



STAFF REPORT

DATE: August 8, 2018

REGULAR

ITEM #: 16

MOTION

TO: City Council
FROM: Ben Prchal, City Planner
AGENDA ITEM: Home Occupation Ordinance
REVIEWED BY: Emily Becker, Planning Director

BACKGROUND:

A home occupation ordinance was placed on the Planning Commission's Work Plan for 2018. Standards for a home occupation are only provided through the definition of "Home Occupation," and the Planning Commission had expressed there should be actual standards provided in the zoning code. Below is Lake Elmo's Definition for a Home Occupation, as well as the language for home occupations signage which is also relevant.

HOME OCCUPATION. Any gainful occupation or profession engaged in by the occupant, only, of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district are present, that no stock in trade over 1,000 cubic feet is stored on the premises, that no over-the-counter retail sales are involved unless ancillary to the permitted business, and that entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hair salons serving no more than 2 customers at a time, or teaching limited to no more than 3 students at any time, and other uses which do not create a nuisance as outlined in [Chapter 96](#) of this Code. A ***HOME OCCUPATION*** shall not be interpreted to include tourist homes, restaurants, disorderly house as defined by M.S. § 609.33, Subd. 1, as it may be amended from time to time, or similar uses. No ***HOME OCCUPATION*** shall be permitted that creates the need for more than 3 parking spaces at any given time in addition to the parking spaces required by the occupants. ***HOME OCCUPATIONS*** shall not be carried on except between the hours of 7:00 a.m. and 10:00 p.m.

Home Occupation Signs. Signs identifying only the name and occupation of the resident. Home occupation signs shall be non-illuminated, flush-mounted to a wall of the residence, and shall not exceed two (2) square feet in area.

ISSUE BEFORE COUNCIL:

Should Council adopt an ordinance adding standards for a home occupation ordinance?

PROPOSAL DETAILS/ANALYSIS:

The following explains important sections of the proposed ordinance:

Exterior Storage - It was common between communities not to allow outside storage associated with the home occupation. *The drafted language does not allow for exterior storage.*

Little Canada - There shall be no external storage of equipment

Stillwater - No outside storage or display of products, equipment or merchandise is permitted

St. Paul - There shall be no exterior storage of equipment, supplies or commercial vehicles associated with the home occupation, nor parking of more than one (1) business car, pickup truck or small van, nor any additional vehicles except those for permitted employees identified under paragraph (d).

Mounds View – Does not allow exterior storage

Internal Space/Storage Requirements – Many communities attempt to limit the amount of space which a home business may occupy. Currently Lake Elmo limits stock in trade to 1,000 cu.ft. This helps to ensure that the principal residential use is maintained. *Drafted language does not allow for stock in trade storage over 1,000 cubic feet (this was part of the existing home occupation definition) or interior alterations which would eliminate all the sleeping areas, bathrooms, or the kitchen(s).*

Ham Lake - All activates must be contained indoors and cannot occupy a significant portion of the dwelling. It must be incidental to the premises.

Stillwater - Not more than 20 percent of the total gross floor area of the dwelling unit may be used for the home occupation or 400 square feet, whichever is less;

Traffic and Nuisance – The traffic amount would be limited not to exceed three parked cars in association with the business. All parking for the business must be off-street. Standards also state that the use may not create a nuisance as defined by the nuisance chapter. *No more than three parking spaces shall be allowed for the business. There shall be no demand for on-street parking.*

Ham Lake - No on-street parking shall be generated and traffic cannot exceed what is normally generated

Stillwater - Off-street parking must be provided for any customers

Location of Home Business – Some communities limit the operation to just the principal structure. Staff does not see an immediate issue with allowing business to be conducted out of a garage or accessory building.

Employees – It was common to see a limit on the number of employees who were not permanent occupants of the residence affiliated with the home occupation. Staff has included this into Lake Elmo’s code. *No more than one non-resident shall be allowed as an employee.*

Ham Lake - No more than one employee who does not live on the premises can be employed

Orono – Only one employee or associate is allowed and cannot be there for more than 40 hours a week.

Signage – The City sign code allows for a two square foot wall sign for the business. There are some communities that limit the size of the sign, typically from one square foot to two square feet. There are others that do not allow signs associated with the business at all, such as Little Canada, Stillwater (depending on district). There is no proposed change from the current code for signage. *Section 154.212 (G)(1) and K (10)*.

St. Paul - A home occupation may have an identification sign no larger than two (2) square feet in area, which shall not be located in a required yard.

