



**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



Kentucky Board of Barbering and the Board of Cosmetology have established numerous levels of review to protect the health, safety and welfare of customers, while also establishing regulations that govern the placement of the use. While Lexington has prohibited the use within residential zones, the state has made allotments to allow the use within a residential setting and still comply with all regulations.

In 2017, the Urban County Council amended the Zoning Ordinance for the primary purpose of moving several uses from the conditional use category to either the principal permitted or the accessory use category (ZOTA 2017-5; Ord. No 166-2017). Through this modification of the Zoning Ordinance, greater differentiation was developed between three levels of business operations allowable within a residential zone. These levels included the home office, an accessory use for administrative purposes, the home occupation, an accessory use that produces a product, and the home-based business, a conditional use that may include customer visits of the use of materials or equipment that are potentially disturbing to surrounding properties. Each of these three categories are subject to general regulations listed in the Zoning Ordinance to ensure that they are operating accessory to the residential land use. These regulations include limitations to the size, location, and operation of the use and the limiting of employees to the residents of the dwelling. The definition of the home-based business was an outgrowth of the home occupation, which had been an element of the Zoning Ordinance since 1953. While the home-based business was a new category within the Zoning Ordinance, it was derived from earlier versions of the home occupation. One carry over from the home occupation was the prohibiting of barber shops and beauty parlors from operating accessory to a residential land use in a residential zone.

With the regulation of such businesses from a state level, many of the concerns regarding the use have been alleviated. However, there is still the concern regarding the potential nuisances that can be produced by customer turn-over. The establishment of the use as a home-based business will allow for proper review of such potential impacts on the neighboring development, as it is a conditional use and would require Board of Adjustment (BOA) review. The review of an application will allow the BOA to provide conditions should there be potential health, safety or welfare concerns or disapprove the application should it find the location to be inappropriate.

The modification of the Zoning Ordinance to allow for such uses is also in agreement with Goals, Objects, and Policies of the 2018 Comprehensive Plan. The Plan specifically calls for an update to the Zoning Ordinance to “increase flexibility on types of home occupations allowed” (Theme C, Policy #6). Additionally, the proposed modification of the Zoning Ordinance will allow for greater opportunities for employment within the community (Theme C, Goal #1.a), which prioritize the advancement of local communities (Theme C, Diversity Policy #5) and provide a diverse economic base that allows for upward mobility (Theme C, Policy #2).

Applicable Goals, Objectives, and Policies:

Theme C, Goal #1.a: Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all.

Theme C, Diversity Policy #5: Maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities.



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.

