

ORDINANCE NO. 2678

File No. Z090-4

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE DULY ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO ADOPT SECTION 2-700; HOME OCCUPATIONS REGULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, through administration and experience, the Planning and Zoning Commission has determined that it is necessary to revise certain regulations so that the intended purposes of the Zoning Ordinance are best served; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold public hearings regarding proposed revisions and has recommended amendment of the ordinance; and

WHEREAS, the City Council did give public notice and did hold public hearings regarding the proposed amendments;

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

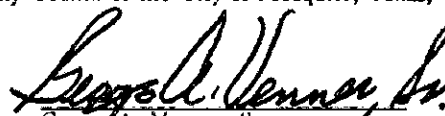
SECTION 1. That the Mesquite Zoning Ordinance duly adopted on September 4, 1973, and recodified on November 21, 1988, be amended by adopting Section 2-700; HOME OCCUPATIONS REGULATIONS as set out in the attached Exhibit "A".

SECTION 2. That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal, or unconstitutional and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 3. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of 1973 as amended, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2000.00) Dollars for each offense.


SECTION 4. The fact that the present ordinances of the City of Mesquite are inadequate to protect the public interest, comfort, and general welfare of the City of Mesquite, creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of June, 1990.

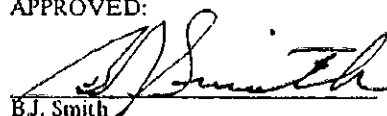


George A. Venner, Sr.
Mayor

ATTEST:


Lynn Prugel
City Secretary

APPROVED:


B.J. Smith
City Attorney

**2-700 HOME OCCUPATION
REGULATIONS****2-701 GENERAL PROVISIONS****A. DEFINITION AND INTENT**

A home occupation is a gainful activity, resulting in a product or service, which is conducted in whole or in part on a property zoned or occupied as residential.

The intent of this section is to allow low-intensity home occupations that are clearly incidental and secondary to the primary residential use of the property and that are conducted in a limited manner which creates little exterior indication of the activity and which does not create a nuisance or otherwise adversely impact adjacent properties or the residential character of the neighborhood.

B. EXEMPTIONS

Yard/garage sales and home day care are specifically permitted by the use schedule and shall not be classified as home occupations when operating in compliance with all ordinances and regulations in connection with such use. (See 2-203)

C. APPLICATION/INSPECTION

A request for registration or for approval of a Conditional Use permit for a home occupation shall constitute the applicant's agreement to allow, upon reasonable request, the inspection of the premises to the extent necessary to determine compliance and compatibility with these regulations. City inspectors may inspect a premises suspected of violations for the purpose

of determining compliance with these regulations. The refusal to allow inspection upon reasonable request shall be an indication of a failure to comply with the terms of this section. A presumption shall therefore exist that there are violations and appropriate enforcement action to terminate the activity may be taken.

D. REGISTRATION REQUIRED

All home occupations shall be required to register upon forms prepared by the City Planner for the purpose and shall include a description of the nature and extent of the activity. The applicant shall sign the form verifying that the activity will be conducted in compliance with the standards of operation set out below.

E. LIMITED APPROVAL/REVIEW

Approval of a home occupation, whether by registration or by Conditional Use permit, shall be limited to one year, provided that such approval shall automatically be extended in one year increments, based on the anniversary date of the approval, unless a request for review is received prior to the anniversary date. A written request for review may be submitted by any person affected by the home occupation; by the City Planner, Health Official, or Building Official; or by the City Council or Planning and Zoning Commission. If a request for review is received, a new application for approval as a Conditional Use permit shall be required.

2-702 STANDARDS OF OPERATION

All home occupations shall comply with the following performance standards and limitations, except as specifically modified herein.

A. EMPLOYEES

No person other than an occupant of the residence shall be engaged in the home occupation at the residence or shall visit the residence on a regular basis. No more than 3 occupants at a residence shall be engaged in home occupations.

B. SPACE AND LOCATION

The maximum area used for the home occupation shall not be greater than 25% of the living area of the residence; than 500 square feet, including storage areas; or than 2 rooms. No accessory building shall be used in the conduct of a home occupation.

C. STORAGE

The total area used exclusively for storage shall be no larger than 150 cubic feet. Outside storage in conjunction with a home occupation shall be prohibited.

D. ALTERATIONS

No alterations of the residential appearance of the property for business purposes, such as the creation of a separate entrance, shall be permitted.