Stillwater - No signs are permitted depending on district and 2 sqft. where allowed.

Hours of Operation – Many of the communities had set times in which the operator could perform activities associated with the home occupation. The Lake Elmo definition had set the time from 7:00 Am – 10:00 Pm. Staff is not suggesting a change to this section, as it is comparable to other communities.

Little Canada – no work from 10pm to 7 am - 15 hours

Stillwater - limits time from 7am to 8pm – 13 hours

St. Paul – There was no limit found

Orono - ... accessible to the public shall be limited to the hours between 8:00 a.m. and 7:00 p.m.- 11 hours

FISCAL IMPACT:

Staff does not foresee a fiscal impact.

COMMENTS AND RECOMMENDATION

Staff Comments: Staff feels that the proposed language helps establish clarity for residents as to what is expected for individuals who wish to establish a home based business. The ordinance is an improvement and staff is recommending approval of the provided language.

Planning Commission: The planning commission recommended approval with amendments. Outlined below is the language that has been removed:

Certificate of Zoning Compliance – The commission did not feel this was necessary for residents to obtain. Many communities do require some sort of permitting scheme. However, staff does not necessarily feel the certificate provides much value for regulation. The code should be able to stand on its own and instead if there is an issue the nuisance section of the code will be applied. This is supported by staff.

Home occupations shall not be... – Medical or dental clinics, contracting, and excavating, welding or machine shops, and tow truck services were all removed. It was brought to light in the meeting that there is a population of residents who have home businesses that could easily fall into either of these categories. It was stated that the language was too general (contracting) or too specific (machine shops, which isn't much different from a woodworker). Staff is in support of the changes, so long as the businesses do not cause a nuisance as defined by the code there does not seem to be a reason to specifically prohibit them.

Exterior storage – The code read “...or display of products, equipment or merchandise is permitted.” The commission decided to remove equipment from this section.

“Motion to adopt Ordinance 08-219 which establishes regulatory language for Home Occupations.”
And
“Motion to adopt Resolution 2018-091 authorizing summary publication of Ordinance 08-219.”

ATTACHMENTS

- Ord. 08-219 Home Occupation Ordinance.
- Resolution 2018-091 summary publication of Ord. 08-

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-219

AN ORDINANCE AMENDING THE LAKE ELMO CITY ZONING CODE OF
ORDINANCES BY ADDING ADDITIONAL STANDARDS AND LANGUAGE FOR
HOME OCCUPATIONS.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: Definitions 11.01 by amending the definition of Home Occupation:

~~HOME OCCUPATION. Any gainful occupation or profession engaged in by the occupant(s); only, and up to one non-occupant employee of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district allowed by the City's sign regulations regarding home occupations are present., that no stock in trade over 1,000 cubic feet is stored on the premises, that no over-the-counter retail sales are involved unless ancillary to the permitted business, and that entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hair salons serving no more than 2 customers at a time, or teaching limited to no more than 3 students at any time, and other uses which do not create a nuisance as outlined in Chapter 96 of this Code. A HOME OCCUPATION shall not be interpreted to include tourist homes, restaurants, disorderly house as defined by M.S. § 609.33, Subd. 1, as it may be amended from time to time, or similar uses. No HOME OCCUPATION shall be permitted that creates the need for more than 3 parking spaces at any given time in addition to the parking spaces required by the occupants. HOME OCCUPATIONS shall not be carried on except between the hours of 7:00 a.m. and 10:00 p.m.~~

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article II; Section 154.012; Subd. (B) (13) Home Occupations by amending the language as follows:

~~Home Occupations. Any gainful occupation or profession engaged in by the occupant(s); only, and up to one non-occupant employee of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district are allowed by the City's sign regulations regarding home occupations are present., that no stock in trade over 1000 cubic feet is stored on the premises, that no over-the-counter retail sales are involved unless ancillary to the permitted business, and that entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hair salons serving no more than 2 customers at a time, or teaching limited to no more than 3 students at any time, and other uses which do not create a nuisance as outlined in Chapter 96 of this code. A home occupation shall not be interpreted to include tourist homes, restaurants, disorderly house as defined by M.S. §609.33, Subd. 1, as it may be amended from time to time, or similar uses. No home occupation shall be permitted that creates the need for more than 3 parking spaces at any given time in addition to the parking spaces at any given time in addition to the parking spaces required by the occupants. Home occupations shall not be carried on except between the hours of 7:00 a.m. and 10:00 p.m.~~

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article VII; to amend Section 154.310 Standards for Accessory Uses by adding the following:

E. Home Occupations shall be considered a permitted accessory use. The purpose of home occupation standards are to ensure that the activities are clearly secondary to the intended use of the dwelling and to ensure that the business is compatatble with surrounding residential uses. All home occupations must comply with the criteria set forth below.

