

INTRODUCED BY:

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AN ORDINANCE AMENDING CHAPTER 400 OF THE BRENTWOOD CITY CODE RELATING TO HOME OCCUPATIONS; AND AMENDING SECTION 605.1100 OF THE CITY CODE BY DELETING THE BUSINESS LICENSE FEE FOR HOME OCCUPATIONS

Whereas, the Missouri General Assembly enacted House Bill 1662 providing for certain allowances for certain home-based businesses; and

Whereas, the Board wishes to amend its current regulations with respect to home-based businesses in order to be consistent with the new state law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRENTWOOD, MISSOURI, AS FOLLOWS:

Section 1. Sections 440.1980 through Section 400.2040 of Division 2 of Article V of Chapter 400 of the Code of Ordinances of the City of Brentwood, Missouri, are hereby repealed and two new Sections, initially to be designated as Sections 400.1990 and 400.2000, are hereby enacted in lieu thereof, to read as follows:

- TITLE IV LAND USE**
- CHAPTER 400 ZONING**
- ARTICLE V SUPPLEMENTAL REGULATIONS**
- DIVISION 2 HOME OCCUPATIONS**

SECTION 400.1980 DEFINITION

The terms "home-based business" and "home occupation" are synonymous and mean a business, profession, occupation or trade conducted for the personal gain or support of the residential occupant and conducted entirely within a residential building or accessory structure to a residential use.

SECTION 400.1990 AUTHORIZATION

A. *Purpose And Intent.* It is the intent of this Division to recognize and permit home occupations as allowed by state law and to regulate such businesses to mitigate the adverse impacts that such may pose to neighboring residential property. In this regard, home occupations shall be regulated in order to ensure compatibility with other uses permitted in the residential district and to protect residential neighborhoods from potential adverse impacts, such as excessive noise, traffic, nuisances, etc., associated with home occupations.

B. *Compliance with all applicable laws and regulations required.* The property where a home-based business is located shall be maintained in compliance with all applicable building, fire, safety, housing and property maintenance codes and other laws applicable to such property. No home-based business shall create any condition which creates a nuisance or is in violation of applicable law and regulation. Any home-based business shall be operated in compliance with applicable laws and regulations.

C. *Registration Required.* Any owner of residential property operating a home-based business from such residential property shall register such business with the City of Brentwood by filing required documents with the Department of Planning and Development. Such registration shall contain, at a minimum: (i) the name and nature of the business; (ii) the name of the resident responsible for the operation of such business; (iii) the number of residents of the property and the number of employees or customers which may be present at the site at any given time (which total number shall not exceed the maximum occupancy of the structure); (iv) total gross floor area of the residential dwelling unit including attic and basement areas and the total floor area to be occupied for the home-based business; (v) the on-site (off-street) parking available for employees or customers; (vi) a description of the goods or services to be sold; (vii) a description of any special equipment which is necessary to be used in the operation of such business; and (viii) the property owner's consent if the property is rental property and the tenant proposes to operate a home-based business at the location.

Section 400.2000 Use Limitations

A. In addition to any other use limitations applicable to the district in which the home occupation is located, no home occupation shall be permitted unless it complies with the following provisions:

1. A home occupation shall only be operated by a resident (owner or tenant) of the structure where the home occupation is located.

2. A home occupation shall be limited to the sale of lawful goods and services. For purposes of this section, "goods" shall be defined as any merchandise, equipment, products, supplies, or materials.
3. Any structure where a home-based business is to be operated shall have a valid occupancy permit.
4. The aggregate of the total number of residents residing in the structure and the number of employees and customers for the home-based business shall not exceed the maximum occupancy limit for the structure.
5. No non-resident employees or customers of the home-based business may be on the premises before 8:00 AM or after 6:00 PM.
6. The residential property must have sufficient on-site (off-street) parking available for all residents of the structure and all employees for the home-based business. Use of the streets for parking for employees of the home-based business shall constitute a nuisance and is prohibited. All on-site parking shall comply with all ordinances of the City of Brentwood with respect to parking and vehicles. Customer parking related to the home-based business (a) cannot interfere with the use of public parking by other residents in the vicinity; and (b) may not be contrary to any parking regulations then in force; and (c) may not impede or interfere with vehicular use of the street or safe passage of emergency or street maintenance vehicles.
7. The home-based business shall adequately stagger the presence of non-resident parties (including employees and customers) at the property so as to minimize traffic impacts in the neighborhood. The home-based business shall not cause a substantial increase in traffic through the residential area.
8. Any operation, equipment, or inventory of a home occupation shall not be visible from any street or adjoining property.
9. Exterior signage is prohibited with the exception of a small name plate not exceeding one (1) square foot which may be placed on the surface of the residential structure if a sign permit has been issued in accord with Sec. 410.050(A)((2)(a)(1) of this Code of Ordinances.
10. Every home occupation shall be clearly incidental or secondary to the use of the dwelling unit for residential purposes. No use or change, including the attachment of signage, shall be made to the residential structure which changes the residential character of the residential building. It shall be presumed that the use of more than fifteen percent (15%) of the interior square footage of a residential structure or ten percent (10%) of the exterior portions of the property for any home occupation shall not be "clearly incidental or secondary to the use of the dwelling unit for residential purposes."
11. No home-based business shall adversely affect the character of the surrounding neighborhood.

