

ORDINANCE NO. 022 -2022

AN ORDINANCE AMENDING SECTION 1-11 OF THE ZONING ORDINANCE TO INCLUDE BARBER SHOPS AND BEAUTY PARLORS AS PERMITTED USES AS A HOME BASED BUSINESS. (URBAN COUNTY COUNCIL).

WHEREAS, the Lexington-Fayette Urban County Council has initiated a text amendment to Article 1-11 of the Zoning Ordinance to allow barber shops and beauty parlors to be included in the definition of a home based business; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 1-11 of the Zoning Ordinance to allow barber shops and beauty parlors to be included in the definition of a home based business. The Planning Commission did recommend APPROVAL of the text by a vote of 7-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1-11 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to include barber shops and beauty parlors in the definition of Home-based business as follows:

Sec. 1-11. - Definitions.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- a) Customers or clients coming to the residence; and/or
- b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Section 2 – That this Ordinance shall become effective upon the date of its

passage.

PASSED URBAN COUNTY COUNCIL: March 17, 2022

Linda Gorton

MAYOR

ATTEST:

Allan

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: March 24, 2022 -1t

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Recd by _____

Date: _____


RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-ZOTA-21-00006: AMENDMENT TO ARTICLE 1: BARBER SHOPS AND BEAUTY SALONS** – petition for a Zoning Ordinance text amendment to Article 1-11 of the Zoning Ordinance to allow barber shops and beauty parlors to operate as a Home Based Business.

Having considered the above matter on **January 13, 2022**, at a Public Hearing and having voted **7-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** for this matter for the following reason:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, as it was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
2. The proposed changes can stimulate startup businesses allowing for economic growth and upward mobility of Fayette County residents.

ATTEST: This 18th day of February, 2022.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Hal Baillie, Planner Senior, Division of Planning, Planning Services Section.**

OBJECTORS

- None
- None

VOTES WERE AS FOLLOWS:

AYES: (7) Davis, Forester, Meyer, Michler, Nicol, Pohl, Worth

NAYS: (0)

RESOLUTION NO. 646-2021

A RESOLUTION INITIATING FOR PLANNING COMMISSION REVIEW AND RECOMMENDATION A ZONING ORDINANCE TEXT AMENDMENT TO ALLOW BARBER SHOPS AND BEAUTY PARLORS IN THE DEFINITION OF A HOME BASED BUSINESS.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the amending of the zoning ordinance definition of Home-based business to allow for barber shops and beauty parlors as follows:

Sec. 1-11. - Definitions.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- a) Customers or clients coming to the residence; and/or
- b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Is hereby initiated for Planning Commission review and recommendation.

Section 2 – That this Resolution shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 18, 2021

Linda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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Sec. 1-11. - Definitions.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- a) Customers or clients coming to the residence; and/or
- b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

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MAYOR LINDA GORTON



LEXINGTON

JIM DUNCAN
DIRECTOR
PLANNING

**STAFF REPORT ON PETITION FOR
ZONING ORDINANCE TEXT AMENDMENT**

**PLN-ZOTA-21-00006: AMENDMENT TO ARTICLE 1-11:
ALLOW BARBER SHOPS AND BEAUTY PARLORS AS HOME BASED BUSINESSES**

INITIATED BY: Urban County Council

PROPOSED TEXT:

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- a) Customers or clients coming to the residence; and/or
- b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include ~~barber shops; beauty parlors;~~ offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

STAFF REVIEW:

On November 18, 2021 the Urban County Council passed a resolution initiating a text amendment to the Zoning Ordinance for Planning Commission review and recommendation regarding the use of barber shops and beauty parlors within the home-based business definition (Resolution 646-2021). Within the resolution the Council provided language that would remove the restriction of barber shops and beauty parlors from home based businesses. The following report reviews the historical development of the restriction and agreement with the 2018 Comprehensive Plan.

The exclusion of barber shops and beauty parlors within residential zones was heavily discussed during the initial establishment of zoning in communities throughout the United States. Much of the concern regarding the creation of such businesses in residential areas was focused on the need to separate commercial and residential activity, the impact of potentially unsanitary conditions, a lack of government oversight, and the potential nuisance impacts caused by customer turn-over. The regulation of land use in Lexington matched many other communities throughout the United States and initially only provided allowances for the establishment of barber shops and beauty salons in commercial zones.

Since the initial establishment in the restrictions of barber shops and beauty salons within residential zones, there has been a significant increase in the oversight and licensure of such occupations. The



Theme C, Policy #2: Encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County.

Theme C, Policy #6: Increase flexibility on types of home occupations allowed.

The Staff Recommends: **Approval** of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, as it was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
2. The proposed changes can stimulate startup businesses allowing for economic growth and upward mobility of Fayette County residents.



A. ZONING ORDINANCE TEXT AMENDMENTS (ZOTAS)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

- a. PLN-ZOTA-21-00006: AMENDMENT TO ARTICLE 1: BARBER SHOPS AND BEAUTY SALONS – petition for a Zoning Ordinance text amendment to Article 1-11 of the Zoning Ordinance to allow barber shops and beauty parlors to operate as a Home-Based Business.

INITIATED BY: Urban County Council

PROPOSED TEXT:

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- a) Customers or clients coming to the residence; and/or
- b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

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The Staff Recommended: **Approval** of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, as it was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
2. The proposed changes can stimulate startup businesses allowing for economic growth and upward mobility of Fayette County residents.

Staff Presentation: Mr. Baillie presented and summarized the staff report and recommendations for this text amendment, noting that the Urban County Council initiated this Zoning Ordinance text amendment in order to allow barber shops and beauty parlors to operate as a Home-Based Business.

Mr. Baillie explained that, in the 1950s, Lexington made the choice to prohibit barber shops and beauty parlors as Home-Based Businesses. The staff considered some of the health, safety, and welfare concerns that were raised at the time of that decision, and determined that they were based mainly on questions of government oversight to maintain cleanliness and licensing. Since that time, the State has regulated barber shops and beauty parlors extensively, including training programs and licensing requirements that focus on maintaining the health and safety of customers.

Mr. Baillie said, with regard to the proposed text, that in order for a barber shop or beauty parlor to operate as a Home-Based Business, it must be restricted to less than 300 square feet in size; operated by individuals who live at the residence; maintained with a residential character; prohibited from any outdoor signage; and operated within the primary residence, rather than an accessory building. The state regulations also require a secondary entrance into the residence to access the use. In addition, these Home-Based Businesses must not generate excessive traffic, or adversely affect the surrounding community. These Home-Based Businesses would be regulated as conditional uses, and would require the approval of the Board of Adjustment. Mr. Baillie stated that the staff was recommending approval of this text amendment, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Mr. Pohl asked why barber shops and beauty parlors were proposed to be restricted to the main structure. Mr. Baillie responded that these uses were intended to be accessory to the main residential use, and that allowing them to occupy accessory structures could result in activity that was too commercial for a residential area.

Ms. Meyer asked if the intent of this text amendment was to limit the business to one chair. Mr. Baillie answered that a barber shop or beauty parlor could have more than one chair, as long as all of the operators lived in the residence and did not travel there from another location.

Mr. Michler asked if the Council initiated this text amendment at the request of a particular business. Mr. Baillie responded that this issue was brought to the Council by a member of the community. Mr. Michler opined that this text amendment was very narrow, and it could be broadened. Mr. Baillie answered that the Council initiation of this text amendment was very narrowly focused, but the staff would be bringing some changes forward in the future that could affect Home-Based

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.