

1st Reading:
2nd Reading:

SPONSOR: HARRELL

ORDINANCE NO. ____

BILL NO. 22-74

AN ORDINANCE AMENDING SECTION 400.030, DEFINITIONS, AND SECTION 425.030, ADDITIONAL REQUIREMENTS FOR HOME OCCUPATIONS, OF THE ZONING CODE PERTAINING TO HOME OCCUPATIONS.

WHEREAS, Staff requested that the Planning and Zoning Commission review amendments to Chapter 400.030, Definitions, and Section 425.030, Additional Requirements For Home Occupations, related to Home Occupations due to a recent state law change that places limitations on the City's ability to regulate certain Home Occupations; and

WHEREAS, the Planning and Zoning Commission held a noticed public meeting on September 6, 2022 regarding amending Section 400.030, Definitions, and Section 425.030, Additional Requirements For Home Occupations; and

WHEREAS, after discussion of the proposed amendments, the Commission made a recommendation to the Board of Aldermen that Section 400.030 and Section 425.030 be amended as presented by staff; and

WHEREAS, the Board of Aldermen held a duly noticed public hearing on September 22, 2022, in compliance with the City Code and Chapter 89 RSMo., to hear public comment on the proposed amendments; and

WHEREAS, as this is a required change in the City's regulations to comply with state law, the Board of Aldermen desires to revisit this issue if at any time the state law is revised; and

WHEREAS, after consideration of the Commission's recommendation, the public hearing, and new state law, the Board of Aldermen agrees with the Commission's recommendation, and finds it in the best interest of the City to approve such text amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FENTON, MISSOURI, AS FOLLOWS:

ORD. NO. ____

ORD. NO. ____

Section 1. Section 400.030, Definitions, and Section 425.030, Additional Requirements For Home Occupations, is hereby amended as indicated in attached Exhibit 1, attached hereto and incorporated herein by reference.

Section 2. This ordinance shall be in full force and effect after the date of its passage and approval.

PASSED this 22nd day of September, 2022.

JOE MAURATH, MAYOR

APPROVED 22nd day of September, 2022.

JOE MAURATH, MAYOR

ATTEST:

Jane Hungler, City Clerk

Motion to approve. Roll Call vote:

Ayes:

Abstain:

Nays:

Absent:

ORD. NO. ____

EXHIBIT 1

- 1) Amend Section 400.030, Definitions, of the Zoning Code by deleting the term “Home Occupations” in its entirety.
- 2) Amend Section 425.030, Additional Requirements for Home Occupations, by repealing Section 425.030, Additional Requirements For Home Occupations, in its entirety and enacting a new Section 425.030 as follows:

Section 425.030 Additional Requirements For 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 activity is compliant with City, State, and Federal law; and confirming that the business is paying applicable taxes.
- B. Definitions:

GOODS OR SERVICES

Any work, labor, merchandise, equipment, products, supplies, or materials, of any tangible or intangible nature, except real property or any interests therein.

HOME-BASED BUSINESS

Any business operated in a Residential Dwelling, by a person residing in that Residential Dwelling, that manufactures, provides, or sells Goods or Services and that such business is owned and operated by the owner or tenant of the Residential Dwelling.

HOME-BASED WORK

Any lawful occupation performed by a resident within a Residential Dwelling 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 Dwelling or adversely affect the character of the surrounding neighborhood.

HOME OCCUPATION

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

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 430.120;
 - (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 any Residential District provided the Home Occupation:

1. Is (a) clearly incidental and secondary to the Principal Use of the Dwelling Unit; and (b) does not occupy more than forty-nine percent (49%) of the Gross Floor Area of the Dwelling; and
2. Does not change the residential character of the Residential Dwelling by altering or modifying the exterior of the Dwelling so as to indicate the presence of a Home Occupation; and
3. Is operated such that the total number of employees and clients on-site at one time does not exceed the occupancy limit for the Residential Dwelling; and
4. Pays all applicable taxes and otherwise operates in compliance with applicable City, State, and Federal law; and
5. Is operated by a resident or residents of the Dwelling Unit; and
6. Does not adversely affect the character of the surrounding neighborhood by allowing or causing, for example: unless otherwise permitted in this Code, commercial or delivery vehicles used in connection with the Home Occupation to be parked at or stored on the Property or visit the Property with a frequency of more than two (2) visits 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 Residential Dwelling 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 this Section. Any change in the amount of Gross 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 Residential Dwelling or Accessory Structure;
 3. Prohibit or require structural modifications to the Residential Dwelling 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 Residential Dwelling or Accessory Structure; or
 6. Restrict or prohibit a particular occupation that is legal under the laws of the City, State, and United States.