

Review by P&Z: 06/20/07
Public Hearing by M&C: _____
Adopted by M&C: _____
Sponsor: Councilman Pressley
Ord. No.: 007-07

AN ORDINANCE TO AMEND APPENDIX A ("ZONING") OF THE TOWN CODE OF THE TOWN OF SMYRNA TO AMEND THE GUIDELINES FOR ALLOWING THE USE OF HOME OCCUPATION

WHEREAS, the Town Council of the Town of Smyrna has the authority to implement Zoning Regulations pursuant to Title 22 of the Delaware Code;

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council, duly met, that Appendix A ("Zoning") of the Town Code of the Town of Smyrna, be and hereby is amended, as follows:

Section 1. Amend Appendix A ("Zoning") of the Town Code of the Town of Smyrna by amending Section 5, District Regulations, as follows:

(a) Revise Sections 5.1.a.(12)(b) , 5.2.B.(5)(c), 5.3.B.(5)(c), and 5.4.B.(4)(b) to read as follows "Minor Home Occupation pursuant to Section 6.19 of this ordinance."

(b) Add Sections 5.1.a.(12.) (d), 5.2.B.(5)(d), 5.3.B(5)(d), and 5.4.B(4)(e) which reads as follows "Major Home Occupation only if approved as a special exception sections 6.19 of this ordinance."

Section 2. Amend Appendix A "Zoning" of the Town Code of the Town of Smyrna by adding a new Section 6.19, Home Occupation/Home-Based Business (Major and Minor/No Impact), as follows:

19. Home Occupation /Home-Based Business (Major and Minor /No Impact).

Minor Home Occupation/No impact home-based business and Major home occupation/Major home-based business shall be permitted when in accordance with the following standards:

A. Minor Home Occupation. Minor home occupations shall meet all of the following requirements:

- (1) The business activity shall be compatible with the residential use of the property and surrounding uses.
- (2) The use is carried on entirely by the inhabitants of the dwelling, and shall employ no employees other than family members residing in the dwelling.
- (3) The use does not involve any customer, client, or patient visits, whether vehicular or pedestrian, to the dwelling.
- (4) Such use involves no pickup, delivery, or removal functions to or from the premises in excess of those normally associated with the residential use.
- (5) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (6) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- (7) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (8) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (9) The business activity shall only be conducted within the dwelling and the floor area devoted to such use shall not exceed twenty (20) percent of the total floor area of the principal residential structure.
- (10) Such business use shall not involve any illegal activity.

B. Major Home Occupation. A home occupation that does not meet one (1) or more of the criteria listed under Subsection A. above shall be defined as a major home occupation/major home-based business. Major home occupations shall be permitted only by special exception in those zoning districts where major home occupations are permitted and when other applicable criteria of this Section and Ordinance can be met.

C. Prohibited Home Occupations. Home occupations shall not include the following uses, which shall be classified as commercial or institutional uses:

- (1) Animal Shelter, Commercial Kennel or Veterinary Office;
- (2) Rooming or Boarding Home;
- (3) Bed and breakfast;
- (4) Funeral home;
- (5) Restaurant;
- (6) Outdoor café;
- (7) Club or lodge;
- (8) Medical or dental clinic (two or more doctors or dentists);
- (9) Retail shop;
- (10) Rental business;
- (11) Furniture stripping;
- (12) Auto or small engine repair;
- (13) Painting of vehicles, trailers, or boats;
- (14) Manufacturing, repairing or other mechanical work performed in connection with the home occupation performed in any outdoor area;
- (15) Private school with organized classes;
- (16) Welding shop; or
- (17) Other uses of similar character to those listed above.

D. The Town Zoning Officer shall determine whether a proposed home occupation falls under the category of minor, major, or prohibited. The applicant shall be responsible for supplying such information as deemed necessary by the Town Zoning Officer to make this determination. The following requirements for approval and permitting shall apply:

- (1) Upon determining that the proposed use is a minor home occupation and is in conformance with the requirements of this ordinance, the Town Zoning Officer shall issue a zoning permit.
- (2) Where the Town Zoning Officer determines that the proposed use is a major home occupation, the use shall be permitted only as a special exception and shall require review and approval by the Board of Adjustment in accordance with the provisions in Section 9.2., Special Exceptions; conditions governing; procedures, and the criteria of this Section. The Board of Adjustment may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of this Ordinance. Following approval, the Town Zoning Officer shall issue a zoning permit.

- (3) A home occupation permit shall not be transferable to another property or to another type of home occupation. The permit issued shall only be valid for the use and on the property for which it was originally issued. In the event that a property with an existing home occupation is sold, leased, or rented to someone other than the original permit holder, the new owner, lessee or renter, shall be required to obtain a home occupation permit, demonstrating full compliance with the requirements of this ordinance and any other applicable regulations.
- (4) A Town official shall be permitted to inspect the home occupations by request to ensure that the requirements of this Section and other applicable Town regulations are being carried out.

