

ORDINANCE NO. BL2011- 924

**An ordinance amending Title 17 of the Metropolitan Code, Zoning Regulations, to modify the standards applicable to a “Home Occupation” and create a new land use with standards called “Home Business” (Proposal No. 2010Z-025TX-002).**

WHEREAS, former zoning codes for the City of Nashville and Davidson County allowed home occupations with clients and patrons permitted to visit the home without restriction as early as 1933 and as late as 1963; and,

WHEREAS, former zoning codes of the Metropolitan Government of Nashville and Davidson County allowed home occupation with up to four (4) clients able to visit the home for instruction purposes as early as 1971 and as late as 1989; and,

WHEREAS, the Metro Zoning Code allows today a home occupation as an accessory use of a residence (secondary to the primary use of the residence as a dwelling or home) with no clients or patrons permitted to visit; and,

WHEREAS, the U.S. Census American Community Survey of Davidson County for 2005-2009 identified 12,845 people in Davidson County who work from home; and,

WHEREAS, in recognition of changing electronic technology, demographics, household composition, self-employment trends, and needs of our community, the current home occupation (business) standards need updating; and,

WHEREAS, a home occupation is not an automatic entitlement by zoning, but rather subject to strict conditions to assure its compatibility with the surrounding residential character and may be revoked at any time by Metro Government if significant violations occur; and,

WHEREAS, the Metropolitan Government of Nashville and Davidson County wants to support home occupations and home businesses to the extent they maintain and preserve the residential character of residential neighborhoods.

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Section 17.04.060 (Definitions) of the Metro Zoning Code is hereby amended by **inserting** in alphabetical order a definition for “cottage industry” and “non-resident employee” and **deleting** the current definition for “home occupation” and **inserting** a new definition for “Home Occupation” and “Home Business” as follows:

**Cottage Industry** means a home business or home occupation where persons are engaged in the on-site production of goods or services such as, but not limited to, the following in accordance with the regulations set forth in Sections 17.16.250.C and 17.16.250.D: Artists, ceramics, home crafts, photography studio, sculptors; baking, catering, cooking, preserving; one-chair barber or beautician; catalog or internet sales; dressmaking, ironing, jewelry-making, sewing, tailoring; individual instruction or counseling; group instruction or counseling of not more than four

persons; licensed massage therapy; recording studio; upholstery, woodworking, and watch or clock repair. A cottage industry shall not mean any of the following, or any similar activities, as determined by the Zoning Administrator: Automobile/farm/lawn/boat equipment detailing, dismantling, painting, rentals, repair, sales, salvage, service, storage, or washing; engine or machine shops; small appliance repair; wrecker service; bed and breakfast; wedding chapel; the rental or leasing of homes for special events and gatherings; group instruction or counseling of more than four persons; kennel; animal boarding, grooming, bathing, or exercising; animal day care; medical office or labs; personal defense involving any weapons; restaurants; tea rooms; retail sales (direct); tattoo/tanning/body-piercing; divination; and any business where employees come to the home and then are dispatched to other locations.

**Home Business** means an occupation, service, profession or enterprise to occur on a property containing a single-family or two-family dwelling where it is an accessory use and where a non-resident employee, clients, and/or patrons may come to the property. The home business activities allowed shall be in accordance with the regulations set forth in Section 17.16.250.C.

**Home Occupation** means an occupation, service, profession or enterprise to occur on a property containing a single-family, two-family, or multi-family dwelling, where it is an accessory use and where a non-resident employee may come to the property, but no clients or patrons come to the property at any time. The home occupation activities allowed shall be in accordance with the regulations set forth in Section 17.16.250.D.

**Non-Resident Employee** means an employee, business partner, co-owner, independent contractor, volunteer, or anyone who does not reside in the principal dwelling unit, yet visits the site as part of the home business or home occupation, regardless of whether compensation is received. A non-resident employee is one person, and shall not be construed to mean part-time or full-time staff equivalents or employee shifts, even when only one non-resident employee is on the premises at any given time.

