties in the City.

In response to a question from Commissioner Loesche, discussion ensued regarding the total number of homes in the City and what percentage are impacted by the setback issue. Commissioner Loesche estimated there could be approximately 5 percent of homes in the City severely impacted and that it would be difficult to come up with setback requirements that accommodated every single property. Alderman Eisenhauer stated that she was more concerned about homes that had any level of encroachment, since they could potentially need a variance for any kind of work to the footprint of the home, which she estimated as more in the 25-33 percent range.

Commissioner Loesche expressed concern that changing the setback requirements could have unanticipated effects. Discussion ensued regarding the history of how lots were laid out in the City and why the setbacks were established that caused so many non-conforming uses. The Commission also discussed the variance process and how it works, and agreed that for many of the severe cases, a variance would likely be granted.

City Attorney Rost suggested that the City could change its laws on legal non-conforming uses to say that an expansion or alteration of the house that does not increase the amount of the encroachment is okay. The Commission agreed that this would help address the problem for houses with minor encroachments. City Clerk/Administrator Johnson asked if the Commission wanted to make any further changes to address the issues where properties had severe encroachments. The Commission agreed that the variance process was sufficient for handling such cases.

Chairman Venturella motioned for the Commission to recommend amending the Zoning regulations to allow for properties to retain their legal non-conforming status when expanding or

altering the property, providing that such changes do not increase the amount of encroachment. Alderman Eisenhower seconded, and the motion passed by unanimous voice vote.

MISCELLANEOUS BUSINESS

Commissioner Cwiklowski asked staff for assistance with determining the responsibility for fixing a pothole located on Crescent Avenue. The Commission also discussed an issue regarding the placement of trash cans on City streets.

ADJOURNMENT

Chairman Venturella moved, seconded by Commissioner Graves, to adjourn the meeting. Upon voice vote, the motion was announced passed. The meeting adjourned at 7:39 p.m.

Frank Venturella, Chairman
Planning & Zoning Commission

Date of Approval

ATTEST:

Frank Johnson, City Clerk/Administrator

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MEMORANDUM

TO: Twin Oaks Planning & Zoning Commission

CC: Frank Johnson, City Clerk/Administrator

FROM: Paul Rost, City Attorney

RE: *Home-Based Businesses – Required Changes based on H.B. 1662*

DATE: July 20, 2022

This legislative session the Missouri General Assembly passed, and the Governor has signed, H.B. 1662 limiting local authority in the regulation of home occupations. Specifically applicable to 4th class cities such as Twin Oaks, H.B. 1662 adopted changes relating to “Home Based Businesses” (to be codified as §71.990 RSMo.). At the same time, though it also adopted regulations in the state Zoning Enabling Act, Chapter 89 RSMo., relating to “Home Based Work” (to be codified as §89.500 RSMo.). The two types of home occupations are defined differently and have dissimilar limitations on local authority.

The two new laws are set forth below in their entirety:

Section 71.990. 1. As used in this section, the following terms mean:

- (1) “Goods”, any merchandise, equipment, products, supplies, or materials;
 - (2) “Home-based business”, any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.
2. Any person who resides in a residential dwelling may use the residential dwelling for a home-based business unless such use is restricted by:
- (1) Any deed restriction, covenant, or agreement restricting the use of land; or
 - (2) Any master deed, bylaw, or other document applicable to a common-interest ownership community.
3. Except as prescribed under subsection 4 of this section, a political subdivision shall not prohibit the operation of a no-impact, home-based business or otherwise require a person to apply for, register for, or obtain any permit, license, variance, or other type of prior approval from the political subdivision to operate a no-impact, home-based business. For the purposes of this section, a home-based business qualifies as a no-impact, home-based business if:

