

City Council
Agenda Memo



City Council
Meeting Date: 7/24/2014

TO: Larry D. Gilley, City Manager

FROM: Jon James, AICP
Director of Planning and Development Services

SUBJECT: First reading on an ordinance amending the Land Development Code (LDC) in regards to allowing home occupations in detached accessory buildings; and setting a public hearing for August 14, 2014.

GENERAL INFORMATION

The Planning staff permitted an accessory building that was designated for storage use. Subsequent to the issuance of the permit, it was discovered that the purpose of the building was for a beauty salon conducted as a home occupation. The Land Development Code (LDC) requires that an allowable home occupation be conducted with the home not to exceed 25% of the floor area of the home. A home occupation may not be conducted within a detached accessory building. Staff was directed to review the regulations pertaining to home occupations and allowing them to be conducted in detached accessory buildings.

Standards for managing home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses. Staff is concerned that allowing home occupations to be conducted in detached accessory buildings will encourage inappropriate uses to locate in residential areas. Staff is proposing that approval of a Special Exception by the Board of Adjustment be required for home occupations conducted in a detached accessory building. The Board will be able to determine compatibility in the neighborhood and has the ability to place conditions if needed to achieve compatibility. Neighbors within 200 feet will be notified for each request.

Staff has prepared an amendment to the Land Development Code (LDC) that would allow for a home occupation to be conducted within a detached accessory building upon approval of a Special Exception by the Board of Adjustment. The section proposed for amendment is Section 2.4.5.2 (a)(3).

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment to Section 2.4.5.2 (a)(3) of the LDC.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Calk, Ellinger, Glenn, Rosenbaum, and Famble) and none opposed.

ATTACHMENTS

Ordinance

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

July 15, 2014

Item No. 6.13

Disposition by City Council

Approved Ord/Res# _____

Denied _____

Other _____

City Secretary

AN ORDINANCE AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, part known as the "Land Development Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 24th day of July A.D. 2014.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 20th day of June, 2014, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 14th day of August, 2014, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 14th day of August, A.D. 2014.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT "A"

AMEND: Section 2.4.5.2 Criteria for Home Occupations

REVISE: Revise requirement to allow for home occupation within an accessory building.

- (a) Criteria for Allowed Home Occupation Uses. The allowed uses under a customary Home Occupation shall comply with the following criteria.
- (1) Home occupation must be shown as a permitted or conditional use in the Land Use Matrix, Section 2.5.2.1.
 - (2) The home occupation shall be conducted by members of the family residing on the premises, and shall have no more than one (1) employee who does not reside on the premises.
 - (3) The home occupation may be conducted in the home or a detached accessory structure. The following conditions shall apply:
 - (a) **When Operated Within the Home:** The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the Home Occupation.
 - (b) **When Operated Within a Detached Accessory Building:**
 - (i) The accessory building used for home occupation must be located to the side or rear of the home or dwelling unit.
 - (ii) The area of an accessory building used for a home occupation shall not be more than twenty-five percent (25%) of the of the floor area of the home or dwelling unit.
 - (iii) A Special Exception is required for any home occupation when conducted in a detached accessory building.
 - (4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, except that for each street front of the lot on which the building is located, there may be one (1) unanimated, non-illuminated, accessory identification sign having an area of not over two (2) square feet. Such sign or signs shall be placed flat against a wall or door or displayed in a window.
 - (5) There shall be no on-premises sales in connection with such home occupation.
 - (6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and not in a required front yard.
 - (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, or similar electronic devices, off the premises, or causes fluctuations in line voltage off the premises.

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