



MEMORANDUM

To: Mayor and City Council

From: Michael Tuller

Date: January 9, 2012

Subject: Amendments to provisions regarding customer contact as it relates to home occupations

ITEM DESCRIPTION

At the July 25, 2011 Mayor and City Council Meeting, Councilman Ross initiated a text amendment that would relax the restrictions related to home occupations, in order to permit customer contact in the R-100 District. The Council also requested that staff look into streamlining the process, if possible, from the three month timeline as required by the SLUP provisions

BACKGROUND

The current regulations related to Special Permits for residential districts in the City of Dunwoody Zoning Ordinance allow an applicant to request a Special Land Use Permit (SLUP) if they seek to establish a home occupation with customer contact. The section in Article II allowing home occupations implies a conflict with the Supplemental Regulations (Article IV, Section 27-1321). Pursuant to Section 27-1321, home occupations are exempted from the customer contact provision because private educational uses are only required to comply with subsections (1), (2), (3), (4) and (8). The prohibition on customer contact is found in Section 27-1321(5); however, Section 27-1321 does not absolve an applicant requesting to conduct a home occupation for a private educational use of the SLUP requirement found in Section 27-224. Therefore, the requirement in Section 27-224 is still applicable.

The direction staff received from Councilman Ross was to craft specific language that revises the terms of home occupations in the R-100 (one family residence) district only. The text of this revision would need to be slightly altered to include other one- and two-family residence districts if it is recommended to allow customer contact elsewhere in the city.

RECOMMENDATION

Attached, you will find excerpts from the home occupation provisions for neighboring jurisdictions. Note that all the examples provide customer contact by right with strict requirements associated with the use. Staff recommends the following text but suggests the provision be expanded to include other one- and two-family residential zoning districts, similar to what is allowed in neighboring jurisdictions. The proposed amendments would allow home occupations with customer contact in R-100 by-right, and prescribes a set of criteria in the supplemental regulations. As currently proposed, home occupations in other residential districts would still be required to obtain a SLUP and adhere to the supplemental regulations at the time it was approved.



The Community Council discussed the item at their September 8 Meeting. Many recommendations were made at varying points throughout the discussion, enumerated below:

- Section 27-185: Keep child day care facility as a special permit
- Section 27-1321:
 - Number 11: visitors should be limited to four at a time rather than two
 - Numbers 12 and 13 should be omitted to allow off-street parking and retail sales for home occupations
 - Number 14: change dwelling unit to property line
 - Number 17 and 18: should be omitted

Planning Commission discussed the amendment at their regularly scheduled October 11 meeting. The Commission voted 5-1 in favor of requiring child day care facilities in R-100 Districts to continue to seek the a SLUP and recommended that the process be accelerated for all other home occupations with customer contact. Commissioners voted in favor of a streamlined process that would allow applications for home occupations with customer contact to be reviewed and approved at one Public Hearing of the Planning Commission. Renate Herod was the dissenting vote.

The proposed amendments are as follows:

Sec. 27-183. - Principal uses and structures.

The following principal uses of land and structures shall be authorized in the R-100 (Single-Family Residential) District:

- (1) Detached single-family dwelling.
- (2) Personal care home, family.
- (3) Personal care home, registered.
- (4) Stable.
- (5) Home Occupation as prescribed in Section 27-1321.

Sec. 27-185. - Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

...

Special land use permit from city council:

...

~~d. Child day care facility.~~

...

~~f. Home occupation involving any customer contact.~~

...

Sec. 27-1321. - Home occupations ~~and private educational uses.~~

The following provisions shall apply to home occupations. ~~Private educational uses shall only be required to comply with subsections (1), (2), (3), (4) and (8) of this section:~~



