



PLANNING AND ZONING COMMISSION

AGENDA REPORT

March 29, 2021

ITEM 5.III: An Ordinance Repealing and Replacing Section 27-203 of the Code of City Ordinances of the City of Warrensburg Regarding Home Occupations in Residential Districts

BACKGROUND:

Staff routinely reviews the zoning ordinance to identify outdated, insufficient, or unnecessary sections that may need updating. Over the last year, Planning and Zoning staff identified the home occupation ordinance required updating and began a draft to amend the current ordinance with modern uses and streamlined language. A concern with home occupations can be the amount of traffic generated and parking congestion along the street and the impacts to the surrounding neighborhood; therefore, parking requirements have been incorporated for home occupations for non-resident employees and by the square footage used for the home occupation. Lastly, the subsections of the ordinance have been reordered for better understanding to the user and staff.

The attached ordinance accomplishes the following,

- Updates permitted and prohibited home occupation uses. Prohibited home occupations will be able to maintain an administrative office at the location, but the work or use cannot be on-site.
- Includes an exemption for telecommuting workers where a business is at another location.
- Requires home occupations to provide off-street parking based on the number of non-resident employees or square footage of the home occupation.

In order to highlight the changes to the code in comparison to the existing ordinance, a redline copy of the ordinance is attached that shows the new language in **red text** and deleted language in **red strikethrough** text. A clean copy of the proposed ordinance is also included that shows the final language as it would appear in the code book if the ordinance is approved.

RECOMMENDATION:

Staff recommends approval of the attached ordinance.

Attachments:

1. Findings & Recommendations
2. Ordinance
3. Redlined Ordinance

**PLANNING AND ZONING COMMISSION
FINDINGS AND RECOMMENDATION**

Request to consider An Ordinance Repealing and Replacing Section 27-203 of the Code of City Ordinances of the City of Warrensburg Regarding Home Occupations in Residential Districts

The Planning and Zoning Commission has considered the ordinance at an open public meeting and makes the following findings and recommendations based upon the evidence presented with respect to these matters:

1. On April 5, 2021, the Planning & Zoning Commission considered Ordinance Repealing and Replacing Section 27-203 of the Code of City Ordinances of the City of Warrensburg Regarding Home Occupations in Residential Districts.
2. The proposed ordinance _____ will _____ will not further the goals and objectives of the City's Comprehensive Plan.
3. The proposed ordinance _____ will _____ will not contribute to and promote the welfare and convenience of the public if the ordinance is passed.
4. The proposed ordinance _____ will _____ will not cause substantial injury to the value of property in the community.
5. Additional Comments: _____

Concerning the proposed ordinance, the Planning and Zoning Commission:

___ Recommends Approval

___ Disapproves _____

Passed by the Planning & Zoning Commission this _____ day of _____, 2021.

Chair

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING SECTION 27-203 OF THE CODE OF CITY ORDINANCES OF THE CITY OF WARRENSBURG REGARDING HOME OCCUPATIONS IN RESIDENTIAL DISTRICTS

WHEREAS, the City wishes to encourage entrepreneurship and local business; and

WHEREAS, home occupations provide an affordable and appropriate setting for many small business; and

WHEREAS, the nature of home business operations has evolved with changes in technology and consumer preferences;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARRENSBURG AS FOLLOWS:

Section 1. That Section 27-203, Home Occupations in Residential Districts, is repealed and replaced as follows:

Sec. 27-203. - Home occupations in residential districts.

(a) *Intent and purpose.* The conduct of certain businesses (home occupations, as defined in section 27-6) in residential neighborhoods may be permitted under the provisions of this section. It is the intent of this regulation to:

- (1) Ensure the compatibility of home occupations with the residential neighborhood in which they are located;
- (2) Maintain and preserve the residential character of residential neighborhoods; and
- (3) Guarantee to all residents freedom from excessive noise, excessive traffic, parking congestion, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas.

