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COMMUNITY DEVELOPMENT

Planning,  
Zoning,  
Building Safety,  
Construction Inspection Services,  
Public Health,  
Housing Inspections,  
Code Enforcement

**To:** Mayor and City Council Members

**Cc:** Gregg Mandsager, City Administrator  
Dave Gobin, Community Development Director

**From:** Andrew Fangman, City Planner

**Date:** December 7, 2017

**Re:** Resolution Setting a Public Hearing on an Ordinance Amending Title 10 to Add a Chapter Regulating Home Occupations

In the current Zoning Ordinance home occupations are regulated through the definition of home occupations that is contained in the definition section. It reads as follows:

***Home Occupations:*** Any occupation or profession carried on by a member of the immediate family residing on the premises in connection with which there is used no sign other than a name plate, not more than one (1) square foot in area, or no display that will indicate from the exterior that the building is being utilized in whole or part for any purpose other than that of a dwelling or garage; there is no commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used, except such as is customarily for purely domestic household purposes, provided that cobbler's work or shoe repair work (including the use of such mechanical equipment as is normally used for such repair) shall be considered a home occupation so long as it meets all the other occupation criteria set forth herein.

It is necessary to rewrite this portion of City Code for three major reasons. Putting regulations within the definition section is bad practice, it makes them difficult for users to locate. The current regulations prohibit many activities related home occupations which would be good for the economic development of the community, yet would not negatively impact nearby residents. The current regulations allow for certain activities related to home occupations that have proven to be irritating to nearby residents, generating numerous complaints to the City.

Home occupations can be very beneficial to the community when governed by zoning regulations, which permit as broad of an array of home occupations as is possible without

"I remember Muscatine for its sunsets. I have never seen any  
on either side of the ocean that equaled them" — Mark Twain

negatively impacting the surrounding neighborhood. Home occupations are an important part of any local economy. They are a critical component of the ability of the local economy to grow through entrepreneurial activities of its residents. They foster the establishment of new businesses by eliminating the need for some small businesses to rent commercial space, a factor which could make all the difference to a new business. Allowing for work at home can save commuting and child care costs, and can give those who might be unable to work outside of the home, including single parents, the elderly and the disabled, an opportunity to earn a living. However, any benefits of home occupations must be balanced by the neighbors' right not to be disturbed by excessive noise, odors, traffic and other nuisances that are not characteristic of a residential area. Current regulation prohibits a number of activities that are associated with home occupations that are no more disruptive to the surrounding neighborhood than activities already permitted as part of the allowed residential land use.

While there are many benefits to home occupations, they also do have the potential to disrupt the residential character of the surrounding area. Current regulations have not adequately addressed all activities related to home occupations that can be disruptive to the neighbors, particularly in regards to vehicles and parking related to home occupations. Current regulations do not address this issue at all. As a result, there have been a number of instances where parking and vehicles related to a home occupation that was compliant with all current requirements of City Code have generated numerous complaints from neighbors.

Using an approach that has proven to be successful in other communities, the proposed new home occupation regulations shift to performance-based standards. This approach keeps the burdens on home-based businesses as light as possible by focusing only on activities that may disrupt neighbors. Performance standards can prevent harm to neighbors by prohibiting excessive noise, odors, traffic and other nuisances that are unwelcome in residential neighborhoods. This approach also better protects neighbors and preserves the residential character of residentially zoned areas by creating very specific and easy-to-enforce regulations on potentially disruptive activities. These regulations are divided into eight topical subsections which address the following:

- Regulations that establish that a home occupation is an accessory use only
- A list of prohibited activities, equipment, and materials
- Regulations which, as much as possible, prohibit any visible exterior evidence of home occupation
- Regulations regarding vehicles, parking, and traffic
- Regulations regarding on-site customers, clients, or patrons
- Regulations regarding delivery or pick-up of items
- Regulations regarding employees
- Regulations regarding hours of operation

The Commission is being asked to review the following performance based standards for home occupations and to determine if they are appropriate for Muscatine, and if not suggest alternate standards.

