

Memorandum

Department of Planning



To: Planning and Public Works Committee
From: Mike Knight, Assistant City Planner *JMK*
Date: November 10, 2022

RE: **Municipal Code of Chesterfield (Home-Based Businesses):** An ordinance of the City of Chesterfield creating Chapter 625 of the Municipal Code pertaining to Home Occupations.

Summary

HB 1662 was adopted by the 101st General Assembly of the State of Missouri to amend the jurisdiction of municipalities in establishing regulations for home-based businesses. Pursuant to RSMo 71.990, the City of Chesterfield is authorized to establish regulations for home-based businesses located within the City.

RSMo 71.990 states: “A *political subdivision shall not prohibit the operation of a no-impact, home-based business or otherwise require a person to apply for, register for, or obtain any permit, license, variance, or other type of prior approval from the political subdivision to operate a no-impact, home-based business.*”

RSMo 71.990 then states a political subdivision shall not prohibit the operation of a no-impact home-based business and further describes what qualifies as a no impact, home-based business.

The purpose of Chapter 625 is to protect the public health and safety and to ensure that business activities are compliant with all state and federal laws. Specifically, a home occupation located in a neighborhood zoned and developed for residential use shall be conducted such that a reasonable neighbor would not be aware of its existence or be disrupted by it. It is the intent of these regulations to protect and maintain the residential character of the neighborhoods in the City of Chesterfield.

The proposed bill introduces items in Chapter 625 such as, but not limited to, the qualifications that make a “no-impact” home occupation in the City of Chesterfield, process for a potential violation of the “no-impact” regulations, and the appellate process after a decision is made.

Attached to this memo is the draft ordinance that creates Chapter 625 (Business and Operation) of the Municipal Code of Chesterfield in its entirety.

Attachments: Draft Ordinance (Municipal Code - Chapter 625)

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CHESTERFIELD CREATING CHAPTER 625 OF THE MUNICIPAL CODE PERTAINING TO HOME OCCUPATIONS

WHEREAS, pursuant to RSMo 71.990, the City of Chesterfield (the “City”) is authorized to establish regulations for home-based businesses located in the City; and

WHEREAS, HB 1662 was adopted by the 101st General Assembly of the State of Missouri to amend, among other things, the jurisdiction of municipalities in establishing regulations for home-based business; and

WHEREAS, the City Council of the City of Chesterfield desires to amend the Municipal Code to reflect the changes in regulation of home-based business to conform to state law; and

WHEREAS, there is a companion bill, Bill No. _____, being considered by the City for further changes to regulations for home occupations; and

WHEREAS, the City Council believes these regulations of home occupations are necessary to protect the health, safety, and welfare and ensure that home occupations are compliant with state and federal law, including the payment of applicable taxes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI AS FOLLOWS:

Section 1: The City shall adopt a new chapter, Chapter 625 Home-Based Businesses, as follows:

Section 625.005 **Purpose.**

The purpose of this section is to protect the public health and safety and to ensure that business activities are compliant with all state and federal laws. Specifically, a home occupation located in a neighborhood zoned and developed for residential use shall be conducted such that a reasonable neighbor would not be aware of its existence or be disrupted by it. It is the intent of these regulations to protect and maintain the residential character of the neighborhoods in the City of Chesterfield.

Section 625.010 **Home Occupations Generally.**

- A. The operation of no-impact home occupations as defined below shall be permitted. Any home occupation that does not fall within the definition of a no-impact home occupation set forth below shall be prohibited from operating in a residential district or residential planned district. A home

occupation qualifies as a no-impact home occupation if:

1. The total number of employees and clients on-site at one time does not exceed the occupancy limit for the residential dwelling; and
2. The activities of the business:
 - a. Are limited to the sale of lawful goods and services;
 - b. May involve having more than one client on the property at one time;
 - c. Do not cause a substantial increase in traffic through the residential area;
 - d. Do not violate any parking regulations established by the City;
 - e. Occur inside the residential dwelling or in the yard of the residential dwelling;
 - f. Are not visible from the street; and
 - g. Do not violate any of the regulations set forth in subsection 3 related to the general public health, safety, and welfare of residents.
3. To qualify as a no-impact home occupation, the following conditions must be met:
 - a. Lighting – Home occupations must comply with Chapter 215, Nuisances.
 - b. Noise – Home occupations must comply with all noise restrictions applicable to residential areas including but not limited to Chapter 210, Article V Offenses Concerning Public Peace.
 - c. Trash – Home occupations may not generate trash or refuse that exceeds normal residential trash and refuse.
 - d. Outdoor Storage –Outdoor storage of equipment, inventory, or other supplies for the home occupation is prohibited.
 - e. Disposal of Solid Waste – Solid waste must not be deposited, stored, or otherwise maintained on the property.

- f. Parking – Home occupations must comply with all restrictions on parking including but not limited to Table VII-A Parking Restrictions and all customer parking must be located off of any public street.
- g. Public Health and Safety - Home occupations shall adhere to all City ordinances and regulations related to the public health and safety including but not limited to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, and pollution.
- h. Compliance with Laws - Home occupations shall comply with state and federal laws including paying applicable taxes.
- i. Deliveries - All deliveries related to the home occupation shall be made between the hours of 7:00 A.M. and 9:00 P.M. Deliveries shall not be made by a vehicle that exceeds the size and/or weight rating for the street.

B. Whenever it comes to the attention of the City, or the City receives an allegation of the existence of a violation of the no-impact home occupation regulations of this Section, the City shall investigate and make a determination as to whether said home occupation has violated this section and whether said home occupation qualifies as a no-impact home occupation. If a violation of Section 625.010(A) is found to exist, the City Director of Planning or the City Director of Planning’s designee shall notify the owner, lessee, or person engaged in the home occupation that the activity occurring on the premises does not comply with Section 625.010(A) and either (a) issue a warning that further violations could result in a loss of the ability to continue the home occupation or (b) provide a notice of hearing as described below. The Director of Planning shall only issue a warning letter in situations where there has been an isolated violation of Section 625.010(A).

C. The notice of hearing described in Subsection (B) shall contain:

- 1. Address or description of the property;
- 2. Ordinance number and a copy of the ordinance being violated;
- 3. Nature of the violation of the no-impact home occupation regulations; and
- 4. Notice that the hearing will determine whether the home occupation qualifies as a no-impact home occupation and that a finding that the home occupation does not qualify as a no-impact home

occupation will result in an order prohibiting the continued operation of the home occupation.

- D. The City Administrator or the City Administrator's designee shall serve as the hearing officer and hold the hearing referenced in Subsection (C) above at the time and place indicated in the notice of hearing. The hearing officer shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. The hearing officer shall prepare findings of fact, conclusions of law, and an order stating whether the home occupation qualifies as a no-impact home occupation. If the hearing officer finds that the home occupation does not qualify as a no-impact home occupation, the hearing officer has the authority to enter an order prohibiting the continued operation of the home occupation and to order the abatement of any violation of Section 625.010(A). The decision of the hearing officer may be appealed to the City Council within ten days of the posting of the hearing officer's notice on the Property.
- E. Home occupations that have been found to not qualify as no-impact home occupations pursuant to Subsection (D) above may be issued a notice of violation. Nothing contained in 625.010 shall preclude the City from any other remedy including but not limited to filing a civil suit, seeking an injunction, or taking other actions as permitted by law.
1. Summons, Service Of. The City may issue a notice of violation in municipal court, directed by name to the owner, lessee, or person engaged in the home occupation for subsequent violations of the no-impact home occupation regulations following a determination that a home occupation is not a no-impact home occupation, and such summons shall show:
 - a. Address or description of property on which the violation occurred or is located, and such other information as may be available to the City;
 - b. The ordinance which is being violated and setting forth in general the nature of the violations; and
 - c. Date on which the case will be on the Municipal Court docket for hearing.

Section 2: This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

Section 3: This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this _____ day of _____, 2022.

PRESIDING OFFICER

Bob Nation, MAYOR

ATTEST:

Vickie McGownd, CITY CLERK

FIRST READING HELD: