



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Plan Commission

FROM: Christopher Marx, Planner I

DATE: January 15, 2016

SUBJECT: Plan Case 2270-T-16: An amendment to Article II and Article V of the Urbana Zoning Ordinance to change definitions, use provisions, and regulations of "Home Occupations," Urbana Zoning Administrator, applicant.

Introduction and Background

The Zoning Administrator is requesting an amendment to multiple parts of the Zoning Ordinance in order to change definitions, use provisions, and regulations of "Home Occupations." The proposed ordinance amendment would add definitions to Article II and use provisions to Section V-12.

The proposed amendment is to better address home-based occupations in the City. The proposed changes are in response to a Council request as well as staff observations for best practices in the City's Zoning Ordinance. The City has witnessed a growing number of residents working out of their homes or setting up a small business in their places of residence. The changing nature of employment and technology have precipitated the increase in home-based occupations. The City's proximity to the University also provides a higher number of young, entrepreneurial residents who wish to start a business but cannot afford, or do not have a need, to lease commercial space.

The City added regulations for Home Occupation in Ordinance No. 1999-06-045 with the goal of acknowledging and allowing people to work at their residence as an accessory use. The City's goal was to preserve the principal residential use while allowing a greater flexibility for residents to be employed. In recent years, there have been only minor adjustments to the definitions and regulations. Changes in the economy, including the rise of artisans and the "maker-economy," and technological advances have necessitated a more comprehensive update of the Zoning Ordinance's home occupation regulations to ensure a balance between the principal residential use and promoting entrepreneurship and economic growth.

Staff is therefore proposing an expansion and adjustment of the home occupation regulations to better accommodate and promote home-based work amongst City residents.

Discussion

Existing Regulations

The Zoning Ordinance defines Home Occupation in Article II as “*any occupation or profession for gain or support, carried on as an accessory use in a dwelling unit by a member or members of the immediate family residing on the premises.*” It provides use regulations in Section V-12 and establishes two categories based on intensity and distinguished by whether a Certificate of Occupancy is required. The first category (Type A) does not require a Certificate of Occupancy and limits home occupations to employees that reside in the dwelling. The second category (Type B) allows up to one other non-resident employee, requires two off-street parking spaces, allows up to two customers at any one time, and requires a Certificate of Occupancy. In recent years, Urbana’s City Council has implied that greater flexibility might be needed to allow City residents to operate a small business out of their home.

Proposed Regulations

In response to a request from City Councilmembers and to respond to technological advances and the changing economy, staff proposes changes to the existing home occupation regulations, including the creation of a new category. The proposed changes allow additional activities as home occupations while still providing protections to the area residents. Staff consulted with home-based small business owners in Urbana and reexamined the existing Zoning Ordinance for the proposed text amendment.

The first category of the proposed Type A Home Occupations would be similar to the existing Type A category, except the permitted sign area would increase from one square foot to three square feet and additional language is added to describe the nature and types of occupations that may qualify as a Type A Home Occupation. It would be allowed by right and would not need a Certificate of Occupancy.

The Type B Home Occupation category would also be similar to the existing Type B, with added specifications. The changes would allow two non-household employees to be employed and a maximum of ten visits per day from customers, clients, or deliveries. Two off-street parking spaces would still be required, unless the Zoning Administrator determines that based on the location, use, and parking demand that fewer spaces would be needed. Furthermore, the category allows the Zoning Administrator the ability to add other conditions if necessary for the health, safety, and general welfare of the City. Descriptive language for the category would also be added.

And finally, a new Type C Home Occupation would be created. A Type C Home Occupation would be one that may have an impact on the property beyond that associated with Home Occupation Types A and B or which exceeds the number of employees or daily visitors of a Type B. The Type C category would be considered the most intensive form of home occupation allowed by the Zoning Ordinance and would require a Conditional Use Permit. The criteria and procedures would be the same as other uses requiring a Conditional Use Permit as set for in Section VII-2 of the Zoning Ordinance. The creation of a Type C category allows more intensive home occupations to be vetted by the Urbana Zoning Board of Appeals after a public hearing and

neighborhood notification. The Conditional Use Permit process provides an avenue for nearby residents of the proposed home occupation to provide input and allows the City to permit a more intensive home occupation where appropriate. It also may impose conditions to minimize potential negative impacts.

In addition to the revised and new regulations, the proposed text amendment would also add new definitions of home occupations in Section II-3.

The proposed text amendment's goal is to update the existing home occupation regulations to respond to a changing economy and technological advances. It aims to provide more flexibility to accommodate a wider variety of home occupations without compromising the zoning safeguards needed in residential neighborhoods.

Comprehensive Plan

The following goals and objectives of the 2005 Urbana Comprehensive Plan relate to this case:

Goal 1.0 Preserve and enhance the character of Urbana's established neighborhoods

Objectives

1.5 Ensure appropriate zoning in established neighborhoods to help foster the overall goals for each unique area.

Goal 23.0 Promote Urbana's potential for technology-related businesses.

Objectives

23.1 Capitalize on the proximity of the University of Illinois engineering and science campuses of promote technology-related business.

23.2 Explore the development of technology-friendly business space as a part of new development.

Goal 30.0 Develop a comprehensive approach to economic development.

Objectives

30.4 Establish economic development programs to promote economic and business growth.

The proposed text amendment would help to accomplish these goals and objectives by allowing home occupations to continue to exist as an accessory use while preserving a property's principal use as a dwelling in residential districts. Additionally, it would encourage business and employment opportunities of a smaller scale for the City's residents, including those that are technology-related.

Proposed Text Changes

The proposed changes are listed below, using a strikethrough and underline notation system. A strikethrough is used to indicate ~~deleted language~~, while an underline is used to indicate added language. Commentary on the proposed changes are listed *in italics*.

Section II-3. Definitions

Home Occupation: Any occupation or profession for gain or support, carried on as an accessory use in a dwelling unit by a member or members of the ~~immediate family~~ household residing on the premises. (Ord. No. 1999-06-045, 06-11-99)

Home Occupation, Type A – A home-based occupation that has minimal impact on the property and surroundings beyond the scope of residential use, involving only the occupants of the subject dwelling and resulting in only incidental traffic associated with the occupation.

Home Occupation, Type B - A home-based occupation that exceeds the limitations of a Type A Home Occupation and involves a minor amount of traffic from individuals not residing in the household. Such activity may involve scheduled visits with outside clients or customers and employ up to two individuals not residing in the household.

Home Occupation, Type C – A home-based occupation that may have an impact on the property beyond that associated with Home Occupation Types A and B or which exceeds the number of employees or daily visitors set forth in Section V-12.B.

This change would expand the definition of home occupation to three new categories added in use regulation under Section V-12. It also adjusts the existing definition of “home occupation” to acknowledge people residing in the household rather than family members.

Section V-12. Regulation of Home Occupation.

In recognition of the growing importance of home-based businesses in the local economy, the Urbana Zoning Ordinance permits certain such activities at different intensities and subject to varying requirements as set forth below.

Any person seeking a Home Occupation shall submit an application for review and approval by the Urbana Zoning Administrator. Upon approval by the Zoning Administrator, Home Occupations shall be permitted as follows:

~~A. Without a Certificate of Occupancy, any activity that meets (but does not exceed) the following criteria~~

A. Home Occupation, Type A – A home-based occupation that has minimal impact on the property and surroundings beyond the scope of residential use, involving only the occupants of the subject dwelling and resulting in only incidental traffic associated with the occupation. Such home occupations may include, but are not limited to, private consulting, non-retail based arts and crafts studios, internet-based business, and telecommunication-based commuting. Type A Home Occupations do not require a Certificate of Occupancy or Conditional Use Permit. They are permitted with the following criteria:

1. Employees - There are no persons, other than members of the household residing in the dwelling unit, engaged in the home occupation; and
2. Signage - There are no signs on the premises identifying the home occupation other than a nameplate, not more than ~~one~~three square ~~feet~~feet in area, only permitted as a wall-mounted sign and not internally illuminated; and
3. Exterior Visibility - The occupation is wholly operated and contained within the dwelling; and there is no activity, construction, or display which would indicate from the exterior of the building or dwelling unit that the building or dwelling unit is being used for any purpose other than residential, except for the signage provisions set forth in Section V-12.A.2.
4. Exterior Visibility - No outdoor storage of materials or equipment visible from a public right-of-way is permitted; and
5. Vehicles and Customer Visits - No more than two commercial or business vehicles used in conjunction with the home occupation may be on the premises at any one time and no more than five vehicle visits per day; and
6. Parking - No more than two commercial or business vehicles, trucks, or trailers used in conjunction with the home occupation may be parked on the premises or on an abutting street; and
7. Equipment - No mechanical or electronic equipment is used which creates objectionable noise, odors, or electronic impulses, or otherwise create a nuisance discernible beyond the property lines of the premises.

B. Any activity which exceeds any of the criteria set forth under Section V-12.A, above, shall require approval by the Zoning Administrator and require the issuance of a Certificate of Occupancy, and furthermore shall be limited to the following restrictions and conditions:

B. Home Occupation, Type B - A home-based occupation that exceeds the limitations of a Type A Home Occupation and involves a minor amount of traffic from individuals not residing in the household. Such activity may involve scheduled visits with outside clients or customers and employ up to two individuals not residing in the household. Type B home occupations may include, but are not limited to, music lessons, professional consultations, and personal services such as clothing alterations or shoe repair. Type B Home Occupations shall require approval by the Zoning Administrator and the issuance of a Certificate of Occupancy. The following restrictions and conditions shall apply to Type B Home Occupations:

1. Employees - No more than ~~one person~~ two individuals, other than members of the household residing in the dwelling unit, ~~is~~ are engaged by the home occupation; and

2. ~~Two off-street parking spaces must be provided on-premise as approved by the Zoning Administrator. Driveways may qualify in meeting this requirement; and~~

2. Vehicles and Parking - No more than two commercial or business vehicles, trucks, or trailers used in conjunction with the home occupation may be parked on the premises or on an abutting street at any time. Up to two (2) additional off-street parking spaces may be required by the Zoning Administrator to accommodate commercial vehicles. The off-street parking requirement may be waived or reduced with approval from the Zoning Administrator based upon demand generated by the use, location of the home occupation, and on-street parking supply; and

3. ~~No mechanical or electronic equipment is used which creates objectionable noise, odors, or electronic impulses, or otherwise create a nuisance discernible beyond the property lines of the premises; and~~

3. Customer/Client Visits - No more than 10 visits per day from customers, clients, or home deliveries are permitted, with no more than three visitors present at any given time. Day Care Homes shall be allowed a total of up to five children or dependent adults to be cared for on the premises at any time, which shall not be counted in the limit of customer/client visits; and

~~4. There is no activity, construction, or display which would indicate from the exterior of the building or dwelling unit that the building or dwelling unit is being used for any purpose other than residential, except as provided in Section V-12.A.5; and~~

~~4. Exterior Visibility -- The occupation is wholly contained within the dwelling and there is no activity, construction, or display which would indicate from the exterior of the building or dwelling unit that the building or dwelling unit is being used for any purpose other than residential, except for the signage provisions set forth in Section V-12.A.6. No outdoor storage of materials or equipment visible from a public right-of-way is permitted; and~~

~~5. Signage -- There are no other signs other than a nameplate, not more than one three square feet in area, only permitted as a wall-mounted sign and not internally illuminated; and~~

~~6. Storage of materials and space for equipment use in an accessory building is limited to 200 square feet. No outdoor storage is permitted; and~~

~~7. 6. Nuisance - The occupation does not or will not constitute a violation of any nuisance code; and~~

~~8. No more than two customers or clients may be on the premises at any one time; and~~

~~9. 7. Vehicle Storage - There is no exterior storage of vehicles other than those owned by members of the immediate family residing on the premises; and~~

~~8. Other -- The Zoning Administrator shall identify and impose other conditions on the Home Occupation as determined by the specifics of the application in order to meet the intentions of this Ordinance and to protect the health, safety and general welfare of the City of Urbana~~

~~10. No more than two commercial or business vehicles used in conjunction with the home occupation may be parked on the premises or on an abutting street.~~

~~C. Any activity which exceeds the criteria under Section V-12.B shall be prohibited as a home occupation as herein defined. Furthermore, since it is the intent of this subsection to prohibit any activity as a home occupation which may use hazardous materials, any activity which the Zoning Administrator classifies as exterminator, lawn care (except lawn manicuring), dry cleaning, or medical diagnostic laboratory shall be prohibited as a home occupation as herein defined.~~

~~C. Home Occupation, Type C -- A home-based occupation that may have an impact on the property beyond that associated with Home Occupation Types A and B or which exceeds the number of employees or daily visitors set forth in Section V-12.B above, shall be required to obtain a Conditional Use Permit, in accordance with the procedures and criteria set forth in Section VII-2 of this Ordinance. Type C Home Occupations may include, but are not limited to, light assembly and packaging for internet sales, on-site sales of limited goods and services, greenhouses and plant sales, bicycle repair and sales, minor home auto repairs, group-based classes or instruction, or other occupations involving a higher volume of customers or clients than permitted under Type A, B, or C.~~

~~D. A home occupation involving a landscaping business shall not be permitted to grow outdoor plant materials on the home premises for the purpose of later removing the material for sale or transplanting on another site.~~

~~E. D. A home occupation involving vehicle repair shall be permitted as a home occupation only if subject vehicle(s) are repaired inside a garage and no inoperable vehicles are stored outside. Any vehicle to be repaired may not queue outside of the garage. Additionally, the garage must meet all applicable building and fire safety codes, and any such work may not violate any of the City's nuisance codes and~~

ordinances. Only minor automobile repairs as defined in Article II are permitted. Additionally, no major automobile repairs as defined in this ordinance are permitted as a home-based occupation.

~~F. Only one home occupation, as defined herein, is permitted per dwelling unit and/or accessory structure. More than one home occupation at a single premise may be permitted provided that the cumulative total employees and visitors do not exceed the restrictions set forth in Section V-12.B.~~

G. Prohibited Home Occupations - Any activity which may use hazardous materials, or which otherwise may pose a hazard or nuisance to surrounding properties, shall be prohibited. Such uses may include, but are not limited to, exterminators, chemical-based lawn care, dry cleaning, and medical diagnostic laboratories.

~~G. H. Certificates of Occupancy for home occupations issued prior to the effective date of this amendment not meeting the conditions of Section V-12.B shall be considered legally nonconforming. (Ord. No. 1999-06-045, 06-11-99)~~

~~H. I.~~ The sale of firearms as a home occupation shall require approval of a site security plan by the Urbana Police Chief, or designee, with renewal every three years in compliance with Section VII-5.D of this Ordinance.

Staff is proposing that Home Occupations be categorized at three different levels based on the intensity of the accessory use. Type A Home Occupations would be allowed by right and would not need a Certificate of Occupancy.

Type B Home Occupations would exceed the customer or client traffic or employee restrictions of Type A home occupations. Type B Home Occupations are restricted in the number of customer or client visits and deliveries. Additionally, the number of employees allowed that do not reside in the dwelling has been increased from one to two. Also, the size of the allowable signage is increased to three square feet. Lastly, parking requirements can be lowered if warranted and conditions can be placed on the use.

Type C Home Occupations would be categorized as uses that exceed the number of daily visits or employees not residing in the dwelling as set forth in the description of Type B Home Occupations. This type would require a Conditional Use Permit. It allows additional conditions to be added by the ZBA during the Conditional Use Permit application process.

Lastly, the proposed changes would allow more than one home occupation per household.

Summary of Staff Findings

1. The Zoning Administrator is proposing a text amendment to the Zoning Ordinance to add definitions and use provisions for home occupations. The proposed amendment will modify Articles II and V of the Urbana Zoning Ordinance to add new definitions, categories, and use regulations for Home Occupation.
2. The proposed changes would create a new category of Home Occupation requiring a Conditional Use Permit to provide slightly more allowance for non-resident employees, parking, and signage.

3. The proposed amendment is consistent with the goals and objectives of the 2005 Urbana Comprehensive Plan to preserve and enhance the character of Urbana's established neighborhoods, promote Urbana's potential for technology-related businesses, and develop a comprehensive approach to economic development.
4. The proposed amendment conforms to notification and other requirements for the Zoning Ordinances as required by the State Zoning Act (65 ILCS 5/11-13-14).

