



City of Muscatine

PLANNING AND ZONING COMMISSION

Tuesday, July 11, 2023

5:30 p.m. - City Hall Council Chambers 215 Sycamore St Muscatine, IA

To participate electronically in this meeting use the following link:

<https://meet.goto.com/530668437> or

dial **(872) 240-3212** and use access code **530-668-437**

July 11, 2023, 5:30 PM

AGENDA

1. CALL TO ORDER/ROLL CALL

2. MISSION STATEMENT

3. MINUTES

A. Approval of minutes from the January 10, 2023 meeting

4. ZONING ORDINANCE

A. Home occupations are regulated by Section 4, Chapter 20 of Title 10 of City Code. The existing home occupation regulations that are contained within Section 10-20-4 of City Code were adopted in 2018. In June 2022, legislation restricting the manner in which cities in Iowa can regulate home occupations was approved. A number of the currently adopted provisions of the home occupation regulations have been identified by the City Attorney as noncompliant with state law. Before an ordinance removing the noncompliant

sections can be adopted, the Planning & Zoning Commission must make a recommendation to City Council on such changes.

5. **ELECTION OF OFFICERS**

6. **ADJOURNMENT**

MINUTES
January 10, 2023 – 5:30 p.m.
Planning and Zoning Commission
Muscatine City Hall
City Council Chambers
Online GoToMeeting

Present: Andrew Anderson, Kayla Bendorf, Sharon Froelich, Jodi Hansen, Steve Nienhaus and Mark Seaman

Excused: Robert McFadden

Staff: Andrew Fangman, Assistant Community Development Director, Community Development
Christa Bailey, Office Coordinator, Community Development
April Limburg, Planner, Community Development

Chairperson Jodi Hansen opened the meeting at 5:38 p.m. and read the mission statement.

Minutes:

Steve Nienhaus motioned to approve the September 13, 2022 minutes; seconded by Andrew Anderson. All ayes, motion carried.

Development Plan:

Menard, Inc. has submitted a development plan to change the land use on a 4.46-acre parcel that adjoins the existing Menards that is located at 3408 North Highway 61. The proposed change would allow for the construction of a 366-unit self-storage facility. This property is located in the S-3 district, the S-3 district allows for any use permitted in any residential zoning district or in the M-1 Light Industrial zoning district, subject to the approval by the Planning and Zoning Commission of a development plan that details the specific layout and uses of the subject property.

Nick Brenner, 5101 Menards Dr Eau Claire, WI, a Real Estate Representative for Menard, Inc. was present to discuss the development plan request. Mr. Brenner shared that Menard, Inc. recently started operating storage unit facilities with just over half a dozen currently in operation. Menard, Inc. wants to increase the number of storage unit facilities without purchasing more land so they looked through their excess lots of land they have listed for sale to identify lots that have not sold in a long time as possible sites and the lot next to the Muscatine Menards fits this criterion. Mr. Brenner explained the storage unit facilities operated and managed in conjunction with the Menards store so the storage unit facilities are held to the same high standards as the store. Mr. Brenner also stated the storage unit facilities are fully enclosed and accessed through a secured gate with a pin number, so only people with a unit will be able to access the area.

Jodi Hansen questioned exactly how many storage unit facilities Menard, Inc. operates and how are they going. Mr. Brenner stated there are 8 in operation currently, which are all at almost 100 percent capacity, with another 8 under construction and Menard, Inc. is looking to operate an additional 20.

Mark Seaman inquired about the construction timeline. Mr. Brenner explained that the construction would be done as soon as possible if approved.

Sharon Froelich queried whether access to the storage unit facility would be available at any time or if it would be limited to the same hours as the store. Mr. Brenner stated access could be obtained at any time with a pin number but management personnel would only be available during store hours.

Jodi Hansen checked if Andrew Fangman had been contacted by the neighboring properties with concerns or comments, to which Mr. Fangman answered he was not contacted by any neighbors. Mr. Fangman added that approval is recommended by staff as the proposed development plan is supported by the Comprehensive Plan and it is compatible and complimentary to the surrounding land uses.