- (1) The total number of employees and clients on-site at one time does not exceed the occupancy limit for the residential dwelling; and
- (2) The activities of the business:
 - (a) Are limited to the sale of lawful goods and services;
 - (b) May involve having more than one client on the property at one time;
 - (c) Do not cause a substantial increase in traffic through the residential area;
 - (d) Do not violate any parking regulations established by the political subdivision;
 - (e) Occur inside the residential dwelling or in the yard of the residential dwelling;
 - (f) Are not visible from the street; and
 - (g) Do not violate any narrowly tailored regulation established under subsection 4 of this section.
4. A political subdivision may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for the purpose of:
 - (1) Protecting the public health and safety, including regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, and noise control; or
 - (2) Ensuring that the business activity is compliant with state and federal law and paying applicable taxes.
5. No political subdivision shall require a person, as a condition of operating a home-based business, to:
 - (1) Rezone the property for commercial use;
 - (2) Obtain a home-based business license; or
 - (3) Install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with no more than two dwelling units.
6. Whether a regulation complies with this section is a judicial question.

89.500. 1. As used in this section, the term “home-based work” means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

- (1) Prohibit mail order or telephone sales for home-based work;

- (2) Prohibit service by appointment within the home or accessory structure;
 - (3) Prohibit or require structural modifications to the home or accessory structure;
 - (4) Restrict the hours of operation for home-based work; or
 - (5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.
3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.
4. The application of this section does not supersede any deed restriction, covenant, or agreement restricting the use of land nor any master deed, by law or other document applicable to a common interest ownership community.

I have attached for the Commissions review and discussion, excerpts from the Twin Oaks' zoning code regulations on Home Occupations with some possible changes to the regulations. In no way, I am saying that this is the only way to regulate but I have tried to incorporate the definitions from the two new laws as well as tried to include the maximum amount of authority over them as possible. There is a lot of gray area when it comes to newly coined phrase "no impact home-based business" and so drafting a compliant ordinance is difficult. Questions left unanswered are whether a city can require a home-based business to get a business license like other businesses in town and to what extent the zoning laws apply as far as variances, etc. For example, §71.990.5(2) says a city cannot require the resident to "obtain a home-based business license." Does this mean no "additional" home-based business license or any business license? And, §71.990.3 prohibits a city from requiring "a person to apply for, register for, or obtain any permit, license, variance, or other type of prior approval from" the city. Does this refer to a business license as well? Also, the use of the word variance here, does that mean a variance for the use or can someone build a massive 5 story addition that goes all the way to the property lines to house their employees and equipment? What about a resident wanting to have a medical marijuana dispensary or restaurant/bar at their house? The law says you cannot require someone to "rezone the property for commercial use" and can have "more than one client on the property at one time" as long as they do "not exceed the occupancy limit" for the home. Just a few things to ponder as you ask yourself why the state legislature would involve itself in such a local issue and, if they must involve themselves, why they can't do it more competently.

Of course, the City can completely roll back its laws on home businesses and have no regulations on home businesses at all.

The new laws become effective on **August 28, 2022**, so we need to try to get the City's laws in compliance sooner than later.

Attachment 1
For Discussion—Proposed Changes to Zoning Code for Home-Based Businesses

Section 400.130 Use Regulations.

[Ord. No. 20-21, 12-16-2020]

- A. The following are permitted uses in the "A" Single-Family Dwelling District:
1. Single-Family Dwellings.
 - a. Group Homes.
 - (1) Purpose. The City has determined that it is necessary and desirable to provide suitable sites for group homes in residential areas while, in furtherance of the recognized goals of deinstitutionalization and dispersal, assuring that group homes are not unduly concentrated in neighborhoods so as to afford mentally or physically disabled persons every opportunity to be integrated in the community. To that end, group homes in residential districts shall comply with the following:
 - (a) To promote deinstitutionalization and dispersal, no group home may be located within five hundred (500) feet of another group home, measured by the straight line distance between the nearest points of the exterior walls (exclusive of overhangs) of the buildings within which the relevant facilities or uses are located;
 - (b) Adjoin any lot upon which another group home already exists; or
 - (c) Be separated from any lot upon which an existing group home already exists only by a street or roadway.
 - (2) The exterior appearance of the home and property, occupancy limitation, signage, and other standards applicable to single-family dwellings shall apply equally to group homes.
 - (3) Notwithstanding any other provision of this Section to the contrary, any individual, group or entity may make a request for reasonable accommodation from the provisions of this Section pursuant to the procedures set forth in Sections 230.150 through 230.240 of this Code.
 - b. Foster Homes.
 2. Churches, synagogues, and other houses of worship.

