

ORDINANCE NO. 23-S-15

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO AMEND PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 8 SUBSECTION 21.8.4 HOME OCCUPATIONS.

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz (the “City”) adopted and Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on June 28, 2023, the Planning and Zoning Commission conducted public hearings and, thereafter recommended approval; and

WHEREAS, on August 15, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health, and welfare.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS: THAT:

Section 1. The current UDC is hereby amended as set forth on Exhibit A hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the ____ day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit "A"

Proposed Unified Development Code (UDC) Amendments

Article 8 Section 21.8.4 – Home Occupancy

Sec. 21.8.4. Home Occupations.

A. *Purpose and Intent.*

1. Protect residential areas from adverse impact of activities associated with home occupations.
2. Permit residents of the community a reasonable choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income.
3. Establish criteria and development standards for home occupations conducted in dwelling units.

B. *Home Occupations—Required Conditions* - home occupations shall be permitted as an accessory use in all residential zoning districts provided that they comply with all restrictions herein.

1. Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding 30 percent of the combined enclosed gross floor area of dwelling unit and any accessory building(s). In no case shall the combined enclosed floor area utilized for a home occupation exceed 600 square feet.
2. No interior or exterior business sign shall be permitted.
3. Retail sales shall be prohibited on the premises except for items that are produced entirely on the premises in conformance with this Code
4. No more than one person other than the immediate family permanently residing on the premises shall be employed in the home occupation and at least one person permanently residing in the home must be involved in the business and shall obtain the Home Occupation Permit.
5. No more than one home occupation shall be permitted within any single dwelling unit.
6. The home occupation shall not result in the off-street or on-street parking of more than two (2) vehicles at any one (1) time not owned by members of the occupant family, and no more than one business-related commercial vehicle shall be present at one time.
7. A home occupation shall be carried on wholly within the principal building or accessory building.
8. Performance of the occupation activity shall not be visible from the street
9. There shall be no exterior storage of materials, equipment, or display to be used in conjunction with a home occupation.
10. A home occupation shall produce no offensive noise, vibration, smoke, electrical interferences, dust, odors, or heat detectable beyond the property limits or beyond the walls of the dwelling unit. The judgment of the City's Code Enforcement Officer pertaining to a violation under this section shall be considered decisive and final unless formally appealed to the Planning and Zoning Commission within thirty (30) days after the Code Enforcement Officer's written determination.
11. All home occupations are subject to periodic inspections by the City.
12. Said incidental use shall never be permitted as a principal use but only as an accessory use.

C. *Uses allowed as home occupations.* Subject to the provisions of this Section, home occupations may include the following uses:

1. Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, mental health professional, realtor, broker, or similar profession.
2. Author, artist, artisan, or sculptor.
3. Dressmaker, seamstress or tailor.

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4. Music or dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than five pupils at a time.
 5. Individual tutoring.
 6. Office facility of a minister, rabbi, priest or other cleric.
 7. Home crafts, such as rug weaving, model making, etc.
 8. Office facility of a salesman, sales or manufacturer's representative, provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises except for items that are produced entirely on the premises in conformance with this Code.
 9. Repair shop for small electrical appliances, cameras, watches and clocks, and other small items, provided that the items can be carried by one person without using special equipment, and provided that the items are not equipped with an internal combustion engine.
 10. Food preparation establishments such as cake making, decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all state and local health regulations.
 11. Family homes, in compliance with applicable state laws, which are incorporated herein by reference, with no more than six children or adults.
 12. Barber shop or beauty salon or health spa, provided that no more than one customer is served on the premises at any one time.
 13. Swimming lessons and water safety instruction, provided that such instruction involves no more than two pupils at any one time.
 14. Activity involving primarily a computer.
 15. Contractor, provided that there shall be no outside storage of materials related to the operation of the business and any interior storage shall count toward the maximum area allowed in Subsection B.
 16. Pet grooming, provided that no overnight kenneling activity is taking place.
- D. *Uses prohibited as home occupations.* Home occupations shall not, in any event, be deemed to include the following uses:
1. Animal hospitals or clinics, commercial stables having more than two horses per acre or kennels.
 2. Restaurants or on-premises food or beverage, including private clubs, consumption of any kind, except for limited food or meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility.
 3. Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business.
 4. On-premises retail or wholesale sales of any kind where multiple customers patronize the sales business on-site, except for items that are produced entirely on the premises in conformance with this Code, and except for occasional garage sales in conformance with Chapter 50, Article VII of the City of Schertz Code of Ordinances.
 5. Commercial clothing laundering or cleaning.
 6. Mortuaries or funeral homes.
 7. Trailer, vehicle, tool or equipment rentals.
 8. Repair shops for any items having internal combustion engines.

