

CITY OF PORTAGE PLANNING COMMISSION

F I N A L A G E N D A

**January 20, 2011
(7:00 p.m.)**

Portage City Hall Council Chambers

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

January 6, 2011

SITE/FINAL PLANS:

PUBLIC HEARINGS:

- * 1. Preliminary Report - Ordinance Amendment #10-B, Revised Home Occupation Ordinance

PLATS/RESIDENTIAL CONDOS:

OLD BUSINESS:

NEW BUSINESS:

- 1. Planning Commission Training: "Community Planning and the Commissioner"

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

Star (*) indicates printed material within the agenda packet.

From: Jim Pearson <jimpearson4@gmail.com>
To: Bill Patterson <bill69mi@yahoo.com>, Chris Forth <forthc@portagemi.gov>, ...
Date: 1/16/2011 3:19 PM
Subject: Home Occupation Ordinance discussion points

Chris/Mike-

I will not be able to attend the January 20th Planning Commission Meeting, but would like to provide three comments for Planning Commissioner discussion regarding Ordinance Amendment #10-B, Revised Home Occupation:

First, the changes Attorney Brown made regarding the number of full-time non-occupant employees from one to two under certain Planning Commission approved conditions were consistent with my motion. Please provide new Planning Commissioner Allan Reiff a copy of my Dec 2, 2010 memo for background.

Second, the wording in Section 42-129 (line B-7, changed to B-9 in the update) first sentence "There shall be no sign of any nature identifying the home occupation" is inconsistent with the third sentence "Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit." See more on this in my next point.

Third, Commissioners may want to discuss allowed signage for both passive and active home occupations. The current draft states for passive home occupations that "There shall be no sign of any nature identifying the home occupation." I ask staff to provide a reason why a one square foot informational only sign attached directly to the home is unacceptable. Regarding active home occupations, signs attached directly to dwellings are allowed in various Home Occupation Ordinances around the country. As outlined in my second comment above, the Commission needs to finalize whether or not our recommendation is to allow for modest identification signage or not for active home occupations. My recommendation is that we retain the language ..."(maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit." The reason is that an active home occupation is likely to be the main source of income for the occupants. Our City should foster the image that active home occupations meeting all ordinance requirements are welcome in our community, not shrouded in secrecy.

Thank you,

Jim Pearson

DRAFT

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, are hereby amended as follows:

Section 42-112. Definitions.

Home occupation: A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and accessory use involving the sale or exchange of services. Home occupations engaged in the sale or exchange of products or goods is not permitted except if incidental to the services of the home occupation. ~~The sale of products and goods is permitted only if incidental to the services of the home occupation or involve the sale of fruits, vegetables or flowers grown on site pursuant to the Michigan Right to Farm Act, Act 93 of 1981, as amended.~~ Home occupations may include, but are not limited to: administrative offices, photographic studios, personal service establishments, and instruction in outdoor recreational activities. Instruction in a craft or fine art within the dwelling unit pursuant to MCLA 125.3204 is permitted as a home occupation. For purposes of this section, family day care homes shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

- (1) Passive home occupations: Home occupations of low intensity which satisfy the specific conditions and requirements for passive home occupations provided in Section 42-129.A. A home occupation which does not meet all requirements of Section 42-129(A) shall cause the home occupation to require Planning Commission approval as an active home occupation pursuant to Section 42-129(B).
- (2) Active home occupations: Active home occupations are more intensive than passive home occupations and do not meet one or more of the requirements in Section 42-129.A. Specific conditions and requirements for active home occupations are provided in Section 42-129.B.

Section 42-129. Home occupations.

- A. A passive home occupation on a zoning lot where there is a one family residential dwelling unit may be conducted by the occupant that meets the following requirements standards is allowed as an accessory use with no permit being required.
 1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.
 2. The occupation, or any part thereof, is shall be conducted wholly within the dwelling unit and shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area.
 3. No person outside the family is employed in the home occupation.

4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.
5. The home occupation does not require interior or exterior alterations of the dwelling unit or the use of mechanical or electronic equipment not customarily used in a dwelling unit.
6. There shall be no sign of any nature identifying ~~No sign identifies~~ the home occupation. The use of window displays are not permitted.
7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.
8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.
9. Off-street parking shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, and ~~there shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.~~
10. ~~The use or storage of goods, any materials or equipment which is incidental to the services of the home occupation is permitted only within the enclosed sections of the one-family dwelling unit. The storage of goods, materials or equipment in any attached or detached accessory building or structure is not permitted. The home occupation or any part thereof shall not be conducted in any attached or detached accessory building or structure.~~
11. No goods or products shall be directly sold or delivered to customers on the premises of the one family dwelling except goods and products which are incidental to the services of the home occupation.
12. No condition or requirement stated for passive home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural And Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.

B. An active home occupation on a zoning lot where there is a one-family residential dwelling unit may be conducted by the occupant if approved by the Planning Commission after a public hearing in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, MCLA 125.3101, et. seq., and finding that the application of the occupant meets the following requirements standards:

1. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation on the zoning lot. The Planning Commission may allow two full-time non-occupant employees upon request. In making its determination, the Planning Commission shall make a finding that the increase to two full-time non-occupant employees does not adversely impact adjacent residential uses, shall consider the standards contained in Section 42-129(B)(11) and may impose conditions under Section 42-129(B)(12). The home occupation is personal to the full-time occupant engaged in the conduct of the active home occupation and is not transferrable without Planning Commission approval.
2. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than

400 square feet of the dwelling unit is occupied by the active home occupation. The planning commission may allow an increase in the floor area of the existing dwelling unit to be used for the home occupation not to exceed a maximum of 50 percent of the floor area of any one floor or basement of the dwelling unit. The planning commission shall make a finding that the increase of floor area used for the home occupation does not adversely impact adjacent residential uses and the increase in floor area used for the home occupation complies with the requirements standards contained in Section 29-44242-129(B)(11)(9)(a) through (f) below.

3. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance. ~~Off-street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions.~~
4. Off street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions. There shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.
5. No goods or products shall be directly sold or delivered to customers on the premises of the one family dwelling except goods and products which are incidental to the services of the home occupation.
46. Storage of goods, materials or equipment which is incidental to the services of the home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
57. The active home occupation, or any part thereof, shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area, except outdoor areas may be used for instruction in recreational activities customarily associated with residential uses including, but not limited to, swimming lessons and tennis lessons. ~~This section shall not prohibit the growing of fruits, vegetables or flowers nor any other farm product protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, in any outside area, provided that the farm product is grown, raised or produced on the zoning lot occupied by the active home occupation.~~
68. Materials, equipment or goods which are incidental to the active home occupation shall not be visible from adjacent properties. ~~nor shall they be directly sold or delivered to customers on the premises of the one family dwelling, except for the sale of fruits, vegetables and flowers as permitted in Section 42-129(B)(5).~~
79. There shall be no sign of any nature identifying the home occupation except a non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. The use of window displays are not permitted. ~~No freestanding signage is permitted. Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. Window displays are not permitted.~~
810. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.
911. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation application submitted by the occupant is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards.

In its determination, the Planning Commission shall consider whether the use and expected conduct of the use specified in the application by the occupant:

- a. Promotes the intent and purpose of this section;
- b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
 - i. The proximity of the surrounding uses to the active home occupation;
 - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;
 - iii. The seasonal nature of the active home occupation;
 - iv. The size and weight of vehicles to be used in the active home occupation; and
 - v. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;
- c. Does not unduly affect the capacities of public services or facilities;
- d. Is consistent with the public health, safety and welfare;
- e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
- f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.

120. The Planning Commission may attach conditions to the application by the occupant to conduct an active home occupation deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land including the number of customers allowed on the zoning lot at any one time, hours of operation, and similar factors, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act.

13. No condition or requirement stated for active home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural And Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to form
Date: _____

City Attorney

DRAFT

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

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 3. No person outside the family is employed in the home occupation.
 4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.

5. The home occupation does not require interior or exterior alterations of the dwelling unit or the use of mechanical or electronic equipment not customarily used in a dwelling unit.
6. There shall be no sign of any nature identifying the home occupation. The use of window displays are not permitted.
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planning commission shall make a finding that the increase of floor area used for the home occupation does not adversely impact adjacent residential uses and the increase in floor area used for the home occupation complies with the requirements contained in Section 42-129(B)(11) (a) through (f) below.

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 - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;
 - iii. The seasonal nature of the active home occupation;
 - iv. The size and weight of vehicles to be used in the active home occupation; and
 - v. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;
 - c. Does not unduly affect the capacities of public services or facilities;

- d. Is consistent with the public health, safety and welfare;
 - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
 - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.
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FIRST READING:
 SECOND READING:
 EFFECTIVE DATE:

CERTIFICATION

STATE OF MICHIGAN)
)SS
 COUNTY OF KALAMAZOO)

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

PREPARED BY:
 Randall L. Brown (P34116)
 Portage City Attorney
 1662 East Centre Avenue
 Portage, MI 49002
 (269) 323-8812

Approved as to form
 Date: _____

 City Attorney