

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING CHAPTER 5, SUPPLEMENTAL USE STANDARDS,"ARTICLE 1, "STANDARDS FOR SELECTED USES," SECTION 5.116A "HOME OCCUPATIONS" TO ALLOW OUTDOOR ACTIVITIES AS A HOME OCCUPATION AND ADD REGULATIONS FOR OUTDOOR ACTIVITIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, home occupations are allowed use in residential districts when the use clearly incidental to the use of the dwelling as a residence, is conducted entirely within the principal dwelling unit, attached garage or one accessory building, and

WHEREAS, it is desired by the City Council to allow some home occupations to occur outside of the principal dwelling and attached garage or accessory structure, provided that those activities do not create a nuisance to surrounding property owners; and

WEHREAS, the proposed amendments allow outdoor activities as a home occupation and provide for regulations for outdoor activities and is in conformance with the intent that outdoor activities do not create a nuisance for surrounding property owners;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS

SECTION 1.

Chapter 5 "Supplemental Use Standards" of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 1, "Standards for Selected Uses", Section 5.116A "Home Occupations" to read as follows:

Sec. 5.116.A HOME OCCUPATIONS.

~~—(a) Home occupations may be permitted in accordance with the use table in Chapter 4, Article 6, subject to the following conditions:~~

~~—(1) a. The use is conducted entirely within:~~

~~—— 1. The principal dwelling unit and attached garage; and/or~~

~~2. One accessory building. Such use is limited to the members of the family or other residents residing in the dwelling unit and one additional employee. Employees that do not visit the home as part of their job are excluded from this provision.~~

~~b. Up to five employees may be permitted if approved by the city council. In reviewing such a request, the city council may consider the following:~~

~~1. The reason for the request;~~

~~2. The impact on the character of the neighborhood;~~

~~3. Availability of on-site parking and number of employee vehicles;~~

~~4. Hours when employees will located on site;~~

~~5. Whether the home occupation business is conducted entirely inside the dwelling unit; and~~

~~6. The consent of the majority of property owners of the one or two family residential property along both sides of the block face.~~

a. Home Occupations may be permitted in accordance with the use table in Chapter 4, Article 6, subject to the following conditions:

1) All home occupations must be conducted entirely from within the principal dwelling and attached garage or one accessory building except for home occupations that are outdoor activities as described below. The use is conducted entirely within the principal dwelling unit and attached garage; and/or

2) ~~one accessory building. Such Use as home occupation~~ is limited to the members of the family or other residents residing in the dwelling unit and one additional employee. Employees that do not visit the home as part of their job are excluded from this provision.

~~b. Provided however, Up~~ to five employees may be permitted if approved by the City Council. In reviewing such a request, the City Council may consider the following:

a. the reason for request;

b. the impact on the character of the neighborhood;

c. availability of on-site parking and number of employee vehicles;

d. hours when employees will be located on site;

e. whether the home occupation is conducted entirely inside the dwelling unit; and

f. the consent of the majority of property owners of the one or two-family residential property along both sides of the block face.

3) Outdoor activities:

a. Performance of the activity shall not be visible from the street.

b. Performance of outdoor activity shall be solely located and contained in the rear yard.

c. Operation of hours for outdoor activities shall be between the hours of 8:00 a.m. and 8:00 p.m.

d. For swimming lessons and water safety instruction, provided that such instruction involves no more than four (4) pupils at any one time; and

- e. Participants must have access to a permanent restroom facility in the principal dwelling unit, attached garage or an accessory building connected to water and sewer.

(42) Traffic. No vehicular traffic shall be generated by the home occupation business in greater volumes than would reasonably be expected in the residential neighborhood or create unreasonable parking or traffic congestion for the abutting or adjoining neighbors or for the immediate neighborhood. Any parking of vehicles must be consistent with city ordinances. Any parking or traffic of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, shall be considered unreasonable. It shall be a defense to prosecution under this subsection (a) that the parking or traffic created was reasonable under the totality of the circumstances existing in the neighborhood. Upon request of the residents of the neighborhood, a representative from the transportation and public works department shall review the traffic impacts to the neighborhood and, if applicable, refer the review to the traffic management program.

(53) Accessory and Secondary. The use must be clearly incidental and secondary to the residential use of the dwelling and may not alter the existing residential character of the principal dwelling or the garage/accessory building. A home occupation that requires structural alteration of the principal dwelling or garage/accessory building to comply with nonresidential construction code is prohibited, except for accessibility requirements.

(64) Appearance. A change in the outside appearance of the dwelling unit or lot indicating the use or conduct of a home occupation, including advertising signs or displays is prohibited. All equipment, goods, wares, merchandise or materials associated with home occupation, including equipment, goods, wares, merchandise or materials located in or on vehicles, must not be visible from any public street or public right-of-way or from other locations off the premises.

(75) Direct Sales. The direct sale of commodities, goods, wares, materials, merchandise or products to the general public is prohibited, however orders may be filled on the premises to persons by prior individual oral or written invitation or if placed earlier by a customer by phone, mail, internet or off-site sales parties. Products from a cottage food production operation as defined in the Tex. Health and Safety Code § 437.001.(2-b) may be sold directly to the consumer.

(86) Signs. Home occupations must not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the dwelling through audio or visual means.

- a. All on-site advertising that is visible from any public street or public right-of-way or from other locations off the premises, other than advertising located on vehicles, is prohibited. For the purposes of this subsection (a)(6), **VEHICLE** is defined as a passenger automobile, passenger van, motorcycle or pick-up truck. All advertising on vehicles shall be mounted flat against or painted on the vehicle and shall not refer to the street address of the home occupation business.
- b. All off-site advertising, including signs, displays, billboards, television, radio and/or any other advertising medium uses that refers to the street address is prohibited, other than business stationary, business cards, the home occupation business website, newsletters and applicable trade directories.

(7)

(98) Nuisance. No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property. Only general types and sizes of machinery that are typically found in dwellings for hobby or domestic purposes shall be permitted. No use shall generate noise or glare in excess of what is typical in a residential neighborhood. No mechanical equipment shall be used which will be obnoxious or offensive by reason of vibrations, noise, odor, dust, smoke or fumes. No combustible materials shall be permitted on the premises that are in violation of the city's fire code.

~~(9) A person who engages in a home occupation may not conduct outdoor activities between the hours of 10:00 p.m. and 7:00 a.m.~~

(b) The operation of detail, auto repair, paint or body shop business, including, but not limited to, a boat, motorcycle, trailer or auto shop business, shall not be permitted as a home occupation.

(c) A home school shall not be considered a home occupation and shall not be subject to the regulations of this section.

(d) A home occupation is permitted as an incidental use and is secondary to the use of a dwelling. The city council may, at any time, amend this ordinance to terminate any or all home based business uses without creating nonconforming rights to the continuance of a home-based business.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the

remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896, 21653 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 7.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 8.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Melinda Ramos,
Sr. Assistant City Attorney

Jannette S. Goodall,
City Secretary

ADOPTED: _____

EFFECTIVE: _____