E. General Standards Applicable to Home Occupations. The following standards shall apply to all home occupations, whether major or minor:

- (1) No more than one (1) home occupation shall be permitted per lot or dwelling in the case of minor home occupations.
- (2) The practice of a home occupation shall be conducted entirely within the dwelling which is the bona fide residence and under ownership of the principal practitioner or contained entirely within an accessory building and located on the same lot as the dwelling.
- (3) All applicants for a home occupation shall be required to obtain a permit from the Town in accordance with the requirements of Subsection D above within thirty (30) days prior to beginning operation of the use.
- (4) There shall be no change in the exterior appearance of the dwelling, any accessory building and /or the lot, which would cause the premises to differ from its residential character by the use of advertising, materials, show windows, or special lighting visible from the outside of the premises to attract customers or clients, except those signs permitted by this Ordinance for major home occupations. No public display of any goods and/or product, information and/or advertising concerning any goods and/or product or interior display shall be visible from the outside.
- (5) The home occupation shall not cause noise, glare, vibration, fumes, dust and/or electrical interference detectable to normal senses beyond the

property in excess of levels customarily generated by a residential use.

- (6) There shall be no storage or use upon the premises of toxic, explosive, polluting, dangerous, or other substances defined as hazardous by DNREC, or through applicable regulations.
- (7) No home occupation activity shall be conducted between the hours of 8 p.m. prevailing time, and 7 a.m. prevailing time which involves individuals entering or leaving the premises or mechanical operations.
- (8) Deliveries from major commercial suppliers which may be disruptive to the neighborhood shall not be made between the hours of 8 p.m. prevailing time and 8 a.m. prevailing time.
- (9) There shall be no unenclosed exterior storage of material or refuse resulting from the home occupation. All home occupations shall meet applicable outdoor storage standards set forth in this ordinance.
- (10) All commercial vehicles shall be parked on the same lot as the home occupation, and only one (1) commercial vehicle may be parked outside of a garage, enclosed structure, or screened parking space within the lot boundaries. Such a commercial vehicle shall have no more than two (2) axles. There shall be no storage of tractor-trailers on the lot on which the home occupation is located.

F. Standards Applicable to Minor Home Occupations. In addition to other applicable criteria of this Ordinance, the following standards shall apply to minor home occupations:

- (1) No employees shall be permitted, except the inhabitants of the dwelling in which the home occupation is located.
- (2) A minor home occupation shall be permitted in any dwelling type.

G. Standards Applicable to Major Home Occupations. In addition to other applicable criteria of this Ordinance, the following standards shall apply to major home occupations:

- (1) Major home occupations shall be permitted only in single-family detached dwellings or an accessory structure to a single-family detached dwelling.
- (2) The area used for a major home occupation shall not exceed thirty (30) percent or six hundred (600) square feet of the total floor area of the principal residential structure or accessory structure.

- (3) No more than one (1) person, other than resident members of the immediate family may be employed or subcontracted at the residence. Use of non-resident employees must have prior approval from the Board of Adjustment.
- (4) No more than two (2) clients at any one (1) given time shall be permitted to visit the premises to conduct business related to the major home occupation.
- (5) One (1) exterior sign no greater than a total of four (4) square feet in size shall be permitted per major home occupation. It shall not be illuminated or animated.
- (6) No articles shall be sold or offered for sale except those produced on the premises. Such sales must have prior approval by the Board of Adjustment.
- (7) Where employees or customer visits are anticipated, off-street parking shall be provided in a sufficient capacity to prevent interference with normal residential parking in the neighborhood. Minimum off-street parking requirements shall apply as designated in Section 6.1.
- (8) Beauty parlors and barber shops may be permitted as a major home occupation provided that no more than two (2) stylist or barber chairs are provided and all other provisions of this Ordinance are met.
- (9) Instructional services may be permitted as a major home occupation provided that a maximum of three (3) students may be instructed at any one (1) time, and there shall be no more than two (2) trips per hour.

Section 3. This Ordinance shall become effective on the ____ day of _____, 2007.

SYNOPSIS

This ordinance amends the Zoning Ordinance of the Town Code of the Town of Smyrna by specifying the Zoning Districts for which Home Occupation/Home-Based Business (Major and Minor/No Impact) are an allowable accessory use to residential uses and establishing supplementary regulations for this use.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2007.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in "The Smyrna Times" on _____, 2007 and posted at the Town Hall on _____, 2007.

So Certifies:

Town Clerk

This shall certify that the title, effective date and synopsis of this Ordinance was published in "The Smyrna Times" on _____, 2007 and posted at the Town Hall on _____, 2007.

So Certifies:

Town Clerk