City Council Communication

Department: Community Development CASE #ZT-23-001 Applicant: Community Development Department	Ordinance No. _____	1st Consideration: 2/27/2023 2nd Consideration: 3/13/2023 3rd Consideration: 3/27/2023 Planning Commission: 2/14/2023

Subject/Title

Request: Public hearing on the request of the City of Council Bluffs to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses*; amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business'; amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business'; and amend Section 15.24.020, *Accessory Uses* by changing 'Home occupation' to 'Home-based Business'.

Background

The Community Development Department is proposing to amend several sections of Title 15: *Zoning* of the Council Bluffs Municipal Code relative to 'Home-Based Businesses'. The proposed text amendments are in response to the State of Iowa passing House File (HF) 2431 in June 2022, which established new legislation for operating a home-based business (see Attachment A).

Under Section 414.33 of HF 2431, home-based businesses are allowed by-right to:

1. Sell lawful goods and services inside of a residential dwelling and within the yard of the residential property, as long as the business activity is secondary to the use of property and is not visible from an adjacent property or street; and
2. Employ on-site employees who do not reside on the residential property

Note: A home-based businesses cannot generate on-street parking or cause a substantial increase in traffic through a residential area. Additionally, a home-based business is prohibited from selling alcoholic beverages or illegal drugs, operating or maintaining a structured sober living home, creating or selling pornography, providing nude or topless dancing, or operating any other adult-oriented businesses, as per HF2431.

Under HF 2431, cities in Iowa **cannot** require the following of a home-based business:

1. Apply, register, or obtain any permit, license, variance, or other type of approval;
2. Rezone a residential property for a commercial use;
3. Install fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units

Cities may establish reasonable regulations for home-based business for the following purposes only:

1. Protect public health and safety (including rules related to fire or building codes, health/sanitation, transportation/traffic control, solid/hazardous waste, pollution, and noise control);

2. Ensure the business is secondary to the primary residential use of the property, and is compatible with the residential use of the property and surrounding area; and
3. Compliance with state and federal laws (including paying applicable taxes).

*Note: HF 2431, does **not** supersede any deed restrictions, covenants, or agreement restricting the use of land, nor does it supersede any master deed, bylaw, or other document applicable to a common interest ownership community (i.e. condo association).*

The Community Development Department proposes the following amendments to Title 15: Zoning of the Municipal Code in order to bring all applicable home-based business zoning regulations into conformance with HF 2431:

1. Repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses* (see Attachment B);
2. Amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business' (see Attachment C);
3. Amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business' (see Attachment D); and
4. Amend Section 15.24.020, *Accessory Uses* by changing the term 'Home occupation' to 'Home-based Business' (see Attachment E).

All City Departments and local utilities were notified of the proposed text amendment. No comments in opposition of the request were received.

Recommendation

The Community Development Department recommends approval to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses*; amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business'; amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business'; and amend Section 15.24.020, *Accessory Uses* by changing 'Home occupation' to 'Home-based Business', in order to bring all applicable home-based business zoning regulations into conformance with Iowa HF 2431.

Public Hearing

Staff speaker for the request:
1. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

The City Planning Commission recommended approval to amend several sections of Title 15: Zoning of the Council Bluffs Municipal Code (Zoning Ordinance), as follows: repeal Section 15.24.030, *Home Occupation*, and replace with Section 15.24.030, *Home-Based Businesses*; amend Section 15.02.130, Table 1, *Violation and Penalty* by replacing the term 'Home Occupation' with 'Home-based Business'; amend Section 15.03.340 by changing the definition and terminology of 'Home Occupation' with 'Home-based Business'; and amend Section 15.24.020, *Accessory Uses* by changing 'Home occupation' to 'Home-based

Business', in order to bring all applicable home-based business zoning regulations into conformance with Iowa HF 2431.

VOTE: AYE – Bass, Halm, Hutcheson, Knauss, Opperman, Rew, Stroebele and Van Houten. NAY – None. ABSTAIN – None. ABSENT – Bailey, Rater and Scott. VACANT - None Motion: Carried.

Attachments

Attachment A: Copy of Iowa HF 2431
Attachment B: Proposed amendment to Section 15.24.030, *Home Occupation*
Attachment C: Proposed amendment to Section 15.02.130, Table 1, *Violation and Penalty*
Attachment D: Proposed amendment to Section 15.03.340, *Definitions, Home Occupation*
Attachment E: Proposed amendment to Section 15.24.020, *Accessory Uses*

Prepared by: Christopher N. Gibbons, Planning Manager, Community Development Department