**A. Accessory Use Only**

1. Home occupations shall be clearly incidental and accessory to the use of the residence as a dwelling.
2. Not more than 500 square feet or 25 percent of the dwelling unit floor area, whichever is greater, shall be used to conduct the home occupation.
3. Interior alterations are allowed as long as the alterations do not result in elimination of either the kitchen, dining area, bathrooms, living room, or all of the bedrooms in the unit

**B. Prohibited Activities, Equipment, and Materials**

The following uses and activities are prohibited as part of any home occupation:

The following uses and activities are prohibited as part of any home occupation:

1. Use of equipment or machinery that is not customarily incidental to domestic use (e.g., cement mixers, tractors, and paint booths).
2. Equipment, machinery, or processes that create noise, smoke, glare, fumes, odor or vibration (e.g., assembly requiring power tools, carpentry) offensive to a reasonable person at the property line.
3. Uses that involve activities or use of equipment or materials on more than an intermittent basis so as to change the fire safety or occupancy classification of the premises (e.g., welding).
4. Activities create visual or audible electrical interference in any radio or television off the subject property or cause fluctuation in line voltage off the subject property.
5. Use or storage of chemicals or processes that are not customarily associated with domestic use. This includes any chemicals and pharmaceuticals of a type or in volumes not normally found in a domestic residence without a home occupation.
6. The home occupation shall not exceed the limitations imposed by the provisions of all applicable building, fire, health, safety, and housing codes and shall conform with all applicable requirements for business and occupational licensing.
7. The electrical service for the home occupation shall not exceed 200 amps

8. Automobile repair or auto body shops. More than 2 vehicles per year which are not registered at the residence and are rebuilt, repaired, or reconstructed shall constitute an automobile repair or auto body shop.
9. Escort services, meaning a person who, for a fee, commission, hire, reward or profit, accompanies other persons to or about social affairs, entertainments or places of amusement or consorts with others about any place of public resort or within any private quarters.
10. Tattoo and body piercing
11. Kennels or any other forms of boarding animals for compensation are prohibited.

#### **C. Exterior Evidence of Use Prohibited**

To ensure that dwellings in which a home occupation is occurring remain compatible with surrounding residential use, the following regulations shall apply:

1. The home occupation shall be conducted entirely within the principal dwelling.
2. Incidental storage in a garage or any activities associated with the home occupation shall not displace any required parking in currently usable garage
3. The home shall not require any alteration not customarily associated with residential use.
4. Home occupation activities shall not be visible from the public rights-of-way or neighboring properties.
5. Outdoor storage is prohibited.
6. No home occupation shall produce quantities or types of refuse not customarily associated with a residential use.
7. Any signage shall be in compliance Chapter 21 of Title 10.
8. There shall be no exterior lighting which would indicate that the dwelling is being utilized in whole or in part of any purpose other than residential.

#### **D. Vehicles, Parking, and Traffic**

1. The home occupation shall not generate excessive vehicular traffic or parking in the area of the principal structure. Parking shall be restricted to existing on-street and on-site parking associated with the principal structures.
2. Not more than two vehicles, externally identifiable as being associated with the home occupation, shall be parked at the location, in manner that is viable off the property, at any one time as the result of operating home occupations.

**E. Customers**

The owner of a home occupation shall not allow more than 5 clients or customers in the dwelling unit or on the premises during any period of 60 consecutive minutes nor more than 12 in any given 24-hour period.

**F. Delivery or pick-up of items**

Shipment and delivery of products, merchandise or supplies shall be limited to between 7:00 a.m. and 7:00 p.m. and shall regularly occur only in single rear axle straight trucks or smaller vehicles normally used to serve residential neighborhoods.

**G. Employees**

1. No persons, other than residents of the household shall engage in the home occupation at the home.
2. The home occupation may have other employees who are not working at the residence, but work at other offsite locations.
3. Dispatch centers, where employees come to the site to be dispatched to other locations, are not allowed as home occupations.

**H. Hours of Operation**

No home occupation shall be conducted between the hours of 7:00 PM and 7:00 AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.