E. EQUIPMENT

The installation, storage, or use of any equipment or machinery not normally found in a household or general office shall be prohibited.

F. SALES AND DISPLAY

Direct, on site sales, retail or wholesale, and the display of goods or products on the premises shall be prohibited.

G. NUISANCES

The creation of noise, odors, vibrations, glare, fumes, or electrical interference which is detectable to normal sensory perception outside the structure shall be prohibited.

H. DELIVERIES

No deliveries related to the conduct of the home occupation shall be permitted by vehicles of more than 2 axles. No more than three total deliveries per week shall be permitted.

I. TRAFFIC

Home occupations shall not involve the regular visits of clients, other employees, or any other persons to the residence due to the conduct of the home occupation.

J. ADVERTISING/SIGNS

On-site signs and displays shall be prohibited, including interior signs or displays which are visible from the exterior of the structure. No advertising shall be placed in any media which contains the address of the property or otherwise encourages clients to visit the residence.

2-703 PERMITTED HOME OCCUPATIONS**A. USES PERMITTED**

The following uses shall require registration, but shall not require approval as a Conditional Use permit, provided that full compliance with all standards of operation stated above is required, except as modified herein.

1. Home Office: An office for the clerical and administrative purposes of receiving mail and telephone calls, maintaining records, and similar functions is permitted.

a. Off-site Sales Offices: Home offices may include offices for direct sales distribution (Amway, Avon, Tupperware, etc.), for manufacturer's representatives, and other similar activities provided that all sales are conducted off-site and that storage and deliveries do not exceed the limitations stated above.

b. Off-site Services Offices: Home offices may include offices for services provided off-site, including but not limited to such activities as house cleaning service, yard/garden service, locksmiths, appliance repair, contractors, and similar activities, provided that all services are provided off-site, that storage does not exceed the limitations stated above, that no other employees regularly visit the premises, and that no more than one commercial vehicle is parked at the residence on a regular basis.

c. Professional Services: Home offices may include offices/studios for engineers, draftsmen, and similar services provided that client consultation is conducted off-site.

2. Home Instruction: Individual tutoring or lessons in art, dance, music, swimming, or similar activities are permitted, provided that a maximum of 6 students per day shall be permitted at the premises.

3. Home Arts/Crafts: The preparation of small arts/crafts items for off-site display and sale, including ceramics with a maximum kiln size of 6 cubic feet and including dressmaking/sewing with a maximum of one machine, shall be permitted, provided that all ordering, fittings, and delivery are conducted off-site. The preparation or creation of larger items requiring frequent delivery of materials, movement by vehicles other than passenger vehicles, larger or noisy equipment, or storage exceeding the limits stated above shall not be allowed.

B. REFERRAL

Whenever there are questions or there is uncertainty regarding conformance with the intent and/or requirements of all regulations regarding home occupations, the City Planner may forward the home occupation to the Planning and Zoning Commission and City Council for review under the requirements regarding Conditional Use permits.

2-704 CONDITIONAL USE PERMITS FOR HOME OCCUPATION

Home Occupations not in compliance with 2-703 may be approved as a Conditional Use permit in accordance with the procedures set out in 5-300 under the following conditions.

A. USE GUIDELINES

A Conditional Use permit for a home occupation may be approved only if it is determined that the activity will be incidental and subordinate to the residential purpose of the property, will comply with the spirit and intent of these regulations, will not create adverse impacts on adjacent properties, and will be compatible with the residential character of the area.

The following types of uses will not be approved as home occupations unless unusual or special circumstances exist:

1. Uses involving regular client visits, such as photographic studies, small appliance repair shops, barber/beauty shops, medical offices, etc.;

2. Uses involving large goods or materials, such as upholstery or furniture repair, arts/crafts other than small items, etc.;

3. Uses involving nuisances (noise, dust, etc.) or which cannot be conducted within a totally enclosed

structure, such as automobile, lawn mower, or other engine repair, welding or machine shops, etc.;

4. Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants, etc.;

5. Uses involving handling and/or storage of quantities of goods or materials, such as retail/wholesale operations or manufacturing/assembly;

6. Uses involving the grooming, breeding, or boarding of animals.

B. MODIFICATIONS OF STANDARDS

The standards of operation set out in 2-702 shall apply to all home occupations; provided however, that the approval of a Conditional Use permit may authorize minor modifications, alternative limitations, and/or special conditions where it is determined that the home occupation can be accommodated in accordance with the spirit and intent of this section.

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