- (1) There shall be no exterior evidence of the home occupation.
- (2) No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.
- (3) The use shall be conducted entirely within the dwelling unit. ~~and~~
- (4) ~~o~~Only persons living in the dwelling unit shall be employed at the location of the home occupation.
- (5) No more than 25 percent of the dwelling unit and in no case more than 500 square feet, whichever is less, may be used for the conduct of the home occupation.
- ~~(6) No use shall involve public contact on the property and no article, product or service shall be sold on the premises other than by telephone.~~
- (7) No materials or equipment shall be stored on the premises upon which the home occupation is located, except where such materials and equipment are stored entirely within the residence.
- (8) No vehicle other than a passenger automobile, passenger van, or passenger truck shall be used in the conduct of a home occupation, and no other vehicle shall be parked or stored on such premises.
- (9) No home occupation shall be operated so as to create or cause a nuisance.
- ~~(10) The home occupation shall not be open to the public or receive deliveries earlier than 8:00 a.m. or later than 8:00 p.m., excluding routine residential type carriers.~~
- ~~(11) Home Occupations shall be limited to a maximum of 2 business related visitors at any time. Business related visitors include but are not limited to employees, business partners, contractors, subcontractors, clients, customers, students, etc.~~
- ~~(12) No on-street parking associated with the business shall be permitted.~~
- ~~(13) No commodity shall be stocked or sold on the premises to the general public.~~
- ~~(14) Home occupations must exclude the use of instruments, machinery or equipment that emit sounds (i.e. musical instruments, sewing machines, saws, drills) that are detectable beyond the dwelling unit.~~
- ~~(15) Multiple home occupations may be permitted within a single residence; however, the limitations herein shall apply to the combined uses.~~
- ~~(16) Business related parties/gatherings may be held no more than twice per year. These parties shall not be advertised to the general public.~~
- ~~(17) Home Occupations for educational purposes are exempted from Sections 1321(1), (3), and (7).~~
- ~~(18) Home occupation with customer contact shall not include the use of a dwelling unit for the purpose of operating a massage therapy, psychic, fortuneteller, tattoo, and/or body piercing establishment.~~
- (19) Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, taxi service, van service, limousine service, wrecker service, car wash, or ammunition or firearms sales establishment.
- (20) The following are additional provisions for a child day care facility:
 - a. A child day care facility shall provide outdoor play areas as required by Georgia law, but such areas shall be limited to side or rear yards outside the minimum yard area, and shall not occupy any yard adjoining a street.
 - i. For the purposes of complying with this provision, family day care facilities are exempt from Sections 1321(1),(3), and (7).



- b. A child day care facility shall be located at least one thousand (1,000) feet in all directions from any other such use operated as a home occupation.
- c. Hours of operation of a child day care facility operated as a home occupation shall be limited to Monday through Saturday from 6:00 a.m. to 8:00 p.m.
- d. A child day care facility operator shall have a current, certified copy of the operator's State of Georgia family day care home registration which shall be filed with the business license application and renewals.

AN ORDINANCE OF THE CITY OF DUNWOODY AMENDING CHAPTER 27 (ZONING ORDINANCE) TO REVISE HOME OCCUPATION REQUIREMENTS

WHEREAS, the City of Dunwoody is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, the City of Dunwoody Zoning Ordinance, codified as Chapter 27 of the City of Dunwoody Code of Ordinances, currently requires all Home Occupation businesses to acquire a Special Use Permit prior to operation; and

WHEREAS, the City Council believes that, in order to promote entrepreneurship and enhance the economic development of the City, Home Occupation businesses should be allowed as of right in certain zoning districts and additional regulation established to upkeep the nature of local neighborhoods; and

WHEREAS, this Amendment has been properly advertised for a public hearing and a proper public hearing conducted pursuant to the Georgia Zoning Procedures Act in conjunction with the adoption of this Ordinance.

THEREFORE, THE MAYOR AND COUNCIL FOR THE CITY OF DUNWOODY HEREBY ORDAIN AS FOLLOWS:

**ADDITIONS – UNDERLINED
DELETIONS - ~~STRIKETHROUGHS~~**

Section 1: Chapter 27 (Zoning Ordinance) of the City of Dunwoody Code of Ordinances shall be amended by revising Article II (“District Regulations”), Division 5 (“R-100 (Single Family Residential) District”), Section 27-183 to read as follows:

Sec. 27-183. Principal Uses and Structures.

The following principal uses of land and structures shall be authorized in the R-100 (Single-Family Residential) District:

- (1) Detached single-family dwelling.
- (2) Personal care home, family.
- (3) Personal care home, registered.
- (4) Stable.
- (5) Home Occupation as prescribed in Section 27-1321.

