

ORDINANCE 2009-77

TO BE ENTITLED: “AN ORDINANCE TO AMEND CHAPTER 4, SECTION 4.1.6, AND CHAPTER 8, SECTION 8.3, OF THE CITY OF FRANKLIN ZONING ORDINANCE RELATING TO HOME OCCUPATIONS.”

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I. That Chapter 4, Section 4.1.6(5)(a) of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~ and is approved to read as follows:

4.1.6(5) Home Occupations

(a) Prohibited Uses

Examples of the types of uses ~~that provide on-site direct retail or wholesale sales to customers~~ that are prohibited as home occupations include, but are not limited to:

...

(iv) Gun Sales; ~~and~~

(v) Florist Shop; ~~or~~

(vi) Similar Personal Service with more than one (1) customer or client at a time or any business that includes retail sales.

SECTION II. That Chapter 4, Section 4.1.6(5)(b) of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~; to add the following text noted in **bold**; and is approved to read as follows:

4.1.6(5) Home Occupations

...

(b) Allowable Uses

Examples of the types of uses allowable as a home occupation include, but are not limited to:

...

(v) Catering;

~~(v)~~ **(vi) Contractor (office only);**

(vii) Consulting Services (including such uses as Designer, Draftsman, Graphic Artist, Information Technology Consultant, Management or Financial Consultant, Real Estate Agent, or like profession)

(viii) Counseling Services ;

~~(vi)~~—Designer;

~~(vii)~~—Draftsman;

(ix) Data Entry

(x) Office for Direct Sales (customer contact is via phone/internet or off-site of the Home Occupation);

~~(viii)~~ (xi) Engineer;

~~(ix)~~—Graphic Artist;

~~(x)~~—Information Processing;

~~(xi)~~ (xii) Insurance Agent;

~~(xii)~~ (xiii) Lawyer;

~~(xiii)~~—Management and Financial Consultant;

(xiv) Manufacturer's Representative;

(xv) Office for Mobile Service Provider;

~~(xv)~~ (xvi) Planner;

~~(xvi)~~ (xvii) Real Estate Agent;

(xxviii)Small-scale Child Care;

~~(xvii)~~ (xix) Sculptor;

~~(xviii)~~ (xx) Songwriter;

~~(xix)~~ (xxi) Teacher; ~~(including, but not limited to,~~ **in such areas as** tutoring in art, dance, and music lessons **or other like disciplines**); and

~~(xx)~~ (xxii) Traveling Salesperson.

SECTION III. That Chapter 4, Section 4.1.6(5)(c) of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~; to add the following text noted in **bold**; and is approved to read as follows:

4.1.6(5) Home Occupations

...

(c) Standards

Home occupations shall:

...

(vi) Not provide instruction **or counseling services** to more than ~~one~~ **two pupils or clients** at a time, **however, this shall not preclude a family counseling session, provided that all other provisions of this subsection are followed;**

...

(xii) **Provide care for no more than four (4) children, not related to the resident who is operating the business, in a small-scale child care. In no case shall the operation of a small-scale child care exceed the standards for a Family Child Care Home as regulated by the State of Tennessee Department of Human Services.**

SECTION IV. That Chapter 8, Section 8.3 of the City of Franklin Zoning Ordinance is hereby amended to add the following definition and is approved to read as follows:

Mobile Service Provider Office

A permitted home occupation use, as specified in Section 4.1.6(5) of this ordinance, that is limited to the office of a professional service that is carried out in transitory locations. Examples include, but are not limited to mobile automotive detailing services and mobile pet grooming services.

SECTION V. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on third and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
ERIC S. STUCKEY
City Administrator/Recorder

By: _____
JOHN C. SCHROER
Mayor

PLANNING COMMISSION RECOMMENDED APPROVAL: 1/28/10

PASSED FIRST READING: _____

PASSED SECOND READING: _____

PUBLIC HEARING HELD: _____

PASSED THIRD READING: _____



HISTORIC
FRANKLIN
TENNESSEE

MEMORANDUM

April 16, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Vernon Gerth, Assistant City Administrator for Community and Economic Development
Gary Luffman, Building and Neighborhood Services
Tom Marsh, Zoning & Development Coordinator

SUBJECT: Ordinance 2009-77, Zoning Text Amendment Regarding Home Occupation Requirements of the *City of Franklin Zoning Ordinance*

Purpose

The purpose of this memorandum is to provide additional information to the Board of Mayor and Aldermen (BOMA) regarding proposed amendments to Chapter 4, Section 4.1.6 and Chapter 8, Section 8.3 of the *Franklin Zoning Ordinance* to revise provisions relating to Home Occupations. This memorandum provides amplifying information to the previous memorandums of March 15th and February 16th that are included below.