Mark Seaman motioned to approve the Development Plan; seconded by Kayla Bendorf. All ayes, motion carried.

Election of Officers:

No action was taken on this agenda item as it was not needed because the Election of Officers was completed at the August 9, 2022 meeting and was placed on this agenda in error.

Meeting adjourned at 5:51 p.m.

ATTEST:

Jodi Hansen, Chairperson
Planning and Zoning Commission

Respectfully Submitted,

Andrew Fangman, Secretary
Assistant Community Development Director

DRAFT



ZONING ORDINANCE – PLANNING & ZONING COMMISSION

DATE: 7/11/2023

STAFF

Andrew Fangman, Assistant Community Development Director

SUBJECT FOR DISCUSSION

Ordinance Amending Title 10, Chapter 20, Section 4 of City Code - Home Occupations

EXECUTIVE SUMMARY

Home occupations are regulated by Section 4, Chapter 20 of Title 10 of City Code. The existing home occupation regulations that are contained within Section 10-20-4 of City Code were adopted in 2018. In June 2022, legislation restricting the manner in which cities in Iowa can regulate home occupations was approved. A number of the currently adopted provisions of the home occupation regulations have been identified by the City Attorney as noncompliant with state law. Before an ordinance removing the noncompliant sections can be adopted, the Planning & Zoning Commission must make a recommendation to City Council on such changes.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

In addition to the changes identified by the City Attorney as being necessary to bring the City's home occupation regulations in compliance with State Code are there any changes to the home occupation regulations that the Commission would like to make to City Council?

BACKGROUND/DISCUSSION

Home occupations are regulated by Section 4, Chapter 20 of Title 10 of City Code. "Home occupations" as defined by City Code are, "an occupation or business activity which results in a product or service and is conducted in whole or in part in a dwelling unit, and is subordinate to the residential use of the dwelling unit". The intent of these regulations is to allow for home-based business activities that are not otherwise permitted in residentially zoned districts, but which are clearly subordinate and compatible with the surrounding residential land uses and which will not negatively impact the character of the residential area.

Home occupations can be very beneficial to the community when governed by zoning regulations, which permit as broad of an array of home occupations as possible without negatively impacting the surrounding neighborhood. Home occupations are an important part of any local economy and a critical component of allowing the local economy to grow through the entrepreneurial activities of its residents. These regulations foster the establishment of new businesses by eliminating the need for some small businesses to rent commercial space, a factor which could make all the difference to a new business. Allowing

for work at home can save commuting and child care costs, and can give those who might be unable to work outside of the home, including single parents, the elderly and the disabled, an opportunity to earn a living. However, any benefits of home occupations must be balanced with neighbors' rights not to be disturbed by excessive noise, odors, traffic and other nuisances that are not characteristic of a residential area.

Existing home occupation regulations that are contained within Section 10-20-4 of City Code were adopted in 2018. This code change was a shift from a very restrictive approach towards regulating home occupations, to one that is based on performance-based standards. This approach keeps the burdens on home occupations as light as possible by focusing only on activities that may disrupt neighbors. Performance standards can prevent harm to neighbors by prohibiting excessive noise, odors, traffic and other nuisances that are unwelcome in residential neighborhoods. This approach also better protects neighbors and preserves the residential character of residentially zoned areas by creating very specific and easy to enforce regulations on potentially disruptive activities. Current regulations are divided into eight topical subsections which address the following:

- Regulations that establish a home occupation as an accessory use only
- A list of prohibited activities, equipment, and materials
- Regulations, which as much as possible, prohibit any visible exterior evidence of home occupation
- Regulations regarding vehicles, parking, and traffic
- Regulations regarding on-site customers, clients, or patrons
- Regulations regarding delivery or pick-up of items
- Regulations regarding employees
- Regulations regarding hours of operation

