

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: JAMES HILL, PLANNER
THROUGH: BARBARA MCBETH, AICP, CITY PLANNER
SUBJECT: INTRODUCTION TO TA18.303 – HOME OCCUPATIONS
DATE: SEPTEMBER 20, 2023

Background

Staff has been working with the City Attorney since the spring of this year on a text amendment modifying the existing language governing home occupations in the City. This was after a number of complaints and a request from City Council to the Ordinance Review Committee to explore potential changes to the Zoning Ordinance. On June 13, the Ordinance Review Committee was introduced to the idea of drafting an amendment that would address the issue. The April 23 memo from the Community Development Department, in addition to the minutes from the June 13 ORC meeting, are attached to this memo.

At the June 13 meeting, committee members expressed concern over enforcement of newly adopted restrictions to home occupations. Staff responded to the concern, stating that an Ordinance officer would have to physically observe any infractions of new or existing home occupation ordinances. The meeting concluded with a commitment by staff and the City Attorney's office to come back to the ORC with a draft ordinance.

At the August 8 ORC meeting, the draft ordinance was brought before the committee members. The minutes from the August 8 meeting are attached to this memo. Once again, the question regarding enforcement was brought to attention by committee members, specifically how the City enforces its current ordinances. Staff responded that they enforce violations when they are noted in complaints and when staff notices them.

Staff provided an overview of the additions to the text amendment, including enforcing against the renting of cars from a home, enforcing against the hosting of a dance studio with 15 students coming and going every hour, and enforcing deliveries to homes for home occupations being restricted to vehicles from Amazon, UPS, etc.

The Ordinance Review Committee, after some discussion, made the motion to recommend the proposed amendments to the Planning Commission for comment and public hearing to eventually return to the ORC.

The Text Amendment will be introduced to the Planning Commission on September 27, where a public hearing will be set for a future meeting. Residents will be able to provide their comments on the text amendment and voice their concern at the public hearing.

DRAFT TEXT AMENDMENT 18.304: HOME OCCUPATIONS

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 18.303

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 14-271, THE CITY OF NOVI ZONING ORDINANCE, AS AMENDED, AT THE FOLLOWING LOCATIONS: ARTICLE 4 USE STANDARDS SECTION 4.4 "HOME OCCUPATIONS"

THE CITY OF NOVI ORDAINS:

Part I. That Article 4, Use Standards, of the City of Novi Zoning Ordinance is hereby amended in the following section:

Section 4.4 HOME OCCUPATIONS

In the RA, R-1, R-2, R-3, and R-4 districts, home occupations are permitted subject to the following regulations and any other applicable laws and regulations, including in this chapter:

1. The home occupation must be conducted by a full-time resident of the property and must be clearly incidental and subordinate to its use for residential purposes by its occupants
- ~~1.2.~~ There is no sign, advertising device, or other manifestation may be displayed on the inside of the dwelling so as to be visible through a window or glass area, or located on the exterior of the dwelling structure or within any yard area, which such sign, devise, or manifestation suggests or implies the existence of a home occupation
- ~~2.3.~~ The home occupation must be conducted wholly within the main building by the residents thereof. No outside storage of goods, products, supplies, equipment, or other materials associated with the home occupation is permitted.
- ~~3.4.~~ There is not involved. The home occupation shall not involve the keeping of a stock in trade and no article shall be sold or offered for sale from the home to customers or visitors to the home. Articles made in the home by the inhabitants thereof, may be delivered by the resident to markets off premises.
- ~~4.5.~~ The home occupations shall not be carried on to an extent so as to require parking in excess of that required for the residential structure in which it is located.
- ~~6.~~ The Any home occupation may not that creates objectionable noise, fumes, odor, dust, or electrical interference detectable to the normal senses off the premises, or create a hazard or a nuisance or more than normal residential traffic shall be prohibited.
7. Engaging in the sale, repair, storage, or rental of autos, trucks, recreational vehicles, boats or construction and landscape equipment or machinery is prohibited as a home occupation

8. Traffic generated by the home occupation shall not be more than would normally be expected in a residential neighborhood. The home occupation shall not serve more than four customers or clients at one time, and there shall be no more than two employees on the premises at any time, with a limitation of no more than ten customer or client trips per day.

