

ORDINANCE NO. 2017-001

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF GARDENDALE, ORDINANCE NO. 2013-02 IN REGARDS TO HOME OCCUPATIONS

WHEREAS, it has been recommended by the Gardendale Planning and Zoning Commission that certain amendments be made to the City of Gardendale Codification section 111 also known as Zoning Ordinance of the City of Gardendale (Ordinance No. 2013-02); and,

BE IT ORDAINED by the City Council of the City of Gardendale, Alabama while in regular session on the 3rd day of January 2017 at 7pm as follows:

SECTION 1: Section 111-248 – Home Occupations of the City of Gardendale Codification is hereby amended to read as follows:

“Sec. 111-248. - Home Occupations.

“Where permitted, Home Occupations shall comply with the following:

(1) *General standards.*

- a. Home Occupations shall be clearly incidental to the residential use of the dwelling and shall not change the essential character of the dwelling nor adversely affect the uses permitted in the district. No Home Occupations shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, electrical interference, increased pedestrian and vehicular traffic or any other conditions which would constitute an objectionable use.
- b. Home Occupations shall be confined to 25 percent of the principal dwelling, and the business shall not be conducted in any accessory building, except for an approved home office within an accessory dwelling unit. In addition, no additional buildings or structures may be constructed in connection with the Home Occupation.
- c. For an approved accessory dwelling unit or a dwelling unit within a multifamily development, consideration may be given for approval of a home office only subject to subsection (3) of this section.
- d. In no case shall any unoccupied dwelling be used for a Home Occupation.
- e. No outside storage shall be used in connection with a Home Occupation.
- f. Employment shall be limited to members of the family residing in the dwelling, and there shall be no employment or help other than those members of the residential family.
- g. No display of products shall be visible from the street, and only articles which are included as part of the Conditional Use approval may be sold from the premises.
- h. The business shall not create any noise which is audible from off the premises and shall not emit any smoke, vibration, fume or dust which affects nearby properties.

- i. Instruction of music, art, dancing and similar activities shall be limited to two students at a time, and any noise created by the activity shall not be detectable beyond the property line.
 - j. No more than two motor vehicles related to a Home Occupation may be parked on the premises of any dwelling or accessory structure. Such vehicles may be trucks not exceeding three-quarters ton in load capacity, vans or automobiles, provided that such vehicles must be parked on a portion of the premises that was paved or otherwise designed as a parking area or driveway prior to the commencement of the Home Occupation.
 - k. Unless otherwise stipulated by the Commission, the activity carried on as a Home Occupation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
 - l. Minimal deliveries of office supplies by services, such as UPS and Federal Express shall be permitted only.
 - m. The Building Official and/or a representative of the Fire Department of the City shall be permitted to make an inspection upon receipt of the initial application; and, in addition, make annual inspections at license renewal time or at any time, upon reasonable request, to enter and inspect the premises covered for safety and compliance purposes.
 - n. The Building Official and/or representative of the Fire Department shall file with the Commission a written inspection report advising the Commission that the licensee is in compliance with this section or, if not in compliance, to set out any area of noncompliance.
 - o. Should a Home Occupation licensee die or move to a new location, the existing license shall automatically terminate, except that, in the case of death, should a surviving spouse or adult then residing at the same residence desire to continue the Home Occupation, the license would remain in effect, if otherwise in compliance.
 - p. Signs shall be subject to Section 111-315.
- (2) *Prohibited occupations.* Business activities that shall not be permitted as Home Occupations include, but are not limited to:
- a. On-site storage or presence of explosives, hazardous materials, or any substance or activity that is determined to constitute a threat to the public health or safety.
 - b. On-site servicing, repair or painting of motor or other vehicles, or any motorized equipment, excluding small household appliances and personal computers.
 - c. A boardinghouse or inn, or the like.
 - d. A welding or machine shop, or the like.
 - e. Rental, use, dispatch, sale or lease of a hearse, ambulance, wrecker or tow truck, taxi or limousine when such vehicle is brought to the site.
 - f. A nursing care facility, group day care home, day care home, group care home or the like. Note: Day care homes, group day care homes, and group care homes are regulated separately from Home Occupations but may otherwise be permitted subject to the applicable provisions in this chapter.
 - g. Hair salon.

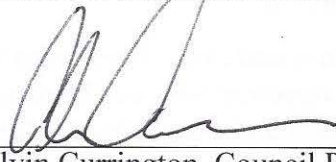
h. Medical services.

- (3) *Administrative approval of home office.* Recognizing that technology offers new opportunities to work in the home environment and that many Home Occupations, by their nature, are limited to computer and telephone usage and are not considered to be detrimental to the residential neighborhood or its citizens, the Building Official or his representative is authorized to establish an administrative review process whereby requests for home offices may be approved as a Conditional Use. Otherwise all applications for Home Occupations must be approved by the commission for Conditional Use approval.
- (4) *Application and inspections.* Application for Home Occupations shall be made in writing to the Inspection Services Department on forms supplied by that office. Inspection of the premises shall be made by the Building Official and/or Fire Department designee as part of the approval process.
- (5) *Revocation of approval.* If the recipient of any Home Occupation approval does not abide by the conditions of the approval, the Building Official has the authority to issue a cease and desist order and to take appropriate action to have the business license immediately rescinded.
- (6) *Home occupations appeals.* The ZBA may hear an appeal by any applicant denied an application for a Home Occupation under the following conditions:
 - a. A written application for appeal is submitted to the ZBA indicating the section of this chapter under which the use is required.
 - b. All contiguous property owners shall be individually notified by written letter of the time and place of the ZBA's meeting and the applicant's intentions at least seven days prior to such meeting. The applicant shall furnish to the ZBA a list containing the names and current addresses of the contiguous property owners.
 - c. The applicant shall appear in person or by agent or attorney at the meeting.
 - d. The approval of the application will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
 - e. The occupation is in harmony with the purpose and the intent of this article and will not be injurious to the neighborhood or to the general welfare.
 - f. The approval of the application is the only administrative action necessary in order to make the requested occupation meet the intent and spirit of this article at the specified location.
 - g. The application is not for a use that is specifically disallowed in the specified district.
 - h. The ruling on a Home Occupation appeal shall be determined using the definitions and requirements for an approved Home Occupation as a guide."

SECTION 2. Repealer. All ordinances or parts of ordinances that conflict with the provisions of this Ordinance are hereby expressly repealed.

SECTION 3. Savings Clause; Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-exemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION 4. Effective Date. This ordinance is adopted on this 3rd day of January 2017, and shall become effective immediately upon its publication or otherwise becoming law.


Alvin Currington, Council President

Approved on this 3rd day of January, 2017.


Stan Hogeland, Mayor

CERTIFICATION

I, Melissa Honeycutt, City Clerk of the City of Gardendale, Alabama, do hereby certify that the foregoing is a true and correct copy of an Ordinance that was duly and legally adopted on the 3rd day of January 2017 by the City Council of the City of Gardendale, Alabama while in a regular session and was published in its entirety in the *North Jefferson News* on 01-25 2017.


Melissa Honeycutt