

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AMENDING TITLE IV OF THE CODE OF ORDINANCES OF THE CITY OF WILDWOOD BY AMENDING SECTIONS 415.030, 415.090, 415.110, 415.120, 415.130, 415.140, 415.150, 415.160, AND 415.380, FOR THE REGULATION OF HOME OCCUPATIONS AND HOME-BASED BUSINESSES WITHIN THE CITY'S RESIDENTIAL ZONING DISTRICTS AND THE NU NON-URBAN RESIDENCE DISTRICT.

WHEREAS, the City has followed a reasonable approach to ensuring that certain activities that are business related can occur in residential areas as 'home occupations,' but with protections in place to ensure they do not unduly harm the surrounding community; and

WHEREAS, these protections were achieved by limiting the types of 'home occupations,' the prohibition on employees residing outside the home participating in the same, and preserving the residential character of the dwelling and lot; and

WHEREAS, these regulations have been in place since the inception of the City and, to a large degree, a carryover from St. Louis County in this regard; and

WHEREAS, the State legislature, in 2022, passed new laws that limited the ability of local governments to regulate and permit 'home-based businesses,' through a set of changes, which, in many regards, are contrary to current land use regulations of the City; and

WHEREAS, these changes went into effect in August 2022, with the City following thereafter with its amendment process to address the current inconsistencies between its 'home occupation' regulations and new State laws for 'home-based businesses;' and

WHEREAS, the rationales or reasons for these changes by the State legislature were never fully provided and certainly did not include input from the City of Wildwood, which seeks to always preserved the peace, tranquility, and property values of its residential areas; and

WHEREAS, a public hearing was held at the Planning and Zoning Commission, where comments were solicited from its members and the any interested party; and

WHEREAS, after this public hearing process, the Department of Planning prepared its recommendation and presented it to the Planning and Zoning Commission for consideration, leading to a favorable action upon it; and

WHEREAS, the Planning and Zoning Commission completed its review on the matter and was intending to forward its Letter of Recommendation to City Council, but delayed such, given the City had been advised the State legislature were considering changes to this legislation due to problems that had arose regarding its application in Missouri; and

WHEREAS, those changes were not forthcoming when the legislative session closed in May 2023 leaving them intact, thereby causing to the Planning and Zoning Commission to

restart its process, which then led to it forwarding to City Council its recommendation for a scheduled public hearing on August 7, 2023, where comments were again accepted on the changes to the Zoning Ordinance for ‘home-based businesses;’ and

WHEREAS, with the completion of the public hearing, the City Council noted its support for the proposed changes to the Zoning Ordinance, given the need to comply with State laws; and

WHEREAS, the City Council has authorized the preparation of necessary legislation to achieve these changes and this action is taken under its authority by State Statute and a local code as a means to protect and preserve the public's health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILDWOOD, MISSOURI, AS FOLLOWS:

Section One. The City Council hereby approves the modifications to Chapter 415.030 Definitions, Sections 415.090 NU Non-Urban Residence District, 415.110 R-1 One Acre Residence District, 415.120 R-1A 22,000 square foot Residence District, 415.130 R-2 15,000 square foot Residence District, 415.140 R-3 10,000 square foot Residence District, 415.150 R-4 7,500 square foot Residence District, and 415.160 R-6A 4,500 square foot Residence District, and 415.380 Miscellaneous Regulations of the City of Wildwood Zoning Ordinance, which are consistent with the endorsement of the Planning and Zoning Commission contained in its Letter of Recommendation dated July 5, 2023, which are indicated below by the following annotated additions:

415.030 Definition

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C. The following words and phrases are defined, as follows:

HOME BASED WORK

Any lawful occupation performed by a resident within a dwelling unit or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the building or structure, nor adversely affect the character of the surrounding neighborhood.

HOME OCCUPATION

Home-based work, the conduct of which fails to comply with the requirements of Section 415.380(W).