The definition of home occupations would be changed to the following:

**Home occupation:** an occupation or business activity which results in a product or service and is conducted in whole or in part in a dwelling unit, and is subordinate to the residential use of the dwelling unit.

**RECOMMENDATION/RATIONALE:** Prior to City Council action on the proposed ordinance, a public hearing is required. It is recommended that the attached resolution setting a public hearing, for December 21<sup>st</sup>, on the proposed ordinance revising the Zoning Ordinance.

**BACKUP INFORMATION:**

- Resolution Setting a Public Hearing
- Public Notice

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION SETTING A PUBLIC HEARING ON AN  
ORDINANCE AMENDING TITLE 10 OF CITY CODE TO ADD A  
CHAPTER REGULATING HOME OCCUPATIONS**

**WHEREAS**, the next step in the modernization of the City of Muscatine Zoning Ordinance is the rewriting of the portion that regulates home occupations; and

**WHEREAS**, the current home occupations regulations prohibit many activities related home occupations which would be good for the economic development of the community, yet would not negatively impact nearby residents; and

**WHEREAS**, current regulations also have allowed for certain activities related to home occupations that have proven to be irritating to nearby residents; and

**WHEREAS**, home occupations are currently regulated through the definition of home occupations that is contained in the definition section and putting regulations within the definition section is bad practice, it makes them difficult for users to locate; and

**WHEREAS**, using a performance based approach that has proven to be successful in other communities the proposed new home occupation regulations shifts to performance based standards. This approach keeps the burdens on home-based businesses as light as possible by focusing only activities that may disrupt neighbors. Performance standards can prevent harm to neighbors by prohibiting excessive noise, odors, traffic and other nuisances that are unwelcome in residential neighborhoods This approach also better protects neighbors and preserves the residential character of residentially zoned area by creating very specific and easy to enforce regulations on potentially disruptive activities.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council for the City of Muscatine, that a Public Hearing is hereby established to review to allow the public to comments on the proposed ordinance amending Chapter 10 of City Code to a chapter on regulation of home occupations. Said hearing to be conducted at 7:00 P.M. on Thursday, December 21, 2017, in the City Hall Council Chambers.

**PASSED, APPROVED, AND ADOPTED** by the City Council for the City of Muscatine, Iowa, on this, the 7<sup>th</sup> day of December 2017.

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Diana L. Broderson, Mayor

ATTEST:

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Gregg Mandsager, City Clerk

## **PUBLIC NOTICE**

### **NOTICE OF TIME AND PLACE FOR A PUBLIC HEARING ON AN ORDINANCE AMENDING TITLE 10 OF CITY CODE TO ADD A CHAPTER REGULATING HOME OCCUPATIONS**

Public Notice is hereby given that the City Council of the City of Muscatine, Iowa will hold a public hearing on an ordinance amending Chapter 10 of City Code to a chapter on regulation of home occupations. The next step in the modernization of the City of Muscatine Zoning Ordinance is the rewriting of the portion that regulates home occupations. The current home occupations regulations prohibit many activities related home occupations which would be good for the economic development of the community, yet would not negatively impact nearby resident. Current regulations also have allowed for certain activities related to home occupations that have proven to be irritating to nearby residents. Home occupations are current regulated through the definition of home occupations that is contained in the definition section and putting regulations within the definition section is bad practice, which makes it difficult for users to locate these regulations. Using a performance based approach that has proven to be successful in other communities the proposed new home occupation regulations shifts to performance based standards. This approach keeps the burdens on home-based businesses as light as possible by focusing only activities that may disrupt neighbors. Performance standards can prevent harm to neighbors by prohibiting excessive noise, odors, traffic and other nuisances that are unwelcome in residential neighborhoods This approach also better protects neighbors and preserves the residential character of residentially zoned area by creating very specific and easy to enforce regulations on potentially disruptive activities. Notice is further given that the City council of the City of Muscatine, Iowa, will conduct a public hearing on said zoning changes on Thursday, December 21, 2017, at 7:00 p.m. in the City Hall Council Chambers, at which time all interested parties are invited to comment.

Gregg Mandsager, City Clerk