In June 2022, legislation restricting the manner in which cities in Iowa can regulate home occupations was approved. The intent of the legislation was similar to the City's 2018 change to home occupation regulations, to remove the regulatory burden from home occupations that are not impacting their neighbors. However, this state legislation went further than the City's code change, in removing regulations and restrictions on home occupancy. Full text of state code governing how cities can regulate home based businesses can be found at the following link: <https://www.legis.iowa.gov/docs/ico/chapter/414.33.pdf>

As a result, a number of provisions of the City's home occupation regulations are no longer compliant with state law, and are not enforceable. The following currently adopted provisions of the home occupation regulations contained within City Code have been identified by the City Attorney as noncompliant with state law.

- The requirement that not more than 500 square feet or 25 percent of the dwelling unit floor area, whichever is greater, be used to conduct the home occupation. 10-20-4(B)(1)(b)
- The prohibition of tattooing and body piercing as a home occupation. 10-20-4(B)(2)(j)
- The prohibition of kenneling or other forms of boarding animals for compensation as a home occupation. 10-20-4(B)(2)(k)
- The requirement that a home occupation be conducted entirely within the main dwelling. 10-20-4(B)(3)(a)

- The rule that not more than two vehicles, externally identifiable as being associated with the home occupation, are allowed to be parked in a manner that is visible from off the property at any one time. 10-20-4(B)(4)(b)
- The restriction on the number of customers that may visit a home occupation in a 24-hour period. Currently, the limit is 5 clients or customers in the dwelling unit or on the premises during any period of 60 consecutive minutes or more than 12 in any given 24-hour period. 10-20-4(B)(5)
- A Restriction on delivery or pick-up of items. Currently the shipment and delivery of products, merchandise or supplies shall be limited to between 7:00 a.m. and 7:00 p.m. and shall regularly occur only in single rear axle straight trucks or smaller vehicles normally used to serve residential neighborhoods. 10-20-4(B)(6)
- The prohibition of individuals, other than residents of the household, being employed in the home occupation at the home. 10-20-4(B)(7)
- The restriction on hours of operation of a home occupation to between the hours of 7:00 PM and 7:00 AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities. 10-20-4(B)(8)

To bring the City's home occupation regulations back into compliance with state law, an ordinance removing the regulatory provisions identified above will need to be adopted.

At the April 13, 2023 in-depth meeting, City Council was briefed on this matter. At this meeting, council asked for more information on the following.

Could a registration or licensing system for home-based businesses be set up?

State Code expressly prohibits this. Section 414.33(3) states "A city shall not prohibit a no-impact home-based business or otherwise require a person to apply, register, or obtain any permit, license, variance, or other type of prior approval from the city to operate a no-impact home-based business."

Can parking requirements be applied to home-based businesses?

Cities may adopt regulations that disallow the use of on-street parking for home-businesses. Currently, Section 10-20-4(B)(4)(a) of City Code states, "The home occupation shall not generate excessive vehicular traffic or parking in the area of the principal structure. Parking shall be restricted to existing on-street and on-site parking associated with the principal structures." City Council retains the option of being able to amend City Code to prohibit the use of on-street parking for home-based businesses.

Do restrictions on how cities may regulate home-based businesses impact building and fire code requirements that may be triggered by the presence of a home based-business?

Section 414.33(5) of State Code states, "A city shall not require as a condition of operating a home-based business that the property be rezoned for commercial use or that the business owner install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units."

ATTACHMENTS

1. Home Occupation Regulations (City Code Section 10-20-4)

Title 10 – Zoning

Chapter 20 – Garage, Accessory Building, & Accessory Use Regulations

10-20-4 Home Occupations

A. Intent

This Section allows for home-based business activity, not otherwise permitted by Title 10 in residential districts, that is clearly subordinate and compatible with residential land uses, and will not negatively impact the character of the residential area.