COMMERCIAL VEHICLE

Any licensed or unlicensed vehicle maintained, used and intended primarily for the purpose of transporting property for financial gain or displaying any type of signage or advertisement for a

general or specific type of commercial activity. A tow truck, stake-bed truck, flat-bed truck, step van, refuse or garbage truck, bus, plow or special purpose vehicle in excess of ten (10) feet in total length, and any attachments thereof, are considered to be commercial vehicles, which includes any equipment designed to dig, move, cut, bore or alter dirt, rock and/or concrete, or tracked vehicle.

1. All such commercial vehicles must be parked or stored in an enclosed structure that screens it from view in all compass directions, except in an emergency, when such vehicles and attachments are being used for approved work at the property or as permitted by the lot's underlying zoning district designation. In addition, no commercial vehicles shall be parked, kept or stored on any roadway or highway in a residential district between the hours of 12:00 Midnight and 6:00 A.M. of any day, except in emergency situations relating to the public's health, safety and welfare, including repairs and maintenance to property, structures and buildings caused by natural disasters and other similar circumstances that may be or are beyond the property owner's control.
2. This definition (and related requirements) does not apply to any type of vehicle that is maintained, used and intended to support any permitted, conditional or accessory use, including home occupations or home-based work, within a respective zoning district designation, where the principal dwelling or building is located upon the lot, as well as any existing legal non-conforming activity, with commercial vehicles, unless otherwise governed by Section 415.460, Non-Conforming Uses, Lands and Structures, of the City of Wildwood Zoning Ordinance or as existing prior to 1982 as well.
3. Determinations relating to the definition of commercial vehicles, which for life/safety situations are sought, shall be made before the City's Board of Adjustment and follow all requirements of its processes as set forth in Chapter 400, Article II of the City of Wildwood Municipal Code.

§ 415.090 "NU" Non-Urban Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

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9. Home-based work.

C. Conditional Land Use And Development Permits Issued By The Commission. The following land uses and developments may be permitted under conditions and requirements specified in Section 415.500, Conditional Use Permit Procedure, except the specified home occupations described below which must adhere to simplified process defined in Subsections (H) of this Section:

17. Home occupations permitted by Section 415.090(H).

H. Home Occupations Authorized By A Conditional Use Permit.

1. A home occupation may be authorized by a conditional use permit when such property use will not cause harm to nearby properties.
2. Any home occupation shall remain secondary to the principal use of the property and shall not exceed the scale of it. To maintain the appropriate scale relative to these uses, the following minimum conditions shall be adhered to by the owner/operator of the home occupation: any exterior portion of a structure shall be of a residential character and style which is compatible with existing character of the neighborhood if altered or expanded to accommodate the home occupation; the addition of any outbuilding to be used in conjunction with the operation of the authorized home occupation shall replicate the architectural style of the principal building; no outdoor storage of products or materials shall be authorized as part of any operation and all activities shall be conducted indoors; employee of the authorized home occupation shall be other than a family member who resides on the premises; no signs shall be authorized in conjunction with the home occupation; no more than two (2) customers or clients may visit the business at any given time and no more than five (5) per day in total; and patron hours of operation where customers or clients may visit the premises shall be limited to 7:00 A.M. to 9:00 P.M. Monday through Friday; 9:00 A.M. to 1:00 P.M. on Saturdays; and no hours on Sundays. Patrons shall include customers, clients, delivery persons, and suppliers. Other restrictions may be placed upon the use of the property as a home occupation as part of the approval of the conditional use permit.
3. The use of the principal building and related outbuildings for the authorized activity shall be limited to not more than twenty-five percent (25%) of the overall floor area of all structures on the site.
4. The operation of a home occupation shall not create any noise, vibration, fumes, odor, heat, glare or any kind of interference that can be reasonably detected beyond the property line of the subject site or create disturbance for adjoining parcels of ground. "Reasonably detected," for the purposes of this Chapter, shall be interpreted to mean compliance with Section 415.250, Zoning Performance Standards Regulations, of the City of Wildwood's Zoning Code.
5. The home occupation authorized on the property shall provide adequate off-street parking for patrons and deliveries, but parking area and design shall be limited to the type normally associated with residential areas and deliveries to the site shall be limited to single axle vehicles normally used in residential areas.
6. The operator of any permitted home occupation must prove, establish and maintain permanent residency (domicile) in the principal (primary) structure at all times during its use for this activity.
7. The use or display of any advertising or commercial devices, contrivances, reader boards, inflatable aides or lights upon any personal vehicle, tree or other structure or object located on the property is prohibited. No commercial vehicles shall be parked outdoors in conjunction with this use.
8. Nothing herein shall be interpreted to require a conditional use permit for home-based work.