(b) *Registration of home occupations.*

- (1) Persons operating home occupations shall register their business with the zoning official. Failure to register a home occupation is a violation of this chapter.
- (2) Unless otherwise exempted by city code, all home occupations must maintain a valid Business License, which must be renewed annually.
- (3) Registration of a home occupation covers one individual at a specific location and is not transferable. An applicant must register a home occupation only once provided that the location and the business activity remain the same. If the applicant moves to a different location or business activity changes in the intensity of the use or the services offered, a new home occupation registration is required.

- (4) If the zoning official notifies the registrant their home occupation is not lawful, the registrant may appeal the decision to the planning and zoning commission.
 - (5) Where state certification, registration, or licensing is required, such certification shall be presented with the home occupation registration form.
 - (6) Telecommuting activities are exempt from home occupation registration where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business, customers, and the employee occurs at the place of business and not the residence.
- (c) *Prohibited home occupation.* The following shall not be permitted as home occupations, except for services limited to administrative offices for said businesses:
- (1) Automotive, vehicle, trailer, recreational vehicle, or heavy machinery service or repair including but not limited to: engine work, body work, painting, washing, detailing services, windows glass replacement, or accessory parts sales and installation.
 - (2) Vehicle towing operations.
 - (3) Funeral home or mortuary.
 - (4) Retail stores including but not limited to: gift shops, boutique stores, antiques stores, pawn shops, or second-hand shops.
 - (5) Taxi or shuttle services.
 - (6) Private schools with organized classes.
 - (7) Rental businesses.
 - (8) Restaurants or mobile food vendors.
 - (9) Veterinarian Clinics, animal hospitals, boarding, kennels, or stables.
- (d) *Permitted home occupations.* The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the performance standards in paragraph (e), below:
- (1) Administrative or professional office.
 - (2) Artists, musicians, authors.
 - (3) Catering.
 - (4) Day care home where care is given by a person licensed by the State of Missouri as a family day care home provider for no more than ten (10) persons not related to the caregiver. State regulations regarding overlap care and care of additional school-age children due to emergency school closings shall apply to day care homes located in the City of Warrensburg.
 - (5) Dressmaking, sewing, quilting, or tailoring.
 - (6) Home crafts, mail order, or internet-based, not including retail sales from site.

- (7) Home parties, which must be limited to gatherings by invitation only and not exceed two (2) a year at a single residential location.
 - (8) Typing, stenographic, computer programming, or data processing.
 - (9) The keeping of up to three (3) roomers or boarders provided the off-street parking requirements for the dwelling meet the off-street parking requirements in Article VII Off-Street Parking Requirements. .
 - (10) Barber shops, beauty, hair, or massage services.
 - (11) Cabinet building, carpentry shops.
 - (12) Photo studios.
 - (13) Repair or cleaning services.
 - (14) Lawn and landscaping services.
- (e) *Performance standards.* To be allowed as a permitted home occupation, all of the following conditions must be satisfied:
- (1) Multiple home occupations may be permitted within a single residence; however, all home occupation activities in the aggregate must comply with Section 27-203.
 - (2) The home occupation shall be located in the principal residential building. The area utilized for all home occupations shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit in which it is located, except for licensed day care homes. Day care homes may exceed this percentage, provided that the day care home meets the floor space requirements of the State of Missouri. Under no circumstances shall the day care or other home occupation be carried on within a detached accessory building.
 - (3) No goods, stock in trade, or other commodities shall be displayed or stored outdoors, or be displayed at any exterior window.
 - (4) The home occupation shall not cause an alteration in the appearance of the structure, nor be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, odors, dust, vibrations, or traffic generated.
 - (5) One (1) sign pertaining to the home occupation shall be permitted. The sign shall be attached flat against the building, shall not be illuminated, and shall not exceed four (4) square feet in area.
 - (6) Home occupations shall be personally operated, conducted, managed and supervised by a person who is a resident of the dwelling. The number of nonresidents engaged or employed on the premises in the home occupation shall not exceed two (2).
 - (7) The use of mechanical or electrical equipment which interferes with radio or television reception, or any activity which creates noise, vibration, smoke, dust,

odors, heat, or glare shall be prohibited. No highly explosive or combustible material shall be used or stored on the premises.