B. Operating Standards

1. Accessory Use Only

- a. Home occupations shall be clearly incidental and accessory to the use of the residence as a dwelling.
- b. Not more than 500 square feet or 25 percent of the dwelling unit floor area, whichever is greater, shall be used to conduct the home occupation.
- c. Interior alterations are allowed as long as the alterations do not result in elimination of either the kitchen, dining area, bathrooms, living room, or all of the bedrooms in the unit

2. Prohibited Activities, Equipment, and Materials

The following uses and activities are prohibited as part of any home occupation:

- a. Use of equipment or machinery that is not customarily incidental to domestic use (e.g., cement mixers, tractors, and paint booths).
- b. Equipment, machinery, or processes that create noise, smoke, glare, fumes, odor or vibration (e.g., assembly requiring power tools, carpentry) offensive to a reasonable person at the property line.
- c. Uses that involve activities or use of equipment or materials on more than an intermittent basis so as to change the fire safety or occupancy classification of the premises (e.g., welding).
- d. Activities create visual or audible electrical interference in any radio or television off the subject property or cause fluctuation in line voltage off the subject property.
- e. Use or storage of chemicals or processes that are not customarily associated with domestic use. This includes any chemicals and pharmaceuticals of a

type or in volumes not normally found in a domestic residence without a home occupation.

- f. The home occupation shall not exceed the limitations imposed by the provisions of all applicable building, fire, health, safety, and housing codes and shall conform with all applicable requirements for business and occupational licensing.
- g. The electrical service for the home occupation shall not exceed 200 amps
- h. Automobile repair or auto body shops. More than 2 vehicles per year which are not registered at the residence and are rebuilt, repaired, or reconstructed shall constitute an automobile repair or auto body shop.
- i. Escort services, meaning a person who, for a fee, commission, hire, reward or profit, accompanies other persons to or about social affairs, entertainments or places of amusement or consorts with others about any place of public resort or within any private quarters.
- j. Tattoo and body piercing
- k. Kennels or any other forms of boarding animals for compensation are prohibited.

3. Exterior Evidence of Use Prohibited

To ensure that dwellings in which a home occupation is occurring remain compatible with surrounding residential use, the following regulations shall apply:

- a. The home occupation shall be conducted entirely within the principal dwelling.
- b. Incidental storage in a garage or any activities associated with the home occupation shall not displace any required parking in currently usable garage
- c. The home shall not require any alteration not customarily associated with residential use.
- d. Home occupation activities shall not be visible from the public rights-of-way or neighboring properties.
- e. Outdoor storage is prohibited.
- f. No home occupation shall produce quantities or types of refuse not customarily associated with a residential use.
- g. Any signage shall be in compliance Chapter 21 of Title 10.
- h. There shall be no exterior lighting which would indicate that the dwelling is being utilized in whole or in part of any purpose other than residential.

4. Vehicles, Parking, and Traffic

- a. The home occupation shall not generate excessive vehicular traffic or parking in the area of the principal structure. Parking shall be restricted to existing on-street and on-site parking associated with the principal structures.
- b. Not more than two vehicles, externally identifiable as being associated with the home occupation, shall be parked at the location, in manner that is viable off the property, at any one time as the result of operating home occupations.

5. Customers

The owner of a home occupation shall not allow more than 5 clients or customers in the dwelling unit or on the premises during any period of 60 consecutive minutes nor more than 12 in any given 24-hour period.

6. Delivery or pick-up of items

Shipment and delivery of products, merchandise or supplies shall be limited to between 7:00 a.m. and 7:00 p.m. and shall regularly occur only in single rear axle straight trucks or smaller vehicles normally used to serve residential neighborhoods.

7. Employees

- a. No persons, other than residents of the household shall engage in the home occupation at the home.
- b. The home occupation may have other employees who are not working at the residence, but work at other offsite locations.
- c. Dispatch centers, where employees come to the site to be dispatched to other locations, are not allowed as home occupations.

8. Hours of Operation

No home occupation shall be conducted between the hours of 7:00 PM and 7:00 AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.