

CITY OF O'FALLON, ILLINOIS
ORDINANCE NO. ____

**AN ORDINANCE AMENDING THE
CITY ZONING CODE OF
ORDINANCES BY AMENDING
SEVERAL SECTIONS OF THE
ZONING CODE PROVIDING
REGULATIONS FOR HOME
OCCUPATIONS, TRAILERS, AND
PLANNED USES**

WHEREAS, the Staff of the Planning and Zoning Department of the City have made the following recommendations to the City Council and believes such recommended regulations would be beneficial to the health, safety and welfare of the citizens of the City of O'Fallon; and

WHEREAS, the City Council, after careful and due deliberation, and duly noticed public hearings as may be required for changes in zoning regulations, has concluded that adoption of the proposed amendments to the Zoning Code would be in the interests of the health, safety and welfare of the citizens of the City of O'Fallon.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AS FOLLOWS:

Section 1: Chapter 155 of the City Code of Ordinances (previously Chapter 42 thereof) and the corresponding Official Zoning Map are hereby amended by repealing Paragraph 117 of Div. IV "Definitions" of Article 1 thereof and adopting a new Paragraph 117 as follows:

117) Home occupation, accessory use: Activity conducted in a dwelling unit as an economic enterprise or for compensation by members of the household residing therein that is clearly incidental and secondary to the use of the dwelling unit for residential purposes. For purposes of this definition, "activity" shall be presumed to include any activity occurring in whole or part from a residence in the City that is: 1) required to be licensed by the State of Illinois, 2) operating under an incorporated entity under applicable law or required to be so incorporated, or 3) otherwise determined to be a business activity operating out of the home by the Planning Director based on the character of the activity at the location such as: (1) use of residential location on marketing or other materials, (2) customer visits, (3) signage, and (4) deliveries or other activities of a degree or nature that are not typical of purely residential uses. Home occupations shall include, but not be limited to:

- (1) Office uses, including web-based businesses;

- (2) Art Studio or home crafts including, but not limited to quilting, sewing, jewelry making, home cooking for sale off-site;
- (3) Teaching, with instruction limited to three (3) pupils at a time; and
- (4) Home day care.

Home occupations shall not include:

- (1) Mere home offices used for telecommuting to a primary off-site business location; or
- (2) Home-based direct sale product distribution businesses in which the corporate activity is registered at another address (including but not limited to, Avon, Tupperware, Pampered Chef, Mary Kay, etc.), provided that (1) sales parties are conducted off-site, (2) the activity is not registered or required to be registered with the state for purposes of business or registrations, and (3) no retail sales tax number or federal tax identification number is registered at the residential address.

Section 2: Chapter 155 of the City Code of Ordinances (previously Chapter 42 thereof) and the corresponding Official Zoning Map are hereby amended by repealing Section 3.02 of Article 3, Div. I “Supplementary Use and Bulk Regulations” thereof and adopting a new Section 3.02 as follows:

Section 3.02 HOME OCCUPATIONS

Home occupations are required to obtain a Home Occupation Permit, subject to compliance with all requirements herein and with such additional conditions, where applicable, as established by the Planning & Zoning Department. The Permit shall be applied for on such form as established by the Director, and shall be approved, denied, or conditioned by the Director as necessary to conform to the requirements herein. In any district where home occupations are permitted, the establishment and continuance of a home occupation shall be subject to the following requirements:

- (a) Such use shall be conducted entirely within a dwelling and carried on by the inhabitants there and no others. Home occupations may not serve as a headquarters or dispatch center where employees come to the home and are dispatched to other locations.
- (b) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential

character thereof. Client visitations to the home shall no more than the range of typical visitations for other residential uses in the area.

- (c) No vehicular or pedestrian traffic generated by a home occupation shall be allowed to cause a nuisance to neighboring properties or block or interfere with the regular flow of traffic within the neighborhood.
- (d) The total area used for such purposes shall not exceed the equivalent of one-half the floor area, in square feet, of the largest floor of the dwelling unit.
- (e) There shall be no advertising, display or other indications of home occupation on the premises, except one unanimated, non-illuminated flat nameplate having an area of not more than one square foot may be permitted, as part of an otherwise authorized "address and Residential Occupant Sign," subject to other requirements of the Sign Code. Such nameplate must be on the building.
- (f) No in-person sales transactions, such as selling stocks of merchandise, supplies, or products may be filled on the premises, provided that orders previously made by telephone or at a sales party may be delivered or received on site subject to limits on the level of activity set forth above.
- (g) There shall be no exterior storage on the premises or public right-of-way of material or equipment used in the home occupation, nor of any highly explosive or combustible material.
- (h) The home occupation shall allow no more than one (1) commercial vehicle parking on the premises, subject to the following additional requirements:
 - (1) The commercial vehicle is limited to a passenger car, van, pickup truck or service vehicle with a License Category of B, C, or D and vehicle weight of up to 12,000 pounds.
 - (2) Parking or storage of any vehicles used as a tool in the business (tow trucks, tree removers, etc.) in connection with the home occupation is prohibited on premises, unless fully concealed in the dwelling or accessory residential building. Exception: parcels in the Agricultural zoning district will be permitted to store equipment and vehicles consistent with agricultural operations as outlined in the Zoning Code.
- (i) Parking or storage of, or delivery by, heavy equipment including, but not limited to, back hoes, skid loaders, dump trucks, and other similar items

