

ORDINANCE NO. 4896

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE, TITLE 20, KNOWN AS THE "CITY OF ALBANY DEVELOPMENT CODE" SPECIFICALLY AMENDING ARTICLE 16; HOME OCCUPATIONS (EXHIBIT A).

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: That the Albany Municipal Code, Title 20, known as the "City of Albany Development Code," Article 16, Home Occupations be amended as shown on Exhibit A.

Section 2: That the above enumerated Exhibit and the document known as the "Albany Development Code" be forwarded to the Land Conservation and Development Commission.

Passed by the Council: February 14, 1990

Approved by the Mayor: February 15, 1990

Effective Date : March 15, 1990



Mayor

ATTEST:



City Recorder

ARTICLE 16

HOME OCCUPATIONS

- ~~16.010 Home Occupation Purpose. The Home Occupation provision is in recognition of the needs of many people who are engaged in small scale business ventures which could not be sustained if it were necessary to lease commercial quarters, or which, in the nature of the home occupation, cannot be expanded to a full scale enterprise. (see definition - home occupation)~~
- 16.010 **Purpose.** The home occupation provision is in recognition of the needs of many persons who are engaged in small scale business ventures or personal hobbies, whether conducted for profit or not, which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full scale enterprise.
- 16.015 **Definition.** An occupation carried on within a dwelling provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
- 16.020 **Standards.** A home occupation shall be allowed as a permitted accessory use to a residence provided that the following conditions are met:
- (1) The use must be carried on only by members of the family residing on the premises and not more than one outside employee or volunteer who shall be limited to no more than 20 hours participation per week.
 - (2) There must be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation.
 - (3) One sign shall be allowed which shall have dimensions of not larger than 12 inches by 18 inches and which must be placed in a window or attached to the building.
 - (4) There shall be no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a dwelling.
 - (5) There shall be no visible outside storage of materials other than plant materials.
 - (6) The use shall not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
 - (7) There shall not be excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.
 - (8) The rental of separate living quarters within a single family residence shall be limited to not more than one bedroom which shall not contain separate cooking facilities and which shall have a maximum occupancy of two persons.
 - (9) The use is not prohibited or otherwise regulated by the Albany Municipal Code, AMC Article 7.84.140 pertaining to Garage Sales and AMC 7.84.150 pertaining to Prohibited Uses.
- ~~16.030 Complaints. Complaints on non-conformance with the above conditions shall be dealt with as follows: The Hearings Board shall review home occupations upon receipt of two written complaints from two unrelated individuals who reside on or own property within 300 feet of the subject property excluding street areas. The complaints shall clearly state the nature of the objection to the home occupation.~~

~~All such complaints shall be investigated by the Building Official and results of the investigation shall be reported to the Hearings Board at a regular meeting. The complainants and owner of the home occupation shall be notified of the meeting. Standards for judging objections shall include, but are not limited to, the following:~~

- ~~(1) Generation of excessive traffic.~~
- ~~(2) Monopoly of on-street parking spaces.~~
- ~~(3) Frequent deliveries and pickups by trucks.~~
- ~~(4) Other offensive activities not in harmony with a residential neighborhood as may be determined by the Hearings Board.~~
- ~~(5) The Hearings Board, upon hearing the evidence, may:
 - ~~(a) Approve the use as it exists.~~
 - ~~(b) Require the use to be terminated.~~
 - ~~(c) Impose appropriate restrictions on the operation of the home occupation.~~~~

~~The determination of the Board becomes final 15 days after the date of the decision, unless appealed.~~

16.030 Action Regarding Complaints and Violation of Standards. Home Occupations are subject to review by the Building Official or Albany Hearings Board.

- (1) Complaints. Complaints may be originated by the City of Albany or the public. Complaints from the public shall clearly state the objection to the Home Occupation such as:
 - (a) Generation of excessive traffic.
 - (b) Monopoly of on-street parking spaces.
 - (c) Other offensive activities not compatible with a residential neighborhood.
- (2) Review of Complaints. Complaints shall be reviewed through one of two alternative procedures. The Community Development Director of the City of Albany shall make an initial determination concerning whether the complaint involves the violation of either subjective or objective standards. If it is determined that standards in question are objective, the complaint shall be reviewed by the Building Official and/or Fire Marshall. Following the investigation, the Building Official shall either approve the use as it exists, order it to be terminated, or compel compatibility with the neighborhood.

