



DEVELOPMENT SERVICES

CITY OF FRISCO

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February 6, 2013

TO: Applicant

FROM: John Webb, AICP *JW*
Planning Manager

SUBJECT: Results of the City Council meeting, February 5, 2013

Public Hearing - Zoning: Home Occupations (ZA12-0001)
Owner(s): City of Frisco

Description:

A request to amend the Zoning Ordinance regarding Home Occupations and consider and act to direct staff to prepare an Ordinance of the same.

Result/Action:

Approved: 6-0

Denied:

Tabled:

ACTION:

City Council approved the Zoning request and directed staff to prepare an Ordinance.

CC:

Danny Carroll
Gary Hartwell
Mack Borchardt
Paul Knippel

Deanna Quigley
Umberto Allori
Michael Crain
Phillip Climer

Dudley Raymond
Jim Cottone
Michele Wood
Poly Birika

Steve Covington
Rick Wieland
Michelle Ortega

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING SECTION 3.02.01 (CONDITIONAL DEVELOPMENT STANDARDS) AND SECTION 7.01 (TERMS AND WORDS DEFINED) OF THE ZONING ORDINANCE NO. 11-04-09; AMENDING THE REGULATIONS RELATING TO HOME OCCUPATION AND COTTAGE FOOD PRODUCTION OPERATION; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that Section 3.02.01 (Conditional Development Standards) and Section 7.01 (Terms and Words Defined) of the City of Frisco, Texas ("Frisco") Zoning Ordinance No. 11-04-09, should be amended; and

WHEREAS, Frisco has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Frisco to amend Frisco's Zoning Ordinance No. 11-04-09, as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Section 3.02.01 (Conditional Development Standards). Section 3.02.01 of Frisco's Zoning Ordinance No. 11-04-09, is hereby amended by amending Conditional Use #18 in its entirety as follows:

**"SECTION 3.02.01
CONDITIONAL DEVELOPMENT STANDARDS**

...

(18) Home Occupation

A home occupation, in districts where allowed, shall meet the following standards to maintain the residential character of the neighborhood while providing opportunities for home-based businesses.

- a. Unless specifically permitted by this section, home occupations shall be conducted entirely within the main building.
- b. Home occupations shall not produce any alteration or change in the exterior appearance of the residence which is inconsistent with the typical appearance of a residential dwelling.
 1. No external evidence of the occupation shall be detectable at any lot line, including advertising, signs, smoke, dust, noise, fumes, glare, vibration, or electrical disturbance beyond the property line;
 2. No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation;
 3. No storage of hazardous materials for business purposes shall be allowed on the premises;
 4. The home occupation shall not have a separate entrance;
 5. Not more than two (2) patron- or business-related vehicles shall be present at any one time, and the proprietor shall provide adequate off-street parking for such vehicles;
 6. A maximum of one (1) commercial vehicle, capacity one (1) ton or less, may be used or parked on the property in connection with the home occupation. The commercial vehicle shall not be parked on the street;
 7. The home occupation shall not require regular or frequent deliveries by large delivery trucks or vehicles in excess of one and one-half (1½) tons. This shall not be construed to prohibit deliveries by commercial package delivery companies;
 8. The home occupation shall not display advertising signs or other visual or audio devices which call attention to the business use;

9. Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made via the telephone, internet, or at a sales party may be filled on the premises; and
10. No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.
- c. The home occupation shall be clearly incidental and secondary to the use of the premises for residential purposes.
- d. The home occupation shall employ no more than two (2) individuals who are not an occupant of the residence. This shall not include the coordination or supervision of employees who do not regularly visit the house for purposes related to the business.
- e. The home occupation shall not offer a ready inventory of any commodity for sale, except as specifically listed under **3.02.01 (A)(18)h.3 Author, artist, sculptor;** (Page **99**).
- f. The home occupation shall not accept clients or customers before 7:00 a.m. or after 10:00 p.m. This limitation on hours of operation shall not apply to allowed childcare home occupations. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.
- g. Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.
- h. Uses allowed as home occupations shall include the following:
1. Office of an accountant, architect, attorney, engineer, realtor, minister, rabbi, clergyman, or similar profession;
 2. Office of a salesman or manufacturer's representative, provided that no retail or wholesale transactions or provision of services may be personally and physically made on premises;
 3. Author, artist, sculptor;