Section 2. That Section 17.08.030.D (Zoning Land Use Table: Residential Uses) of the Metro Zoning Code is hereby amended by **inserting** a new land use called "Home Business" as an accessory use (A) in the AG, AR2a, R, and RS zoning districts.

Section 3. That Section 17.16.250 (Uses Permitted as Accessory Uses: Residential Accessory Uses) of the Metro Zoning Code is hereby amended by **deleting** the existing subsection "C" and **inserting** a new subsection "C" for "Home Business" and a new subsection "D" for "Home Occupation".

## **C. HOME BUSINESS**

### **1. Purpose and Intent.**

A home business is intended to allow Davidson County residents to use their home for limited business activities subject to strict conditions to maintain and preserve the residential character and integrity of neighborhoods.

### **2. Applicability.**

No home business shall be initiated until the Zoning Administrator has received an application with all applicable fees, and approved the proposed home business as complying with Section 17.16.250.C. In addition, the Zoning Administrator may

establish reasonable conditions on the operation of any home business, or refer an application to the Board of Zoning Appeals for a determination. Any home business shall be subject to the provisions of this section regardless of whether a business license has been obtained from the County Clerk.

3. **Eligible Area** of a home business shall be as follows:
  - a. It shall occupy no more than the equivalent of twenty percent (20%) of the total gross floor area of the principal dwelling unit, or 500 square feet of gross floor area, whichever is less.
  - b. It shall be conducted in the principal dwelling, a garage, a storage building, or other accessory structure. With the exception of personal instruction occurring as a cottage industry outdoors such as tennis or swimming lessons, the home business shall comply with Section 17.16.250.C.3a and 3b.
4. **Alteration of Residence.** The home business shall not alter the residential character or appearance of the principal dwelling, accessory building, or premises, its fire code or building code classifications, or have separate utility service or capacity beyond what is customary for the residential dwelling unit's size.
5. **Permitted Activities** shall be general office (non-medical) and cottage industry, as defined in Section 17.04.060, with clients and patrons allowed to come to the property subject to the further limitations imposed by this section.
6. **Prohibited Activities** shall be those activities not classified as a cottage industry as defined in Section 17.04.060. In addition, no outdoor area can be rented or leased by a non-resident employee for a cottage industry such as a swimming pool or tennis court.
7. **Occupancy.** The owner of the property must reside permanently in the dwelling unit as a principal residence.
8. **Employees** working on site at the home business are limited to persons who reside in the home and one non-resident employee.
9. **Clients, patrons, and deliveries** shall only be allowed by scheduled appointment during the hours of 8:00 a.m. to 6:00 p.m., Monday thru Friday and subject to the following restrictions below. For purposes of this section, a "visit" means any trip made onto the property for any purpose during the aforementioned hours and days of the week.
  - a. No more than two visits per hour; however, for group instruction a maximum of four students shall be allowed for one lesson provided the maximum number of visits to the home is not exceeded per hour or per day;
  - b. No more than a total of 10 visits per day; and,
  - c. No truck deliveries or pick-ups, except by public or private parcel services.
10. **Parking** for the home business shall be in compliance with Section 16.24.330.K.3 of the Metro Code. However, in no case shall additional parking spaces be created on the property for the home business. Any vehicle used by the home business to

transport or deliver materials, goods, or services shall be limited to one passenger vehicle. A "passenger vehicle" includes motorcycles, automobiles, pick-up trucks and vans, and shall be limited to an axle load capacity of up to one and one-half tons.

11. **Storage** of materials or goods shall be permitted with the following standards:
  - a. Only those goods, materials, or items utilized or produced in connection with the home business may be stored within the dwelling unit or accessory structure designated for the home business. No storage shall occur on any deck, carport, unenclosed porch or structure, or outdoor area.
  - b. All hazardous, flammable, or combustible compounds, products or materials shall be maintained and used in compliance with the Metro Fire Code.
  
