



**CITY COUNCIL AGENDA ITEM**

**To:** Mayor Graham and City Council

**From:** Ted Shekell, Planning Director  
Walter Denton, City Administrator

**Date:** November 2, 2009

**Subject:** Ordinance No. \_\_\_\_\_: An Ordinance Approving Zoning Code Text Amendments for:

- Section 3.02 "Home Occupations"
- Section 3.12 "Travel Trailers"
- Section 9.020, "Planned Use – when required" –**Second Reading**

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**List of committees that have reviewed:** This item was placed on hold on Second Reading after the Community Development Committee meeting on October 12, 2009 so staff could make some additional changes to the proposed ordinance. The Community Development Committee reviewed the changes at their meeting on October 26, 2009 and recommended approval with a vote of 4-0. The entire amended ordinance is attached for your review.

**Background:** After consulting with legal counsel, staff has amended the proposed definition of "Home Occupation" in the Zoning Code to omit language specifically naming direct sale businesses such as Avon & Mary Kay. Legal counsel recommends that we not list specific businesses in the Zoning Code. Below is the section that has been amended from the ordinance City Council approved on First Reading on October 5th, with the omission highlighted with a strike-through:

~~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.~~

(k) Exemptions: The following home occupations shall be exempt from obtaining a Home Occupation Permit, provided that all other criteria and conditions established in this Section are complied with at all times of such accessory use:

- (1) Mere home offices used for telecommuting to a primary off-site business location;
- (2) Home-based direct sale of products and distribution in which any corporate activity is registered at another address and provided that (1) any sales parties or demonstrations are conducted off-site, and (2) the home-based business activity is not registered or required to be registered under the provisions of the Retailers' Occupation Tax Act (35 ILCS 120/) or Chapter 805 of the Illinois Compiled Statutes.

Staff also amended the proposed ordinance to clarify that vehicle repair and contracting businesses, where the work is done at the home, are not permitted home occupations (meaning that a home office may be operating out of the home for a vehicle repair business, but the actual repair work may not be conducted at the home).

(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 where the work is done on the premises where the home occupation is located; headquarters or dispatch centers where employees or contractors arrive or depart; contracting, excavating, welding, or machine shops where the work is done on the premises where the home occupation is located; 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.

Staff has also amended Section 3.02 "Home Occupation" in the Zoning Code to include provisions for allowing a trailer associated with the home occupation. Many of the home occupations we review include use of a trailer, so we felt it was important to specifically address them in this ordinance. Below is the section that has been added:

- (h) Not more than one (1) trailer associated with the home occupation may be allowed on the premises, subject to the following requirements:
- (1) Such trailer may not exceed 8 feet wide or 25 feet long.
  - (2) If the trailer has no visible equipment, whether it is an enclosed trailer or an empty flat bed trailer, it may be parked in the driveway. If equipment is visible, the trailer must be parked inside a garage.
  - (3) Such trailer must be able to enter and exit the premises by way of an improved, dust-free surface.

**Planning Commission Update:** The Planning Commission held a public hearing on the above referenced text amendments at their September 8, 2009 meeting. The Commission voted unanimously to accept the text amendments with minor changes and clarifications, all of which have been incorporated into the ordinance.

**Legal Considerations, if any:** None

**Budget Impact:** None

**Staff Recommendation:** Staff recommends approval of the attached ordinance on Second Reading.