12. No home occupation shall generate noise, dust, electrical interference, or other nuisance conditions.
13. No home occupation shall involve the use of any hazardous or explosive material.
14. No lighting, equipment, or materials shall be used which produce any effects (including but not limited to noise, dust, vibrations, light, and odors) outside the primary structure or any permitted accessory structure.

Section 400.2010. Penalties.

In addition to the penalties provided in Section 100.080 of this Code of Ordinances, if any home occupation is carried on in violation of any of the provisions, standards, restrictions, limitations or requirements of this Division or Sections 400.1980 through 440.2000, the right to continue the home-based business may be suspended or revoked by the Director of Planning And Development Services ("Director").

Procedure.

1. Discipline shall be initiated by serving written notice of the suspension or revocation on the owner (as shown by the then-current tax records of St. Louis County) and occupant (as shown by the business registration required by Section 400.1990, above) of the property on which the home-based business is conducted. The notice shall set forth the specific grounds for discipline and advise the person of the right to appeal. The notice shall be served by registered or certified mail or by delivering a copy of the notice to person or any occupant of the property. The discipline shall take effect ten (10) days after service of the notice unless an appeal is taken to the City Administrator. If an appeal is taken, the discipline shall not take effect until a final order upholding the discipline is entered by the City Administrator or until the appeal is dismissed by the appellant.
2. Within ten (10) days after service of a written notice of discipline, the person affected by the notice may file a written request for a hearing before the City Administrator contesting the disciplinary action.
3. The City Administrator shall give the appellant at least ten (10) day notice of a hearing. At the hearing, the City and the appellant shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, and impeach any witness. Oral evidence shall be taken on oath or affirmation. All evidence shall be suitably recorded and preserved. The technical rules of evidence shall not apply, but the City Administrator may exclude evidence which is irrelevant or repetitious. The City and appellant

shall be entitled to present oral arguments or written briefs at or after the hearing.

4. The City Administrator shall make written findings of fact and conclusions of law and issue a final order. Findings of fact shall be based upon competent and substantial evidence found in the record as a whole. A copy of the City Administrator's order, findings of fact and conclusions of law, shall be delivered or mailed to the appellant.

5. An appellant aggrieved by the decision of the City Administrator may, within five (5) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decisions of the City Administrator under this Section. The written request must set forth in a concise manner the decision being appealed and all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within five (5) days of the date of the City Administrator's decision. A copy of the request and any supporting documents or materials filed by the appellant must be served by the appellant party on the City Administrator within three (3) days of filing with the City Clerk. The Board of Aldermen may consider the appeal on the record of the prior decision by the City Administrator or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.

6. Any appellant aggrieved by the final determination of the Board of Aldermen may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of St. Louis County. Such petition shall be filed within ten (10) days after the Board's final determination.

Sections 400.2020 through 400.2080. (Reserved)

Section 2. Section 605.1100 and Division 1 of Article VII of Chapter 605 of the Code of Ordinances of the City of Brentwood, Missouri, is hereby repealed and a new Section 605,1100 is hereby enacted in lieu thereof to read as follows:

Chapter 605. Licenses, Taxation and Miscellaneous Business Regulations

ARTICLE VII. Gross Receipts Taxes

Division 1. Merchants and Manufacturers

Section 605.1100 License — Fees for Merchants, Manufacturers and Service Occupations.

A. The annual license fee or occupational tax to be paid by merchants shall be one dollar twenty-five cents (\$1.25) on each one thousand dollars (\$1,000.00) or part thereof of gross receipts as shown by the application required by Section 605.1090. The license fee for merchants shall be calculated on the total amount of sales of goods, wares and merchandise in the State arising out of a business wholly or partly conducted at any store, stand or place in the City, provided that the minimum aggregate license fee or occupational tax shall be fifty dollars (\$50.00).

B. The annual license fee or occupational tax to be paid by manufacturers shall be computed in the same manner as provided in this Section for merchants. The license fee for manufacturers shall be calculated on the total amount of sales of goods manufactured by them in the City, wherever such sale may be made.

C. The annual license fee or occupational tax to be paid by service occupations shall be computed in the same manner as provided in this Section for merchants. The license fee for service occupations shall be calculated on the total amount of gross receipts arising out of transactions or other activities in the State which are wholly or partly conducted, arranged or supervised in or from the City.

Section 3. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.


Section 4. The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered by the codification company servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

Section 5. This Ordinance shall be in full force and effect from and after the date of its final passage and approval by the Mayor.

PASSED BY THE BOARD OF ALDERMEN THIS 15th DAY OF JULY, 2024.

ATTEST:


Kelle Silvey, Deputy City Clerk


David A. Dimmitt, Presiding Officer

APPROVED BY THE MAYOR THIS 15th DAY OF JULY, 2024.

ATTEST:


Kelle Silvey, Deputy City Clerk


David A. Dimmitt, Mayor

1st Reading: May 20, 2024
2nd Reading: July 15, 2024