- (8) No retail or wholesale products shall be sold directly to customers on the premises unless it is conducted entirely by mail or by occasional home invitation for pick-up. Incidental sales are permitted in conjunction with other permitted home occupations (i.e. beauty salon selling hair products to a visiting customer).
 - (9) There shall be no regular and steady visitation or concentrated coming and going of clients or off-site employees to or from the premises. Customers are limited to no more than ten (10) per day and are limited to the hours of 8:00 a.m. to 9:00 p.m., except that day care homes are limited to the hours of 5:00 a.m. to 9:00 p.m.
 - (10) An attached garage shall not be used for a home occupation if such use has the effect of eliminating required parking.
 - (11) The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than one (1) vehicle (not to exceed one (1) ton rating) owned by the resident of the dwelling, which shall be parked in an adequate off-street parking area.
 - (12) All home occupations shall provide a sufficient number of off-street parking spaces to accommodate the primary use of the building as well as the number of vehicles associated with the home occupation. Parking for home occupations shall comply with the following standards:
 - a) Parking generated by the conduct of a home occupation shall be subject to one off-street parking space per 300 square of home occupation business space or 1 space per each non-resident employee, whichever is greater.
 - b) For single-family and two-family dwellings, required off-street parking for home occupations is in addition to the required parking set forth in Section 27-406 for the residential use.
 - c) Parking generated by home occupations within multi-family buildings shall not exceed more than 5% of the required off-street parking for the building.
- (f) *Existing home occupations.* A nonconforming home occupation which was lawfully established and in operation on _____(the date the regulation is adopted) may be continued indefinitely, provided that all performance standards outlined in paragraph (h) are complied with within six (6) months of the effective date of this chapter.

Section 2. It is intended the provisions of Section One of this ordinance shall become a part of the Code of Ordinances of the City of Warrensburg.

Section 3. This ordinance shall be in full force and effect from and after its passage.

Read two times and passed by the City Council this _____ day of _____, 2021.

Attest:

Mayor

Cindy Gabel, City Clerk

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING SECTION 27-203 OF THE CODE OF CITY ORDINANCES OF THE CITY OF WARRENSBURG REGARDING HOME OCCUPATIONS IN RESIDENTIAL DISTRICTS

WHEREAS, the City wishes to encourage entrepreneurship and local business; and

WHEREAS, home occupations provide an affordable and appropriate setting for many small businesses; and

WHEREAS, the nature of home business operations has evolved with changes in technology and consumer preferences;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARRENSBURG AS FOLLOWS:

Section 1. That Section 27-203, Home Occupations in Residential Districts, is repealed and replaced as follows:

Sec. 27-203. - Home occupations in residential districts.

(a) *Intent and purpose.* The conduct of certain businesses (home occupations, as defined in section 27-6) in residential neighborhoods may be permitted under the provisions of this section. It is the intent of this regulation to:

- (1) ~~insure~~**Ensure** the compatibility of home occupations with the residential neighborhood in which they are located;
- (2) Maintain and preserve the residential character of residential neighborhoods; and
- (3) Guarantee to all residents freedom from excessive noise, excessive traffic, **parking congestion**, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas.

~~(b) *Moratorium from enforcement.* There shall be a moratorium from enforcement of the regulations pertaining to home occupations for a period of six (6) months from the effective date of this chapter, in order to permit residents to register, inform themselves, and conform to the new regulations.~~

~~(c)~~ **(b) *Registration of home occupations.***

- (1) Persons operating home occupations shall register their business with the zoning official. Failure to register a home occupation is a violation of this chapter.
- (2) Unless otherwise exempted by city code, all home occupations must maintain a valid Business License, which must be renewed annually.** ~~Registration of home~~

~~occupations shall commence upon the effective date of this chapter. Home occupations shall be registered by means of a questionnaire.~~

- (3) Registration of a home occupation covers one individual at a specific location and is not transferable. An applicant must register a home occupation only once provided that the location and the business activity remain the same. If the applicant moves to a different location or business activity changes in the intensity of the use or the services offered, a new home occupation registration is required.
- (4) If the zoning official notifies the registrant their home occupation is not lawful, the registrant may appeal the decision to the planning and zoning commission.
- (5) Where state certification, registration, or licensing is required, such certification shall be presented with the home occupation registration form.
- (6) Telecommuting activities are exempt from home occupation registration where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business, customers, and the employee occurs at the place of business and not the residence.