Background

This proposed text amendment was discussed by BOMA at the work session on March 23rd. During discussion at that meeting the Board gave additional guidance to staff regarding the uses Small Scale Child Care, and tutoring or counseling.

Discussion

There was much discussion amongst the Board and staff regarding the number of children that should be allowed to be cared for in the Small Scale Child Care. The final direction from BOMA at the work session on March 23rd was to set this number at a maximum of 4 children, not related to the owner/operator of the business. Staff has made this change to the text of the proposed ordinance and also added a caveat that at no time shall the operation of a small-scale child care exceed the standards for a Family Child Care Home as regulated by the State of Tennessee Department of Human Services.

During additional research into the state regulations, staff found that children that reside in the home are counted in the state standards in determining licensing and oversight requirements. Per the proposed text of this City of Franklin Ordinance, an operator of a "Small Scale Child Care" as a home occupation may care for up to 4 children not related to them. Per state regulations, if the person also cares for some of their own children so that the total number is 5-7 children, then they would also be subject to the state licensing requirements for a "Family Child Care Home."

At the work session on March 23rd, the Board also directed staff to change the standards for tutoring and counseling that are found in section 4.1.6(5)(c) of the *Zoning Ordinance*. Specifically, the Board directed that the number of pupils or clients be increased to two instead of one. This change is reflected in the current text of the proposed ordinance.

Financial Impact

Not applicable to this item.

Recommendation

Approval of the text amendment with the proposed amendments is recommended.



HISTORIC
FRANKLIN
TENNESSEE

MEMORANDUM

March 15, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Vernon Gerth, Assistant City Administrator for Community and Economic Development
Gary Luffman, Building and Neighborhood Services
Tom Marsh, Zoning & Development Coordinator

SUBJECT: Ordinance 2009-77, Zoning Text Amendment Regarding Home Occupation Requirements of the *City of Franklin Zoning Ordinance*

Purpose

The purpose of this memorandum is to provide information to the Board of Mayor and Aldermen (BOMA) regarding proposed amendments to Chapter 4, Section 4.1.6 and Chapter 8, Section 8.3 of the *Franklin Zoning Ordinance* to revise provisions relating to Home Occupations. This memorandum provides amplifying information to the original memorandum of February 16th that is included below.

Background

This *Zoning Ordinance* Text Amendment was requested by the Department of Building and Neighborhood Services in order to revise the requirements in the *Zoning Ordinance* related to Home Occupations and to clarify the types of uses that may be allowed as home occupations. It was brought forward in response to requests from citizens for home occupation uses that are not clearly defined in the existing regulations.

This proposed amendment was considered by the Franklin Municipal Planning Commission (FMPC) at its meeting on January 28, 2010. After making one amendment to the proposed ordinance, the FMPC voted unanimously to recommend approval of the ordinance to the Board of Mayor and Aldermen (BOMA). The amendment that was recommended by the FMPC regards the use "small-scale child care" as a home occupation.

This proposed text amendment was discussed by BOMA at the work session on February 9th and was scheduled for first reading at the regular meeting on February 23rd. During discussion at the first reading additional questions were brought forward regarding the small-scale child care.

Discussion

At its meeting on January 28, 2010, the FMPC recommended one amendment to Section III of the proposed ordinance to reduce the number of children allowed in small-scale child care from seven (7) to four (4) by a five to three vote.

The State of Tennessee Department of Human Services has legal responsibility for licensing homes that provide child care for five (5) or more children. An operator that provides care for fewer children is not subject to the State licensing requirements.