5-9. Deliveries related to the home occupation shall be limited to package services (e.g., UPS, USPS, FedEx, Amazon, etc.). Deliveries may also be accomplished using the passenger vehicle of the resident(s) engaged in the home occupation.

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2023.

ROBERT J. GATT, MAYOR

CORTNEY HANSON, CITY CLERK

Ayes:

Nays:

Abstentions:

Absent:

DRAFT

LETTER FROM COMMUNITY DEVELOPMENT DEPARTMENT DATED APRIL 23, 2023

MEMORANDUM



TO: VICTOR CARDENAS, INTERIM CITY MANAGER
FROM: CHARLES BOULARD, COMMUNITY DEVELOP. DIRECTOR
SUBJECT: ZONING ORDINANCE HOME OCCUPATION PROVISIONS
DATE: APRIL 23, 2023

Background:

The City Council recently requested the Ordinance Review Committee (ORC) explore potential amendments to the Home Occupations language of the Zoning Ordinance. In support of The ORC effort the Code Compliance team has documented typical home occupation complaints throughout the City. While the recent issue was related to online vehicle rentals, past concerns and complaints have included the following:

- Group dance and martial arts lessons
- Landscape, plowing and lawn care businesses.
- Jet ski and boat repair
- Home meat sales including preparation of BBQ.
- Pet breeding
- Deck and construction contractors
- Excessive shipping deliveries, pickup and staging
- Hair salons

There is no question that inappropriate types or scales of home occupations can have a detrimental impact on the resents and desirability of neighborhoods, there is a rich history of home-based innovation and business start-ups in residential settings. Hewlett Packard, Mattel, Disney, Amazon, Microsoft, and Apple were all started in garages, Under Armour began in the founder's grandmother's basement, Tumbler and a host of software companies were started in apartments and on dining room tables. Dell expanded to a garage when it outgrew a dorm room.

There are also a number of other State and Federal provisions providing guidance to consider including but not limited to:

- Religious Land Use and Institutionalized Person Act (RLUIPA)
- MCL 125.3204 regarding instruction in craft or fine art as a home occupation
- MCL 125.1504b regarding bed and breakfast (owner occupied)
- MCL 125.3206 regarding residential use of property for adult foster care, childcare or residential treatment programs

Potential revisions:

The current Home Occupations section of the City of Novi Zoning Ordinance language reads as follows:

4.4 HOME OCCUPATIONS

In the RA, R-1, R-2, R-3 and R-4 districts, home occupations are permitted subject to the following regulations:

1. There is no sign, advertising device, or other manifestation displayed on the inside of the dwelling so as to be visible through a window or glass area or located on the exterior of the dwelling structure or within any yard area, which such sign, devise, or manifestation suggests or implies the existence of a home occupation.
2. The home occupation is conducted wholly within the main building by the residents thereof.
3. There is not involved the keeping of a stock in trade and no article shall be sold or offered for sale from the home. Articles made in the home by the inhabitants thereof may be delivered by the resident to markets off premises.
4. Home occupations shall not be carried on to an extent so as to require parking in excess of that required for the residential structure in which it is located.
5. Any home occupation that creates objectionable noise, fumes, odor, dust, electrical interference or more than normal residential traffic shall be prohibited.

Current and sample ordinances from local communities including Northville Township, Lyon Twp, Farmington Hills, Berkley, Canton Twp, Rochester Hills were compared along with Maricopa County, AZ, Ashland OR, Roanoke VA, Scott County MN, and the Vermont Land Use Collaborative.

Not surprisingly, many Ordinances share similar provisions, but there were also a number of potential opportunities for clarification and/or limitations identified and suggested for review:

- Maximum (4) customers or clients present at any time.
- Maximum (2) nonresident employees on premises at any time
- Maximum (10) customer or client trips per day
- Home occupation shall not be open to customers, clients, employees, or patrons before 8 am on weekdays, 9 am on weekends, nor after 8:30 pm on any day of the week.
- There shall be no outdoor storage of goods, products, equipment, or other materials associated with home occupation.
- Deliveries related to the home occupation shall be limited to package services (e.g., UPS, USPS, FED EX, Amazon) or utilization of the owners passenger vehicle.