3. Municipally owned or operated parks or playgrounds.
4. Non-commercial forests and gardens.
5. Temporary buildings for uses incidental to construction; provided, that no such building shall be located within a required yard or within twenty-five (25) feet of any lot line and no trees shall be removed for the placement of such temporary building. The temporary building shall be removed upon the earlier occurring of one (1) year from initial placement of the temporary building, or upon the completion or abandonment of the work, unless express written permission to continue the location of such temporary building is granted by the Board of Aldermen upon good cause shown.
6. Home Occupations.

~~a. Provided that the Code Enforcement Official finds:~~

a. Purpose. The following requirements for Home-Based Businesses and Home-Based Work are enacted for the purpose of protecting the public health and safety, including regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, and noise control; ensuring that the business activity is compliant with city, state, and federal law; and confirming that the business is paying applicable taxes.

b. Definitions:

~~(1) The home~~ **GOODS**

Any merchandise, equipment, products, supplies, or materials.

~~(2)~~ **HOME-BASED BUSINESS**

Any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.

~~(3)~~ **HOME-BASED WORK**

means any lawful occupation is: (a) performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of

the surrounding neighborhood.

(4) HOME OCCUPATION

Either a No Impact Home-Based Business or resident or residents of the home doing Home-Based Work.

(5) NO IMPACT HOME-BASED BUSINESS

Any Home-Based Business:

(a) Where the total number of employees and clients on-site at one time does not exceed the occupancy limit for the residential dwelling; and

(b) The activities of the business:

(i) Are limited to the sale of lawful goods and services;

(ii) May involve having more than one client on the property at one time;

(iii) Do not cause a substantial increase in traffic through the residential area;

(iv) Do not violate the Residential Parking Requirements set forth in Section 400.390;

(v) Occur inside the residential dwelling or in the yard of the residential dwelling;

(vi) Are not visible from the street; and

(vii) Do not violate the narrowly tailored regulations in Subsection c, below.

c. A Home Occupation may operate in the "A" Residence District provided the Home Occupation:

(1) Is (a) clearly incidental and secondary to the primary residential use of the dwelling unit; and (b) does not occupy more than ~~twenty-five~~forty-nine percent (~~25~~49%) of the floor area of the dwelling; and

~~(2) No alteration is made to the~~ (2) Does not change the residential character of the residential building by altering or modifying the exterior of the dwelling ~~that would so as to indicate the presence of a home occupation; Home Occupation.~~

~~(3) No~~ (3) Does not adversely affect the character of the surrounding neighborhood by allowing or causing, for example: commercial or delivery vehicles used in connection with the home occupation are parked at or stored on the dwelling or visit the premises with a frequency of more than one (1) visit per day; ~~and a steady~~

or concentrated visitation of clients to the dwelling; a substantial increase in traffic or on-street parking through the residential area; storage or the use of equipment that produces negative effects outside the home or accessory structure; or similar adverse impacts.

~~(4) No steady or concentrated visitation of clients to the dwelling which would disrupt the residential character of the surrounding neighborhood results from the conduct of the home occupation and in the case of home occupations involving teaching or other types of instruction, visitation shall be limited to one (1) pupil at a time except for occasional seminar groups.~~