~~(d)~~-(c) *Prohibited home occupation.* The following shall not be permitted as home occupations, **except for services limited to administrative offices for said businesses:**

- ~~(1) Automobile mechanics.~~ Automotive, vehicle, trailer, recreational vehicle, or heavy machinery service or repair including but not limited to: engine work, body work, painting, washing, detailing services, windows glass replacement, or accessory parts sales and installation.
- (2) Vehicle towing operations.
- ~~(2)~~ (3) Funeral chapel or funeral home or mortuary.
- ~~(3)~~ (4) Gift shop. Retail stores including but not limited to: gift shops, boutique stores, antiques stores, pawn shops, or second-hand shops.
- ~~(4) Kennel or stable.~~
- (4) Taxi or shuttle services.
- (5) Private schools with organized classes.
- (6) Rental businesses.
- (7) Restaurants or mobile food vendors.
- (8) Veterinarian. Clinics, animal hospitals, boarding, kennels, or stables.
- ~~(9) Vehicle body work, including painting of vehicles, trailers or boats.~~

~~(e)~~-(d) *Permitted home occupations.* The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the performance standards in paragraph ~~(h)~~(e), below:

- (1) Administrative or professional office.

- (2) Artists, musicians, authors.
- (3) Catering.
- (4) Day care home where care is given by a person licensed by the State of Missouri as a family day care home provider for no more than ten (10) persons not related to the caregiver. State regulations regarding overlap care and care of additional school-age children due to emergency school closings shall apply to day care homes located in the City of Warrensburg.
- (5) Dressmaking, sewing, quilting, or tailoring.
- (6) Home crafts: mail order, or internet-based, not including retail sales from site.
- ~~(7) Mail order.~~
- (7) Home parties, which must be limited to gatherings by invitation only and not exceed two (2) a year at a single residential location.
- (8) Typing, stenographic, computer programming, or data processing. ~~or word processing services.~~
- (9) The keeping of up to three (3) roomers or boarders provided the off-street parking requirements for the dwelling meet the off-street parking requirements in Article VII Off-Street Parking Requirements.
- (10) Barber shops, beauty, hair, or massage services.
- (11) Cabinet building, carpentry shops.
- (12) Photo studios.
- (13) Repair or cleaning services.
- (14) Lawn and landscaping services.

~~(f) *Permits required for certain home occupations.* Certain home occupations have the potential to create a negative impact on residential areas due to client traffic, parking, noise, storage requirements, and the use and disposal of chemical agents. The planning and zoning commission finds that if regulated, these home occupations can be good neighbors. In addition to registration, the following home occupations shall be required to obtain a permit in order to operate in residential districts:~~

- ~~(1) Catering.~~
- ~~(2) Antiques, second hand shop.~~
- ~~(3) Beauty, barber shops.~~
- ~~(4) Cabinet building, carpentry shops.~~
- ~~(5) Offices of medical or health professionals.~~
- ~~(6) Photo studios.~~
- ~~(7) Repair services.~~

~~(8) Cleaning services.~~

~~(g) Permit requirements.~~

- ~~(1) Persons desiring to operate home occupations which require permits shall complete an application.~~
- ~~(2) After the zoning official certifies that the home occupation complies with the provisions of this section, the permit may be issued for the operation of the home occupation.~~
- ~~(3) If the zoning official denies a permit for a home occupation, the operator may appeal the decision to the board of adjustment, in accordance with section 27-56.~~
- ~~(4) Permits for home occupations are issued to individual operators for a specified location. Permits for home occupations are not transferrable.~~

~~(h)~~ **(e) Performance standards.** To be permitted ~~allowed~~ as a **permitted** home occupation, all of the following conditions must be satisfied:

- ~~(1) Registration is required for all home occupations. Home occupation permits are required for those occupations listed in paragraph (f). Where state certification, registration or licensing is required, such certification shall be presented with the registration application. **Multiple home occupations may be permitted within a single residence; however, all home occupation activities in the aggregate must comply with Section 27-203.**~~
- (2) The home occupation shall be located in the principal residential building. The area utilized for ~~the~~ **all** home occupations shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit in which it is located, except for licensed day care homes. Day care homes may exceed this percentage, provided that the day care home meets the floor space requirements of the State of Missouri. Under no circumstances shall the day care or other home occupation be carried on within a detached accessory building.
- ~~(3) No more than one (1) home occupation shall be permitted within a dwelling unit.~~
- ~~(4)~~ **(3)** No goods, stock in trade, or other commodities shall be displayed ~~and~~ or stored outdoors, or be displayed at any exterior window.
- ~~(5)~~ **(4)** The home occupation shall not cause an alteration in the appearance of the structure, nor be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, odors, dust, vibrations, or traffic generated.
- ~~(6)~~ **(5)** One (1) sign pertaining to the home occupation shall be permitted. The sign shall be attached flat against the building, shall not be illuminated, and shall not exceed four (4) square feet in area.
- ~~(7)~~ **(6)** Home occupations shall be personally operated, conducted, managed and supervised by a person who is a resident of the dwelling. The number of non-

residents engaged or employed on the premises in the home occupation shall not exceed two (2).

- ~~(8)~~ (7) The use of mechanical or electrical equipment which interferes with radio or television reception, or any activity which creates noise, vibration, smoke, dust, odors, heat, or glare shall be prohibited. No highly explosive or combustible material shall be used or stored on the premises.
- (9) ~~(8) The operation of any wholesale or retail business is prohibited~~ No retail or wholesale products shall be sold directly to customers on the premises unless it is conducted entirely by mail or by occasional home invitation for pick-up. Incidental sales are permitted in conjunction with other permitted home occupations (i.e. beauty salon selling hair products to a visiting customer). ~~and does not involve either the shipment or resale of merchandise on the premises.~~
- ~~(10)~~ (9) There shall be no regular and steady visitation or concentrated coming and going of clients or off-site employees to or from the premises. Customers are limited to no more than ten (10) per day and are limited to the hours of 8:00 a.m. to 9:00 p.m., except that day care homes are limited to the hours of 5:00 a.m. to 9:00 p.m.
- (10) An attached garage shall not be used for a home occupation if such use has the effect of eliminating required parking.
- (11) The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than one (1) vehicle (not to exceed one (1) ton rating) owned by the resident of the dwelling, which shall be parked in an adequate off-street parking area.
- ~~(11) The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than one (1) vehicle (not to exceed one (1) ton rating) owned by the resident of the dwelling, which shall be parked in an adequate off-street parking area.~~
- (12) ~~Parking generated by the conduct of a home occupation shall be provided off-street, and other than in a required yard.~~ All home occupations shall provide a sufficient number of off-street parking spaces to accommodate the primary use of the building as well as the number of vehicles associated with the home occupation. Parking for home occupations shall comply with the following standards:
 - (a) Parking generated by the conduct of a home occupation shall be subject to one off-street parking space per 300 square of home occupation business space or 1 space per each non-resident employee, whichever is greater.
 - (a) For single-family and two-family dwellings, required off-street parking for home occupations is in addition to the required parking set forth in Section 27-406 for the residential use.

(a) Parking generated by home occupations within multi-family buildings shall not exceed more than 5% of the required off-street parking for the building.

~~(f)~~ Existing home occupations. A nonconforming home occupation which was lawfully established and in operation on _____(the date the regulation is adopted) may be continued indefinitely, provided that all performance standards outlined in paragraph (h) are complied with within six (6) months of the effective date of this chapter.

Section 2. It is intended the provisions of Section One of this ordinance shall become a part of the Code of Ordinances of the City of Warrensburg.

Section 3. This ordinance shall be in full force and effect from and after its passage.

Read two times and passed by the City Council this _____ day of _____, 2021.

Attest:

Mayor

Cindy Gabel, City Clerk