- Requirement that the residence be occupied by the business owner.
- Prohibition of specific uses such as auto/boat/ recreational vehicle repair or maintenance, rental vehicles
- Bolster fume, noise, dust, glare, odor, fire hazard language

As with any Ordinance language, clear, easily communicated, interpreted, and verified expectations are of benefit for property owners as well as City staff and the Courts should formal enforcement be required. To this end the suggestions avoided language such as "that the average neighbor, under normal circumstances" or restrictions on percentage of interior floor area that would require interior entry for verification.

Please let me know if I can provide any additional information.

ORDINANCE REVIEW COMMITTEE MINUTES FROM JUNE 13

ORDINANCE REVIEW COMMITTEE
June 13, 2023 | 5:00 p.m.

Mayor Gatt called the meeting to order at 5:00 P.M.

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Member Crawford (Absent)

ALSO PRESENT: Thomas Schultz, City Attorney
Charles Boulard, Director of Community Development
Cortney Hanson, City Clerk

APPROVAL OF AGENDA:

Mayor Gatt removed item 3 regarding the City West Ordinance. This committee usually reviews existing ordinances, not new ones. He said there is a lot of concern from the public and he thought it would serve the public better if the full Council reviews the topic at a regular meeting.

ORCM 23-06-01 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve the agenda as amended.

AUDIENCE COMMENT:

Khurram Abbas said he lives in Asbury Park and was interested in what this committee would do to address concerns regarding the City West Ordinance because a lot of residents have concerns related to setbacks and heights.

MATTERS FOR DISCUSSION:

1. Approval of minutes from July 12, 2021:

ORCM 23-06-02 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve the Ordinance Review Committee meeting minutes from July 12, 2021.

2. Proposed amendments to the Zoning Ordinance related to home occupation.

Mr. Boulard said earlier this spring, Council requested that staff explore amendments to the zoning ordinance that regulate home occupations. We've had challenges with that during the spring. Staff looked at several ordinances from around the country and came up with several suggestions that are outlined in the memo. What they are looking for are measurable and easily enforced consistently that would improve interactions of home occupations and neighbors. Mayor Gatt asked how many complaints we get related to home occupations. Mr. Boulard said 2-4 a year. Mayor Gatt asked what those complaints centered around. Mr. Boulard said usually the intensity of the use. For example, there is a dance school run out of a home with 8-10 people dropped off for lessons and the parents wait for them. Another was renting vehicles through an app. He said staff identified a few options and went over them from the memo. Mayor Gatt asked how we would enforce this. Mr. Boulard said an ordinance officer would have to watch the house once if there was a complaint. There is no way to do it

without observing. Mayor Gatt said that's a difficult task and would make it a difficult ordinance to enforce if we pick some of them.

Mayor Pro Tem Staudt said his experience is different. He has 3 specific instances in a small area in his subdivision. One is a commercial sandwich maker that has deliveries by semi every week. It's in violation of ordinance and he was sure they were aware of it. Another is daily renting of vehicles. There is an app where you can rent a car from an individual. It's not a bad deal when its only 1 or 2 cars but what about 7 or 8. The complaints he heard was that there were so many vehicles, they were driving on neighbor's lawn, rentals being picked up at 1am, and using the schools as a pickup point. He said HOA has tried to do things about this in the past. He believes this is a bigger issue than we really know. He thought the neighbors didn't want to turn on each other and report people to the City. An issue he saw becoming a bigger issue is the regulation of temporary rentals of homes, like Airbnb's. Airbnb's are becoming a bigger issue. He's had 3-4 complaints about people who live next to rentals and people throwing parties. He wasn't sure the best way to deal with it. He didn't want staff to be sitting there watching this to track it. Local neighborhoods aren't meant to be rental car lots. We need to be prepared to deal with this as its going to be an ongoing issue.

Mayor Gatt asked if they were being asked to send something to council or just discuss the topic. Mr. Boulard said he wanted to present opportunities, if they thought some of these were worth pursuing, they would work with attorney to draft an amendment for them to see. Mayor Pro Tem Staudt asked if this was an issue in other communities; are they putting new ordinances in place? City Attorney Schultz said zoning ordinances in other communities have home occupation ordinances, but they are vastly different. He said the language probably hasn't been looked at in a while, but what was presented are good options. We might have to handle home occupation and the Airbnb topic separately. We are waiting for the state to pre-empt us from doing anything. It's kind of stalled. We've talked internally about what we might do. He said we'd come back with a draft ordinance for home occupation.