~~b. Persons wishing to maintain a home occupation in accordance with this Section shall submit to the Code Enforcement Official a written application on forms provided by the City describing the type of home occupation, the total floor area of the dwelling in which the home occupation is to be located, the amount of floor area to be occupied by the home occupation, the type of equipment used in the conduct of the home occupation and certifying that the d. _____~~ A license is not required for Home Occupations nor any fee, but within sixty (60) days of establishing a Home Occupation the resident is asked to supply the City with (1) a copy of their business's Missouri Tax I.D. number and, for Home Occupations selling goods at retail, a Statement of No Tax Due in accordance Missouri Statutes (Section 144.083.2 and 144.083.4 RSMo).. and (2) a written description of the Home Occupation, the percentage of the dwelling to be occupied by the Home Occupation, and the number of employees to be working at the Home Occupation who are not residents of the home. At the same time, to help ensure the proposed home occupation complies with each of the requirements of this Subsection. ~~An application fee of twenty-five dollars (\$25.00) shall accompany the application., the City shall supply the resident with a copy of this Subsection or a summary of its requirements. Upon receipt of a complete application, the Code Enforcement Official~~the written description, the City shall verify whetherfor the proposed home occupationresident that the Home Occupation complies with the foregoing requirements and, accordingly, shall issue or deny the application for the home occupation. Following approval of an application in accordance with this Subsection, any. Any change in the amount of floor area occupied by the home occupation as ~~certified~~detailed in the original ~~application~~description, number of employees, or any change in the type of home occupation shall requireshould

be followed by a new application, together with the payment of the application fee submission of a revised description and review and approval in accordance with this Section to assist the resident in continued compliance.

e. Nothing in this Subsection pertaining to Home Occupations shall be deemed to:

(1) Prohibit mail order or telephone sales for Home Occupations;

(2) Prohibit service by appointment within the home or accessory structure;

(3) Prohibit or require structural modifications to the home or accessory structure;

(4) Restrict the hours of operation for Home Occupations;

(5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure; or

(6) Restrict or prohibit a particular occupation that is legal under the laws of the City, State, and United States.

7. Accessory buildings, structures, or uses as specified below, provided that no accessory building, structure or use shall be located in the front yard or within the applicable side and rear setbacks set forth in Section 400.150(A): [Ord. No. 21-3, 2-3-2021]

* * *

Section 400.190 Use Regulations.

[Ord. No. 20-21, 12-16-2020]

A. The following are permitted uses in the "B" Single-Family Attached Dwelling District:

* * *

.A separate6. Home Occupations.

a. Purpose. The following requirements for Home-Based Businesses and Home-Based Work are enacted for the purpose of protecting the public health and safety, including regulations

related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, and noise control; ensuring that the business license is not required for a home occupation activity is compliant with city, state, and federal law; and confirming that the business is paying applicable taxes.

b. Definitions:

(1) **GOODS**

Any merchandise, equipment, products, supplies, or materials.

(2) **HOME-BASED BUSINESS**

Any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.

(3) **HOME-BASED WORK**

means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

(4) **HOME OCCUPATION**

Either a No Impact Home-Based Business or resident or residents of the home doing Home-Based Work.

(5) **NO IMPACT HOME-BASED BUSINESS**

Any Home-Based Business:

(a) Where the total number of employees and clients on-site at one time does not exceed the occupancy limit for the residential dwelling; and

(b) The activities of the business:

(i) Are limited to the sale of lawful goods and services;

(ii) May involve having more than one client on the property at one time;

(iii) Do not cause a substantial increase in traffic through the residential area;

(iv) Do not violate the Residential Parking Requirements set forth in Section 400.390;

- (v) Occur inside the residential dwelling or in the yard of the residential dwelling;
- (vi) Are not visible from the street; and
- (vii) Do not violate the narrowly tailored regulations in Subsection c, below.

c. A Home Occupation may operate in the "B" Residence District provided the Home Occupation:

- (1) Is (a) clearly incidental and secondary to the primary residential use of the dwelling unit; and (b) does not occupy more than forty-nine percent (49%) of the floor area of the dwelling; and
- (2) Does not change the residential character of the residential building by altering or modifying the exterior of the dwelling so as to indicate the presence of a Home Occupation.
- (3) Does not adversely affect the character of the surrounding neighborhood by allowing or causing, for example: commercial or delivery vehicles used in connection with the home occupation are parked at or stored on the dwelling or visit the premises with a frequency of more than one (1) visit per day; a steady or concentrated visitation of clients to the dwelling; a substantial increase in traffic or on-street parking through the residential area; storage or the use of equipment that produces negative effects outside the home or accessory structure; or similar adverse impacts.

