

ORDINANCE NO. 1941

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT AMENDMENTS TO CHAPTER 19.424 HOME OCCUPATIONS

WHEREAS, the City of Milwaukie supports and encourages home based businesses that help support families and the local economy while preserving neighborhood residential character and livability; and

WHEREAS, the requirement to renew home occupation permits annually represents a time and cost burden to both businesses and the City; and

WHEREAS, the City seeks to reduce those costs while ensuring continuation of home businesses and neighborhood quality of life; and

WHEREAS, the Planning Commission conducted a public hearing on October 26, 2004, in accordance with Milwaukie Municipal Code Chapters 19.900 19.1000 and adopted a resolution recommending the City Council adopt the proposed code changes; and

WHEREAS, the City Council conducted a public hearing on November 16, 2004, in accordance with Milwaukie Municipal Code Chapters 19.900 and 19.1000; and

WHEREAS, the requested code amendments eliminate the home occupation annual permit renewal:

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Milwaukie Municipal Code Section 19.424 is hereby repealed.

Section 2. The Milwaukie Municipal Code is amended by adopting a new Chapter 19.424 to read as shown in Exhibit 1.

Section 3. The amendments contained herein are consistent with approval criteria for code amendments as demonstrated in Exhibit 2 Findings of Fact and Conclusion.

Read for the first time on November 16, 04 and moved to a second reading by 4-0 vote of the City Council.

Read for the second time and adopted by the City Council on November 16, 2004

Signed by the Mayor on ~~November 16~~, 2004

Larry Lancaster

James Bernard, Mayor
LARRY LANCASTER council PRESIDENT

ATTEST

Pat Duval
Pat Duval, City Recorder

APPROVED AS TO FORM
Ramis Crew Corrigan Baccrach, LLP

Emily F. Zwick
City Attorney

Exhibit 1

Amendments to Milwaukie Municipal Code Chapter 19.424

19.424 Home Occupations

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the City' s residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.424.1 Home Occupation Use Standards

Home Occupation uses are allowed by-right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property;
- B. Maintain the residential character of the building and premises;
- C. Not have the outward appearance of a business;
- D. Not detract from the residential character of the neighborhood; and
- E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions

- A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.
- B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.
- C. In the case of on-premise instruction, no more than five (5) enrollees shall be present at the same time.
- D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.
- E. Only one (1) home occupation is allowed per residence, except that two (2) may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.424.3 Permitted Signage.

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four square feet in area, shall not be illuminated, shall not exceed three feet in height and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Section 19.424.1:

- A. Number of on-site employees who are not members of the family residing on the premises.
- B. Use of the home to distribute or receive goods.
- C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces.
- D. The use of public streets for parking or storage.
- E. The time of day that home occupation activities may take place.
- F. Equipment or material storage, including vehicles and trailers.
- G. Noise, light, fumes, exhaust, and similar impacts.

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Exhibit 2

Findings and Conclusions

1. The Planning Commission and City Council conducted work session on the proposed amendments on August 24, 2004 and September 7, 2004 respectively. The purpose of the amendment is to reduce the time and cost burden on owners of home based businesses and reduce administrative workloads while protecting neighborhood livability.
2. The zoning amendment is consistent with Milwaukie Municipal Code 19.1011.5 Legislative Actions:
 - a. Public notice was conducted in accordance with Section 19.1011.5(A).
 - b. The Planning Commission conducted a public hearing on October 26, 2004, and forwarded a recommendation to the City Council to approve the code changes in accordance with Milwaukie Municipal Code 19.1011.4(B).
 - c. The City Council conducted a public hearing on November 16, 2004.
3. The proposed amendments have been processed in accordance with Milwaukie Municipal Code Chapter 19.904 Amendments as follows:
 - a. The reason for the codes changes is to reduce the public and private time burden and expense of administering the annual renewal process.
 - b. There are no other directly related code provisions that require explanation of consistency as directed by Section 19.904.1(C).
4. The amendments have been evaluated in accordance with Milwaukie Municipal Code Section 19.905, which requires demonstration of the following:
 - a. Conformance to applicable comprehensive plan polices, consistency with provisions of city ordinances, the Metro Urban Growth Management Functional Plan, and applicable regional policies.

The public information and outreach process conducted through the Planning Commission and City Council worksession, and distribution of staff reports to the Neighborhood Association Districts is consistent with applicable citizen involvement policies of Milwaukie Comprehensive Plan Chapter 1.
 - b. The proposal does not change the zoning map. Therefore, Section 19.905.1(B) does not apply.

- c. The proposal is consistent with Statewide Planning Goal 9- Economic Development and Goal 10-Housing. There are no known applicable regional or federal policies.
- d. The proposal does not require public services be provided. Therefore Section 19.905.1(D) does not apply.
- e. The proposal will not result in new demand for transportation facilities. Therefore Section 19.905.1(E) does not apply.

(End of Exhibit)