Options

The Plan Commission has the following options for recommendation to the Urbana City Council regarding Plan Case 2270-T-16:

- a. forward this case to City Council with a recommendation for approval as presented herein;
- b. forward this case to City Council with a recommendation for approval as modified by specific suggested changes; or
- c. forward this case to City Council with a recommendation to deny the proposed amendment.

Staff Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission make a recommendation to City Council to **APPROVE** the proposed text amendment as presented herein.

Attachments:

Exhibit A: Text – Existing Zoning Ordinance Language Regarding Home Occupations

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Section V-12. Regulation of Home Occupation.

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A. Without a Certificate of Occupancy, any activity that meets (but does not exceed) the following criteria:

1. There are no persons, other than members of the household residing in the dwelling unit engaged in the home occupation; and
2. There are no signs on the premises identifying the home occupation other than a nameplate, not more than one square foot in area, only permitted as a wall-mounted sign and not internally illuminated; and
3. The occupation is wholly operated and contained within the dwelling; and
4. No materials or equipment are stored outside the dwelling unit; and
5. No more than two commercial or business vehicles used in conjunction with the home occupation may be on the premises at any one time and no more than five vehicle visits per day; and
6. No more than two commercial or business vehicles used in conjunction with the home occupation may be parked on the premises or on an abutting street; and
7. No mechanical or electronic equipment is used which creates objectionable noise, odors, or electronic impulses, or otherwise create a nuisance discernible beyond the property lines of the premises.

B. Any activity which exceeds any of the criteria set forth under Section V-12.A, above, shall require approval by the Zoning Administrator and require the issuance of a Certificate of Occupancy, and furthermore shall be limited to the following restrictions and conditions:

1. No more than one person, other than members of the household residing in the dwelling unit, is engaged in the home occupation; and
2. Two off-street parking spaces must be provided on-premise as approved by the Zoning Administrator. Driveways may qualify in meeting this requirement; and
3. No mechanical or electronic equipment is used which creates objectionable noise, odors, or electronic impulses, or otherwise create a nuisance discernible beyond the property lines of the premises; and
4. There is no activity, construction, or display which would indicate from the exterior of the building or dwelling unit that the building or dwelling unit is being used for any purpose other than residential, except as provided in Section V-12.A.5; and
5. There are no other signs other than a nameplate, not more than one square foot in area, only permitted as a wall-mounted sign and not internally illuminated; and
6. Storage of materials and space for equipment use in an accessory building is limited to 200 square feet. No outdoor storage is permitted; and

7. The occupation does not or will not constitute a violation of any nuisance code; and
8. No more than two customers or clients may be on the premises at any one time; and
9. There is no exterior storage of vehicles other than those owned by members of the immediate family residing on the premises; and
10. No more than two commercial or business vehicles used in conjunction with the home occupation may be parked on the premises or on an abutting street.

C. Any activity which exceeds the criteria under Section V-12.B shall be prohibited as a home occupation as herein defined. Furthermore, since it is the intent of this subsection to prohibit any activity as a home occupation which may use hazardous materials, any activity which the Zoning Administrator classifies as exterminator, lawn care (except lawn manicuring), dry cleaning, or medical diagnostic laboratory shall be prohibited as a home occupation as herein defined.

D. A home occupation involving a landscaping business shall not be permitted to grow outdoor plant materials on the home premises for the purpose of later removing the material for sale or transplanting on another site.

E. A home occupation involving vehicle repair shall be permitted as a home occupation only if subject vehicle(s) are repaired inside the garage and no inoperable vehicle is stored outside. Any vehicle to be repaired may not queue outside of the garage. Additionally, the garage must meet all applicable building codes, and any such work may not violate any of the City's nuisance codes and ordinances. Additionally, no major automobile repairs as defined in this Ordinance are permitted.

F. Only one home occupation, as defined herein, is permitted per dwelling unit and/or accessory structure.

G. Certificates of Occupancy for home occupations issued prior to the effective date of this amendment not meeting the conditions of Section V-12.B shall be considered legally nonconforming. (Ord. No. 1999-06-045, 06-11-99)

H. The sale of firearms as a home occupation shall require approval of a site security plan by the Urbana Police Chief, or designee, with renewal every three years.