4. Dressmaker, seamstress, tailor, milliner;
5. Music/dance teacher, tutoring, or similar instruction, provided that no more than three (3) pupils may be present at any one time;
6. Swimming lessons or water safety instruction provided that a maximum of six (6) pupils may be present at any one time;
7. Home crafts, such as weaving, model making, etc.;
8. Repair shop for small electrical appliances, cameras, watches, or other small items, provided that items can be carried by one person with no special equipment, and provided that no internal combustion engine repair is allowed;
9. Child-Care: Licensed Child-Care Home, Child-Care: Listed Family Home, or Child Care: Registered Child-Care Home;
 - (i) Homes with six (6) or more children shall meet the City's building and/or fire codes.
10. Barbershop, beauty salon, or manicure studio, provided that no more than one (1) customer is served at any one time;
11. Community home and other residential care facility that qualifies as a community home under the Community Homes for Disabled Persons Location Act, Chapter 123 of the Texas Human Resources Code and as amended, provided such facilities meet the requirements set out within this Ordinance;
12. Internet based businesses; and
13. Food Production Operations that produce non-potentially hazardous food. Examples of non-potentially hazardous foods include; bread, rolls, biscuits, sweet breads, muffins, cakes, pastries, cookies, fruit pies, jams, jellies, dry herbs, and dry herb mixes.
 - i. Uses prohibited as home occupations shall include the following:
 1. Animal hospital, commercial stable, kennel;
 2. Boardinghouse or roominghouse;

3. Schooling or instruction with more than five (5) pupils;
 4. Restaurant or on-premise food/beverage consumption of any kind;
 5. Automobile, boat, or trailer repair, small engine or motorcycle repair, large appliance repair, repair of any items with internal combustion engines, or other repairs shops;
 6. Cabinetry, metal work, or welding shop;
 7. Office for doctor, dentist, veterinarian, or other medical-related profession;
 8. On-premise retail or wholesale sale of any kind, except home craft items produced entirely on premises;
 9. Commercial clothing laundering or cleaning;
 10. Mortuary or funeral home;
 11. Trailer, vehicle, tool, or equipment rental;
 12. Antique, gift, or specialty shop;
 13. Any use defined by the building code as assembly, factory/industrial, hazardous, institutional, or mercantile occupancy; and
- j. Determination of a Home Occupation Use not Specifically Listed:
1. The Director shall determine whether a proposed use not specifically listed is appropriate as a home occupation. The Director shall evaluate the proposed home occupation in terms of its impact on neighboring property, its similarity to other allowed and prohibited uses, and its conformance with the regulations herein.
- k. Appeal of the Director's Home Occupation Determination:
1. If the applicant disagrees with the determination of the Director, the applicant may appeal to the Planning & Zoning Commission.
 1. Any home occupation that was legally in existence as of the effective date of this Ordinance and that is not in full conformity with these provisions shall be deemed a legal nonconforming use."

SECTION 3. Amendment to Section 7.01. (Terms and Words Defined). Section 7.01 of Frisco's Comprehensive Zoning Ordinance No. 11-04-09, is hereby amended by deleting the term and definition, "Cottage Food Production Operation" in its entirety.

SECTION 4: Savings/Repealing Clause. Frisco's Zoning Ordinance No. 11-04-09 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

SECTION 5: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6: Penalty Provision. Any person, firm, corporation or entity violating this Ordinance or any provision of Frisco's Zoning Ordinance No. 11-04-09, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law the City Charter and by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 5th day of March, 2013.

MAHER MASO
MAHER MASO, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:

Jenny Page
Jenny Page, City Secretary



APPROVED AS TO FORM:

Courtney A. Kuykendall
Abernathy, Roeder, Boyd & Joplin, P.C.
Courtney A. Kuykendall, City Attorneys

Dates of Publication: March 8th and March 15th, 2013, Frisco Enterprise



Development Services Department
City of Frisco, Texas

Memorandum

To: Honorable Mayor Maso and Members of the Frisco City Council

Cc: George A. Purefoy, City Manager
John Lettelleir, AICP, Director of Development Services

From: John Webb, AICP, Planning Manager

Date: 2/21/2013

Agenda Caption: Consider and act upon adoption of an ordinance amending the Zoning Ordinance regarding Home Occupations. ZA12-0001

Action Requested: City Council adoption of an ordinance amending the Zoning Ordinance regarding Home Occupations.

Background Information: On February 5, 2013, the City Council held a public hearing and directed staff to prepare an Ordinance by a vote of 6-0.

Board Review/Citizen Input: On January 8, 2013, the Planning & Zoning Commission held a public hearing and voted 6-0 to recommend approval of the request.

Alternatives: The City Council may:

- Approve the Ordinances;
- Approve the Ordinances with modifications;
- Deny the Ordinances; or
- Table for further review.

Financial Considerations: None.

Legal Review: The Ordinance was prepared by the City Attorney's office.

Supporting Documents:

- City Council Outcome Memo dated February 6, 2013.
- Ordinance.

Staff Recommendation: Recommended for adoption.