12. **Operation** of the home business shall comply with the following standards:
  - a. It shall not be visible, noticeable, or perceptible at or beyond the property line or from any public right-of-way (including alleys), or from neighboring residential properties;
  - b. It is prohibited from having electrical, mechanical or chemical equipment that is not normally associated with residential uses with the exception of cottage industry activities that involve welding, ceramics, woodworking and similar materials; and,
  - c. It shall not create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise, sound or vibration; smoke, dust, odor or other form of air pollution; heat, cold or dampness; electromagnetic or other disturbance to neighboring wifi, radio or television reception; glare, liquid or solid refuse or other waste that exceeds the average weekly residential rate of generation; or other objectionable substance, condition or element.
  
13. **Signs and Advertising** shall be prohibited including exterior displays or interior displays of goods visible from the outside, or any exhibit whatsoever that would indicate that the dwelling unit or accessory building is being utilized, in whole or in part, for any purpose other than a residence. Further, no vehicle shall be parked on the property with a temporary or permanent sign or logo visible from the public right-of-way, including an alley.
  
14. **Number of Permits.** No more than two home business permits shall be granted per a residential dwelling unit. The limitations of this section shall apply to the combined permits as if there was only one home business at the residence.
  
15. **Business License.** In conjunction with the submittal of a home business application, the applicant shall provide a copy of a valid, unexpired business license, from the State of Tennessee, if required, for the proposed home business. If a business license is not renewed, the home business permit shall become void.
  
16. **Permit Transferability.** A home business permit shall not be transferred or assigned to another person, entity, or address, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home business. Upon termination of the occupant's residency, the home business permit shall become null and void.

17. **Notification of Property Owners and District Councilmember.** Prior to the submittal of a home business application, the applicant shall send a letter by certified mail, return receipt requested, to the district councilmember as well as each property owner that owns property adjacent to, or abutting, the applicant's property, and to any homeowner's association in which the applicant's property is located. The content of the letter shall be as prescribed by the Zoning Administrator. The applicant shall submit the original return receipt postcards from the certified mailing to the Zoning Administrator with the submittal of a home business application.
18. **Appeal of Decision.** Within 60 days from the date of permit issuance or denial, a person may appeal the Zoning Administrator's decision by filing a written appeal with the Board of Zoning Appeals as provided in Section 17.40.180.A. The appeal shall contain the name and address of the person appealing the action, the decision being appealed, and the reasons for said appeal. The Board of Zoning Appeals shall hold a public hearing on the appeal in accordance with this Title.
19. **Revocation of Permit.** Upon the filing of three or more complaints within a calendar year regarding a home business permit, the Zoning Administrator shall notify the permit holder in writing of such complaints and the Zoning Administrator will determine whether such complaints are valid. If it is determined that violations have occurred, the Zoning Administrator may revoke a permit as provided in Section 17.40.590. The permit holder may appeal the Zoning Administrator's decision to the Board of Zoning Appeals for a public hearing as provided in this Title.

#### **D. HOME OCCUPATION**

1. **Applicability.**

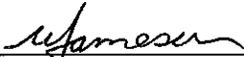
The home occupation shall be subject to all of the standards of a home business contained in Section 17.16.250.C in addition to the standards below, or where standards may conflict, the home occupation standards below shall apply. In addition, the provisions of Sections 17.16.250.C.9 and 17.16.250.C.17 shall not apply.

2. **Permitted Activities** shall be general office (non-medical) and cottage industry subject to the further limitations imposed by this section.
3. **Prohibited Activities** shall be any activities not allowed by Section 17.16.250.D.2, and any that involve a patron, client, or more than one non-resident employee coming to the home.
4. **Occupancy.** The owner of the property must reside permanently in the dwelling unit as a principal residence, or if a rental or leased dwelling unit, the applicant shall submit a written notarized statement from the property owner(s) giving the tenant, who must reside permanently in the home, permission to operate the proposed home occupation.

5. **Clients, patrons and deliveries** shall be prohibited at any time, except deliveries or pick-ups by public or private parcel services shall be permitted.

Section 5. This Ordinance shall take effect immediately from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

  
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Mike Jameson

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Members of Council