d. A license is not required for Home Occupations nor any fee, but within sixty (60) days of establishing a Home Occupation the resident is asked to supply the City with (1) a copy of their business's Missouri Tax I.D. number and, for Home Occupations selling goods at retail, a Statement of No Tax Due in accordance Missouri Statutes (Section 144.083.2 and 144.083.4 RSMo)., and (2) a written description of the Home Occupation, the percentage of the dwelling to be occupied by the Home Occupation, and the number of employees to be working at the Home Occupation who are not residents of the home. At the same time, to help ensure the proposed home occupation complies with the requirements of this Subsection, the City shall supply the resident with a copy of this Subsection or a summary of its requirements. Upon receipt of the written description, the City shall verify for the resident that the Home Occupation complies with the foregoing requirements. Any

change in the amount of floor area occupied by the home occupation as detailed in the original description, number of employees, or the type of home occupation should be followed by a submission of a revised description and review and approval in accordance with this Section to assist the resident in continued compliance.

e. Nothing in this Subsection pertaining to Home Occupations shall be deemed to:

(1) Prohibit mail order or telephone sales for Home Occupations;

(2) Prohibit service by appointment within the home or accessory structure;

(3) Prohibit or require structural modifications to the home or accessory structure;

(4) Restrict the hours of operation for Home Occupations;

(5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure; or

(6) Restrict or prohibit a particular occupation that is legal under the laws of the City, State, and United States.

7. Accessory buildings, structures, or uses as specified below, provided that no accessory building, structure or use shall be located in the front yard or within the applicable side and rear setbacks set forth in Section 400.150(A): [Ord. No. 21-3, 2-3-2021]

* * *

~~6. Customary Home Occupations.~~

~~a. Provided that the Code Enforcement Official finds:~~

~~(1) The customary home occupation does not occupy more than twenty-five percent (25%) of the floor area of the premises;~~

~~(2) No alteration is made to the exterior of the premises that would indicate the presence of a~~

~~customary home occupation;~~

~~(3) No commercial or delivery vehicles used in connection with the customary home occupation are parked at or stored on the premises or visit the premises with a frequency of more than one (1) visit per day; and~~

~~(4) No steady or concentrated visitation of clients to the premises which would disrupt the residential character of the surrounding neighborhood results from the conduct of the customary home occupation and, in the case of customary home occupations involving teaching or other types of instruction, visitation shall be limited to one (1) pupil at a time except for occasional seminar groups.~~

~~b. Persons wishing to maintain a home occupation in accordance with this Section shall submit to the Code Enforcement Official a written application on forms provided by the City describing the type of home occupation, the total floor area of the dwelling in which the home occupation is to be located, the amount of floor area to be occupied by the home occupation, the type of equipment used in the conduct of the home occupation and certifying that the proposed home occupation complies with each of the requirements of this Subsection. An application fee of twenty-five dollars (\$25.00) shall accompany the application. Upon receipt of a complete application, the Code Enforcement Official shall verify whether the proposed home occupation complies with the foregoing requirements and, accordingly, shall issue or deny the application for the home occupation. Following approval of an application in accordance with this Subsection, any change in the amount of floor area occupied by the home occupation as certified in the original application or any change in the type of home occupation shall require a new application, together with the payment of the application fee and review and approval in accordance with this Section. A separate business license is not required for a home occupation.~~

Section 400.080 -HOME OCCUPATION

~~An occupation or profession of a service character performed entirely within a dwelling unit which is clearly incidental to the primary residential use of the dwelling unit. To be a permitted use, the home occupation must conform to the standards and provisions of Section 400.130.~~

See definition and standards in Section 400.130.A.6. and Section 400.190.A.6.