on the premises, is prohibited. This shall include businesses where the home is the base of operations where heavy equipment or would be dispatched from the home and would create noticeable traffic to and from the home. Exception: parcels in the Agricultural zoning district will be permitted to store equipment and vehicles consistent with agricultural operations as outlined in the Zoning Code.

- (j) There shall be no noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line from any business activity and all activity shall comply with applicable building and fire codes.

- (k) In addition to other restrictions, the following types of uses are also prohibited: service, repair, or painting of any motorized vehicle, including, but not limited to, motor vehicles, trailers, boats, personal watercraft, recreation vehicles, and snowmobiles; headquarters or dispatch centers where employees or contractors arrive or depart; contracting, excavating, welding, or machine shops; tow truck services where the tow truck is stored on site; the sale, lease, trade, or other transfer of firearms or ammunition; sale or use of hazardous materials in excess of consumer quantities packaged for consumption by individual households for personal care or household use; and any other use of residential property that is detrimental or inconsistent with the residential character of the neighborhood.

Section 3: Chapter 155 of the City Code of Ordinances (previously Chapter 42 thereof) and the corresponding Official Zoning Map are hereby amended by repealing Section 3.12 of Article 3, Div. I “Supplementary Use and Bulk Regulations” thereof and adopting a new Section 3.12 as follows:

Section 3.12 TRAVEL TRAILERS

The parking of not more than one unoccupied camp trailer and/or utility trailer (not exceeding 8 feet wide and 25 feet long) in the rear yard, side yard or improved driveway only is hereby permitted; provided that no living quarters or business shall be maintained in any such camp trailer and/or utility trailer, and provided further that the parking of a camp trailer and/or utility trailer, if parked in the side or rear yard, shall comply with the yard requirements for accessory buildings of the district in which it is located. If camp trailers and/or utility trailers are parked in an improved driveway, they must only meet the rear yard and side yard setback requirements for accessory buildings of the district in which it is located. Parking of any of the above listed trailers must be on private property and not overhang or otherwise obstruct any public right-of-way, including sidewalks.

Section 4: Chapter 155 of the City Code of Ordinances (previously Chapter 42 thereof) and the corresponding Official Zoning Map, along with Ordinance #3583 (enacted 07-21-08), are hereby amended to no longer allow the following as a “permitted use” in area zoned B-1 “Community Business District” within the City and by striking from Section 2.05(e)(2) of Article 2 “Zoning District Regulations” the following:

Funeral or Mortuary Service Establishments, including accessory Crematoriums.

Section 4: Chapter 155 of the City Code of Ordinances (previously Chapter 42 thereof) and the corresponding Official Zoning Map are hereby amended by adopting Section 9.020(B)(dd) of Article 9 “Planned Uses” thereof as follows:

- dd. Funeral or Mortuary Service Establishments, including accessory Crematories, provided that all accessory Crematories shall be permitted only by Planned Use, subject to the following requirements:
- 1) Crematories shall be permitted only as an accessory use to an existing Funeral or Mortuary services use subject to securing and maintaining all required IEPA permits, licenses and certifications and compliance with other applicable city requirements.
 - 2) Crematories shall not emit any noticeable odor or particulates.
 - 3) Crematories shall have emission stacks covered or shrouded with materials safe for such uses and that are compatible in design and architecture with the existing funeral home and the building housing the crematory. The crematory facility and emission stack shall be compatible with surrounding properties, including residential properties.
 - 4) Decorative vinyl fencing or other site-proof fencing or landscaping approved by the City on a site plan and located between the crematory and adjacent residential properties shall be provided.

Section 5: Except as expressly amended herein, all other provisions of the Zoning Code of Ordinances, Chapter 155 of the City Code of Ordinances (previously Chapter 42 thereof) and corresponding Official Zoning Map shall remain in full force and effect.

Section 6: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof or any portion adopted by reference therein is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof or any portion adopted by reference therein. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions,

paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

Section 7: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council this ___ day of _____ 2009.

ATTEST:
(seal)

Approved by the Mayor this ___ day
of _____ 2009.

Philip A. Goodwin, City Clerk

Gary L. Graham, Mayor

ROLL CALL:	Albrecht	Bennett	Polites	N. Drolet	Grogan	Cozad	Medford	SUB TOTALS
Aye								
Nay								
Absent								

ROLL CALL:	Engler	Mouser	Reckamp	J. Drolet	Renner	True	McCoskey	SUB TOTALS	SUM OF TOTALS
Aye									
Nay									
Absent									