1. Home Occupations.

a. A home occupation may include but is not limited to

- 1. Home office.*
- 2. Hair salons not serving more than two customers at a time.*
- 3. Teaching, though limited to no more than three students at any time*
- 4. Uses which do not alter the character of the locality, do not create a nuisance as outlined in Chapter 96 of the City Code, and are legally allowed by local, state, and federal law.*

b. Home occupations shall not be interpreted to include

- 1. Tourist homes.*
- 2. Restaurants.*
- 3. Disorderly house as defined by M.S. 609.33, subd. 1, as it may be amended from time to time, or similar uses.*
- 4. Sale or use of hazardous materials.*
- 5. Adult establishments as defined in Chapter 113.*
- 6. Any overnight activities shall not be permitted.*

2. Operation Requirements

- a. The home occupation shall be clearly incidental and subordinate to the residential use of the premises, and shall result in no incompatibility or disturbance to the surrounding area.*
- b. Activities associated with the permitted home occupation may only be conducted between the hours of 7:00 a.m. and 10:00 p.m..*
- c. No over the counter retail sales may be made unless ancillary to the permitted business*
- d. There shall not be more than one employee who does not customarily reside on the property affiliated with the Home Occupation.*
- e. The use shall not create a nuisance as defined by chapter 96.*

3. *Site Requirements*

- a. Exterior alterations or modifications that change the residential character or appearance of the dwelling unit or accessory structure to that of a commercial nature shall be prohibited.
- b. Interior alterations or modifications shall not eliminate all of the bathrooms, sleeping areas, or kitchen(s).
- c. Signage. Home Occupations are allowed signage in accordance with Sections §154.212 (G) (1) (a) and (K) (10).
- d. The operation shall not create a demand for more than 3 parking spaces at any given time, and no parking for the business shall be on-street. Off-street parking shall be on a durable parking surface such as asphalt, concrete, etc. The off-street parking area required for the principal residential use shall be retained exclusively for the principal use.
- e. Exterior Storage. No outside storage or display of products or merchandise is permitted.
- f. No stock in trade over 1,000 cubic feet shall be stored on the premises.

SECTION 4. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article V; to amend Section 154.103 Permits; Certificates and Licenses; B. Certificate of Zoning Compliance by amending the following:

1. *When Required.* A certificate of zoning compliance is required for the following activities:
 - a. A new use classification within an existing building or structure;
 - b. A change of use classification within an existing building or structure;
 - c. Addition, removal or change in parking or other on-site improvements;
 - d. Small accessory structures that do not require a building permit;
 - ~~e.~~ Home occupations;
 - ~~f.~~ Swimming Pools;
 - ~~g.~~ Antennas, including amateur radio antennas and wireless communications facilities that meet the criteria for administrative review in §150.111(C);
 - ~~h.~~ Fences six feet and less in height;
 - ~~i.~~ Driveways that are not authorized as part of an approved building permit;
 - ~~j.~~ Storm water management activities and structures not otherwise permitted as part of a development application;
 - ~~k.~~ Other situations requiring additional review or interpretation, as specified elsewhere in this ordinance.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 6. Adoption Date. This Ordinance 08-219 was adopted on this _____ day of _____ 2018, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-219 was published on the _____ day of _____, 2018.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2018-091

RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-219

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-219, an ordinance amending the City's Zoning Use Types and Classification as it specifically relates to Accessory Uses;

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-219 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-219, which adds language within the City's Accessory Use section of Zoning use types and classifications as it relates to Home Occupations. The amended language was intended to clarify the expectations of home occupations. The following is a summary of the adopted language.

- A certificate of zoning compliance is no longer needed for home businesses/occupation.
- The code provides examples of what is acceptable as a home occupation, such as a home office. As well as other examples that would not be considered as acceptable as a home occupation, such as a restaurant or tourist home.
- The City has also established operation requirements which lists out what is acceptable for hours of operation, number of employees allowed, and states that the operation shall not conflict with the nuisance section (Ch. 96) of the City code.
- Site requirements are also listed, which prohibits property owners from making modifications to the home which would no longer make the dwelling usable as a residence or give off the appearance of a commercial use.

The full text of Ordinance No. 08-219 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: August 8, 2018

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.