Section 2: Chapter 27 (Zoning Ordinance) of the City of Dunwoody Code of Ordinances shall be further amended by revising Article II, Division 5, Section 27-185 to read as follows:

Sec. 27-185. Special Permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (1) Special administrative permit from City Manager or his designee: Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (2) Special exception permit from the Zoning Board of Appeals: Utility structure necessary for the transmission or distribution of service.
- (3) Special land use permit from City Council:
 - a. Adult day care facility.
 - b. Amateur radio service antenna exceeding 70 feet.
 - c. Cemetery, columbarium, or mausoleum.
 - ~~d. Child day care facility.~~
 - ed. Convent or monastery.
 - ~~f. Home occupation involving any customer contact.~~
 - ge. Home stay bed and breakfast residence.
 - hf. Neighborhood recreation club.
 - ig. Place of worship.
 - jh. Private elementary, middle and high school.
 - ki. Congregate personal care home if located on a campus of no less than 25 acres.

Section 3: Chapter 27 (Zoning Ordinance) of the City of Dunwoody Code of Ordinances shall be further amended by revising Article IV ("Supplemental Regulations"), Section 27-1321 to read as follows:

Sec. 27-1321. Home Occupations ~~and private educational uses.~~

The following provisions shall apply to home occupations. ~~Private educational uses shall only be required to comply with subsections (1), (2), (3), (4) and (8) of this section.~~

- (1) There shall be no exterior evidence of the home occupation.

- (2) No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.
- (3) The use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed at the location of the home occupation.
- ~~(4) Only persons living in the dwelling unit shall be employed at the location of the home occupation.~~
- (45) No more than 25 percent of the dwelling unit and in no case more than 500 square feet, whichever is less, may be used for the conduct of the home occupation.
- ~~(5) No use shall involve public contact on the property and no article, product or service shall be sold on the premises other than by telephone.~~
- (6) No materials or equipment shall be stored on the premises upon which the home occupation is located, except where such materials and equipment are stored entirely within the residence.
- (7) No vehicle other than a passenger automobile, passenger van, or passenger truck shall be used in the conduct of a home occupation, and no other vehicle shall be parked or stored on such premises.
- (8) No home occupation shall be operated so as to create or cause a nuisance.
- ~~(9) The home occupation shall not be open to the public or receive deliveries earlier than 8:00 a.m. or later than 8:00 p.m., excluding routine residential type carriers.~~
- ~~(10) Home Occupations shall be limited to a maximum of 2 business related visitors at any time. Business related visitors include, but are not limited to, employees, business partners, contractors, subcontractors, clients, customers, and students.~~
- ~~(11) No on-street parking associated with the business shall be permitted.~~
- ~~(12) No commodity shall be stocked or sold on the premises to the general public.~~
- ~~(13) Home Occupations must exclude the use of instruments, machinery or equipment that emits sounds (i.e. musical instruments, sewing machines, saws, drills) that are detectable beyond the dwelling unit.~~
- ~~(14) Multiple home occupations may be permitted within a single residence; however, the limitations herein shall apply to the combined uses.~~
- ~~(15) Business related parties/gatherings may be held no more than twice a year. These parties shall not be advertised to the general public.~~

- (16) Home Occupations for educational purposes are exempted from Section 1321(1), (3), and (7).
- (17) Home Occupation with customer contacts shall not include the use of a dwelling unit for the purpose of operating a massage therapy, psychic, fortuneteller, tattoo, and/or body piercing establishment.
- (918) Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, taxi service, van service, limousine service, wrecker service, car wash, or ammunition or firearms sales establishment.
- (19) The following are additional provisions for a child day care facility:
- a. A child day care facility shall provide outdoor play areas as required by Georgia law, but such areas shall be limited to side or rear yards outside the minimum yard area, and shall not occupy any yard adjoining a street.
 - (i) For the purposes of complying with this provision, family day care facilities are exempt from Section 1321(1), (3), and (7).
 - b. A child day care facility shall be located at least one thousand (1,000) feet in all directions from any other such use operated as a home occupation.
 - c. Hours of operation of a child day care facility operated as a home occupation shall be limited to Monday through Saturday from 6:00 a.m. to 8:00 p.m.
 - d. A child day care facility operator shall have a current, certified copy of the operator's State of Georgia family day care home registration which shall be filed with the business license application and renewals.

Section 4: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ___ day of _____, 2012.

Approved:

Mike Davis, Mayor

STATE OF GEORGIA
CITY OF DUNWOODY

ORDINANCE 2011-XX-XX

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

Brian Anderson, City Attorney