If it is determined that the standard, alleged to be violated, is subjective in nature, the Community Development Director shall refer the complaint to the Hearings Board for review. Should the person against whom the complaint is made requests a hearing, the issue shall be deemed subjective and the matter shall be referred to the Hearings Board for review.
- (3) Cessation of Home Occupation Pending Review. If it is determined by the Community Development Director, Fire Marshall, and/or Building Official in the exercise of reasonable discretion, that the Home Occupation in question will affect public health and safety, the use may be ordered to cease pending Hearings Board review and/or exhaustion of all appeals. Violation of such an order shall be an infraction subject to the penalties set forth in Section 16.050 below.
- (4) Notice of Hearing. Written notice of the hearing, including its date, time, and place shall be given to the property owner and the person undertaking the use, if other than the property owner, as well as property owners within 300 feet of the use, and the complainant(s), if any.
- (5) Hearings Board Review. The Hearings Board shall either approve the use as it exists, order it to be terminated, or compel suitable restrictions and conditions to ensure compatibility with the neighborhood.

16.040 **Notice of Decision and Appeal.** Written notice of the Building Official's or Hearings Board's decision and associated findings shall be sent to the person undertaking the activity, the property owner(s) if different than the above, and persons participating in the above proceedings.

The determination of the Building Official or Hearings Board shall become final within seven days following receipt of the decision, unless appealed as per ADC Section 4.140.

16.050 **Penalties:** Non-compliance with the orders of the Community Development Director, Building Official, or Hearings Board, as referred to above, are an infraction punishable as per AMC Section 1.04.01, which provides for a maximum civil penalty of \$500 per offense. In addition, each violation of this Article shall bear a minimum civil penalty of \$50 per violation. The procedure for adjudication for infractions shall be as set forth at AMC Section 1.05.

16.060 **Prohibited Uses.** The following uses are prohibited as home occupations and are regulated by AMC Section 7.84.150:

- (1) Auto body repair and painting.
- (2) Ongoing mechanical repair conducted outside of an entirely enclosed building.
- (3) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgement of the Fire Marshall pose a dangerous risk to the residence, its occupants, and/or surrounding properties.
- (4) Junk and salvage operations.
- (5) Storage and/or sale of fireworks in quantities judged by the Fire Marshall to be dangerous.

LEGISLATIVE FINDINGS

TO SUPPORT

AMENDMENTS TO ARTICLE 16 OF THE DEVELOPMENT CODE RELATIVE TO HOME OCCUPATIONS

THE ALBANY CITY COUNCIL FINDS THE FOLLOWING:

1. There is a need to allow citizens to be engaged in small-scale business ventures or personal hobbies in their homes, provided such activities do not infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes.
2. The City has experienced difficulty in administering the existing home occupation provisions in the Development Code. The existing complaint procedure unduly restricts the "public" who may file complaints and does not allow for complaints to be initiated by the City.
3. Enforcement of the existing home occupation procedures is difficult and time-consuming.
4. In determining the recommended amendments to address these problems, the following entities had input into their development: City Planning and Building Department; City Fire Marshall's Office; City Council Administrative and Community Development Committee (ACDC); City Planning Commission; and the Albany-Millersburg Economic Development Commission (AMEDC).
5. The Albany Planning Commission held a public hearing on these proposed amendments on Monday, January 15, 1990. No members of the public were present at the hearing. The Planning Commission has recommended the proposed amendments for adoption.
6. The proposed amendments relate to Policy No. 6 in Goal 5 of the Albany Comprehensive Plan, which calls for "the preservation and enhancement of desirable and distinctive neighborhood features."
7. Amendments to the Development Code represent legislative land use decisions because they make laws which apply to the entire city.