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9. Any use that would be defined by the building code as an assembly, factory or industrial, hazardous, institutional or mercantile occupancy.
- E. *Home occupation uses not classified herein.* Any use that is not either expressly allowed nor expressly prohibited by this division is considered prohibited, unless and until such use is classified by amendment to this chapter by the city council, subsequent to an affirmative recommendation by the planning commission. Any person or persons who has been aggrieved by an interpretation from the City Manager or his/her designee of the permitted and prohibited Home Occupation uses, may appeal the decision in accordance with Section 21.4.14 and will have the Planning and Zoning Commission make the final determination.
- F. *Home Occupation Permit.*
1. *Purpose.* To establish a method to allow the City to regulate and control nonresidential activities and maintain a record of the types and numbers of home occupations in the City.
 2. *Permit Required.* Each resident within the City who has, or desires to establish an authorized home occupation, is required to have a home occupation permit.
 3. *Application for Home Occupation Permit.*
 - a. Applicant shall apply to the City Manager or his/her designee for a home occupation permit.
 - b. The City Manager or his/her designee may issue the permit if the home occupation meets all the requirements established in Subsection B.
 - c. The decision of the City Manager or his/her designee may be appealed to the Planning and Zoning Commission in accordance with section 21.4.14.
 - d. The Planning and Zoning Commission will be the final judgment on appeals which must be submitted to the Planning and Zoning Commission within thirty (30) days after disapproval by the City Manager or his/her designee.
 - e. Supporting Documents.
 - i. *Signed statement.* One type of supporting evidence that may be submitted to the Planning and Zoning Commission for their consideration of an appeal is a signed statement by each property owner up to 200 feet of the property on which the home occupation is to occur, stating that the property owner has no objection to the existence of the proposed home occupation. An example of such a statement is as follows:

"I (name) the property owner at (address) have been advised by (name of home occupation applicant) of the request to the City for a Home Occupation Permit for the purpose of conducting (type of home occupation) and I have no objection to the home occupation permit being granted for the purpose reflected in this statement.

Signature of neighboring property owner and date"
 - ii. *Statement from property owner.* An applicant who is renting the property on which a home occupation permit is requested shall obtain a written statement from the owner of the property. The owner will state that he/she has no objection to the home occupation on the property.
 - iii. *Persons with demonstrated physical handicaps.* Persons with physical handicaps may be permitted special consideration. The applicant may request a waiver of a portion or all of one or more of the requirements for a home occupation.
 - iv. *Granting of exception.* It shall be the responsibility of the applicant to submit sufficient evidence to justify the granting of an exception to any of the requirements in Subsection B.

f. *Conditions Applicable to Home Occupation Permits.*

- i. *Validation.* A home occupation permit expires every December 31.
- ii. *Renewal.* Permits shall be renewed annually.
- iii. *Inspection.* The City Manager or his/her designee is authorized to periodically enter the premises to ensure full compliance with these requirements.
- iv. *Termination.* When a home occupation is found in noncompliance with the requirements outlined in Subsection B, the permit will be terminated immediately.
- v. *Renewal of terminated permits.* The procedure for renewal of a terminated permit shall be the same as required for the issuance of a new permit under this section.

(Ord. No. 17-S-40 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018)