3. Discussion of a new zoning district: CW City West.

This item was removed from the agenda.

The meeting was adjourned at 5:22 p.m.

Recorded by: Cortney Hanson
City Clerk

ORDINANCE REVIEW COMMITTEE MINUTES FROM AUGUST 8

ORDINANCE REVIEW COMMITTEE
August 8, 2023 | 5:00 p.m.

Mayor Gatt called the meeting to order at 5:00 P.M.

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Member Crawford

ALSO PRESENT: Victor Cardenas, City Manager
Thomas Schultz, City Attorney
Charles Boulard, Director of Community Development
Cortney Hanson, City Clerk

APPROVAL OF AGENDA:

ORCM 23-06-01 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY:

To approve the agenda as presented.

AUDIENCE COMMENT: None

MATTERS FOR DISCUSSION:

1. Approval of minutes from June 13, 2023:

ORCM 23-06-03 Moved by Crawford, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve the Ordinance Review Committee meeting minutes from June 13, 2023

2. Proposed amendments to the Zoning Ordinance related to home occupation.

Director Boulard said staff was asked to look at the home occupation provisions of the ordinance. They looked at examples from other communities and considered which would allow us to limit the types of uses that get out of hand like rental cars and dance studios being run in homes. If there is a recommendation from this committee, the ordinance amendment would go to the Planning Commission.

Mayor Pro Tem Staudt said he received calls from residents about this asking if we don't enforce the ordinances we already have, why are we creating new ones. He provided a few examples of things that violate certain ordinances and questioned why the ordinance wasn't being enforced. He said the biggest question was do we enforce the existing ordinances. Director Boulard said they respond when there are complaints and when violations are reported or noticed by staff. Mayor Pro Tem Staudt pointed out that there is currently an ordinance on home occupations and these recommendations are simply adding to it. City Attorney Schultz said yes, things were added to address specific complaints and to clarify the existing ordinance. Mayor Pro Tem Staudt asked whether the covenants of an HOA or the City's Code of Ordinances take precedence. City Attorney Schultz said it's a matter of who can enforce it. The City can enforce it's own Code of Ordinances and the HOA can enforce it's own covenants.

City Attorney Schultz said a few things were added, some of which we specifically requested. Mayor Pro Tem Staudt said he heard complaints about item 2 and pointed out that it was already existing in the ordinance. Director Boulard said we do enforce that currently.

City Attorney Schultz said item 7 is new. This was to enforce against the renting of cars or repairing cars out of a home. He added that all communities enforce these types of ordinances on a complaint basis. Director Boulard explained that usually by the time a person is in violation of an ordinance, it's apparent and that causes complaints. He gave an example of a person who rented their property to people to store their boat on and have 8-10 boats on his property. It would not impact a homeowner storing their own boat.

City Attorney Schultz said item 8 is new as well and it's related to traffic coming and going from a home business. Director Boulard explained this would help us enforce against a home occupation, such as a dance studio, in a home that has 15 kids coming and going every hour.

City Attorney Schultz said item 9 is related to deliveries and explained the idea is to allow the size that people expect, such as Amazon, UPS, etc. It is specific to the home occupation aspect and not routine deliveries.

City Attorney Schultz spoke about items 3 and 4. Item 3 already stated the home occupation has to be in the main building and the proposed amendment is to have no outside storage of goods. Item 4 states that people can't come to your home to pick up something you made there; this was already existing. The new language simply clarifies it. Mayor Pro Tem Staudt said this was an item that needs to be discussed. City Attorney Schultz pointed out that this already existed in the ordinance. Mayor Gatt said unless it's something egregious, they wouldn't likely be complaints. Mayor Pro Tem Staudt said this started because of someone renting cars from their home and it became a nuisance. He suggested sending it to the Planning Commission for their remarks. There would be a public hearing, and everyone interested would have a chance to speak about this publicly.

ORCM 23-06-04 Moved by Crawford, seconded by Staudt; CARRIED UNANIMOUSLY:

To recommend the proposed amendments to the Zoning Ordinance related to home occupations to the Planning Commission for their recommendation and have this topic return to ORC.

The meeting was adjourned at 6:07 p.m.

Recorded by: Cortney Hanson
City Clerk