Much of the concern with a small-scale child care as a home occupation that was expressed by Planning Commissioners and Aldermen is related to the amount of traffic that might be generated in a residential area. Existing standards in the *Zoning Ordinance* are intended to limit the adverse impact that home occupations might have on a neighborhood. Specifically, section 4.1.6(5)(c) of the *Zoning Ordinance* states:

- (c) Standards
Home occupations shall:



- (i) Receive approval from the Department of Building and Neighborhood Services prior to commencement;
- (ii) Be located entirely within the principal structure and not exceed 25 percent of the total floor area of the principal structure;
- (iii) Be owned and operated by the person residing in the principal structure;
- (iv) Employ no more than one person who does not reside on the premises;
- (v) Not consist of storage for another agricultural or nonresidential business occurring elsewhere;
- (vi) **Not provide instruction to more than one pupil at a time;**
- (vii) **Not store material, equipment, or other articles associated with the home occupation outside the primary structure or in a location visible from a public street;**
- (viii) **Not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference that can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;**
- (ix) **Cause no change in the external appearance of the existing dwelling or other structures on the premises;**
- (x) Not include more than one vehicle not customarily found in a residential district parked on the premises overnight;
- (xi) Not include signs or other means of advertising on the property.

Item numbers (vi), (vii), (viii), and (ix) above are the standards that might be violated by a small-scale child care. This is why staff brought the item before the FMPC and BOMA for consideration. There appears to be some desire in the community for a child care as a home occupation, but it does not fit clearly within the current standards.

As stated above, if a child care home provides care for 5 or more children then the Department of Human Services will license and inspect the facility to ensure quality care for the children. The impact on the surrounding neighborhood, however, is still a subjective matter for local consideration.

Financial Impact

Not applicable to this item.

Options

1. Approve the proposed *Zoning Ordinance* text amendment as is so that small-scale child care is identified as an example of an allowable home occupation as long as it does not provide care for more than four (4) children. Since the number of children that are being cared for would be less than five (5), the Department of Human Services licensure requirements and inspections would not be triggered.
2. Revert to the original language for the proposed *Zoning Ordinance* text amendment, which would allow a small-scale child care to provide care for up to seven (7) children. In this case, any operator that wanted to provide care for 5-7 children would be subject to Department of Human services licensure and routine inspection requirements.
3. Do not include "small-scale child care" as an example of a use that is "allowable" as a home occupation. If the Board chooses this option, then staff would continue to not permit them because a child care operation in a neighborhood could not meet the standards mentioned above.

Recommendation

Staff recommends approval of the overall text amendment, with option 2 as stated above.



HISTORIC
FRANKLIN
TENNESSEE

MEMORANDUM

February 16, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Vernon Gerth, Assistant City Administrator for Community and Economic Development
Catherine Powers, Planning and Sustainability Director

SUBJECT: Ordinance 2009-77, Zoning Text Amendment to Home Occupation Requirements of the *City of Franklin Zoning Ordinance*

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information regarding amendments to Chapter 4, Section 4.1.6 and Chapter 8, Section 8.3 of the *Franklin Zoning Ordinance* to revise provisions relating to Home Occupations.

Background

This *Zoning Ordinance* Text Amendment is requested by the Department of Building and Neighborhood Services in order to revise the requirements in the *Zoning Ordinance* related to Home Occupations and to clarify the types of uses that may be allowed as home occupations. It is brought forward in response to requests from citizens for home occupation uses that are not clearly defined in the existing regulations.

The amendment establishes that activities such as counseling, catering, office for mobile service providers, and small-scale child care are allowable as home occupations. Additionally, the proposed amendment consolidates many similar, consulting-type businesses, grouping them into one category. The amendment maintains the standard that counseling, consulting, and tutoring / instructive activities may be provided to only one client at a time. The operation of "small-scale child care" would only be allowed in accordance with existing state requirements and the existing traffic and parking standards for home occupations. These changes are presented to assist staff in the implementation of the Home Occupation requirements within the *Zoning Ordinance*.

The Planning Commission made one amendment to Section III of the proposed ordinance to reduce the number of children allowed in small-scale child care from seven (7) to four (4) by a five to three vote. The final motion to recommend Ordinance 2009-77, as amended, passed unanimously by the Planning Commission on January 28, 2010.

Staff has researched the State of Tennessee Department of Human Services requirement for the Caregiver/Child ratios. The licensing requirement starts at five (5) in the Family Child Care Homes category according to the age of the children.

Financial Impact

Not applicable to this item.

Options

Not applicable to this item.

Recommendation

Approval of the text amendment, with amendments from the Planning Commission, is recommended.