§ 415.110 "R-1" One Acre Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

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7. Home-based work.

K. No single-family dwelling located on any lot, tract of land, or parcel of ground herein designated under this zoning district classification shall offer or provide a guest room within it for short-term rental purposes that accommodate a transient guest or guests. Nothing herein shall preclude home-based work.

§ 415.120 "R-1A" 22,000 square foot Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

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5. Homebased work.

K. No single-family dwelling located on any lot, tract of land, or parcel of ground herein designated under this zoning district classification shall offer or provide a guest room within it for short-term rental purposes that accommodate a transient guest or guests. Nothing herein shall preclude home-based work.

§ 415.130 "R-2" 15,000 square foot Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

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5. Home-based work.

K. No single-family dwelling located on any lot, tract of land, or parcel of ground herein designated under this zoning district classification shall offer or provide a guest room within it for short-term rental purposes that accommodate a transient guest or guests. Nothing herein shall preclude home -based work.

§ 415.140 "R-3" 10,000 square foot Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

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4. Home-based work.

K. No single-family dwelling located on any lot, tract of land, or parcel of ground herein designated under this zoning district classification shall offer or provide a guest room within it for short-term rental purposes that accommodate a transient guest or guests. Nothing herein shall preclude home-based work.

§ 415.150 "R-4" 7,500 square foot Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

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3. Home-based work.

K. No single-family dwelling located on any lot, tract of land, or parcel of ground herein designated under this zoning district classification shall offer or provide a guest room within it for short-term rental purposes that accommodate a transient guest or guests. Nothing herein shall preclude home-based work.

§ 415.160 "R-6A" 4,500 square foot Residence District Regulations.

Code/Ch 415: Zoning Regulations– Permitted Uses

B. Permitted Land Uses And Developments. The following land uses and developments are permitted in this district:

...

5. Home-based work.

K. No single-family dwelling located on any lot, tract of land, or parcel of ground herein designated under this zoning district classification shall offer or provide a guest room within it for short-term rental purposes that accommodate a transient guest or guests. Nothing herein shall preclude home-based work.

§ 415.380 Miscellaneous Regulations.

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W. Home-Based Work. Home-based work permitted pursuant to the provisions of this Chapter is subject to, the following:

1. Home-based work may only be performed by the owner or a tenant of the dwelling unit within which the home-based work is being performed;
2. The total number of employees and clients onsite at one time in a dwelling unit may not exceed the occupancy limit for the dwelling unit;
3. The use of the dwelling unit for home-based work shall not cause a substantial increase in traffic in the area of the dwelling unit;
4. The activities of the home-based work shall not be visible from any adjoining street;
5. In no way shall the appearance of the structure of the residence be altered or constructed in a manner which would cause the premises to differ from its

- residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations;
6. Such home-based work shall be conducted entirely within the residence, an accessory structure thereof, or in the yard of the dwelling. The entirety of the yard within which the home-based work is being performed shall be completely screened from view from an adjoining street by a structure or fence;
 7. No storage or display of materials, goods, supplies, or equipment related to the performance of home-based work shall be visible from the outside of any structure located on the premises of the dwelling unit;
 8. The performance of any home-based work, including but not limited to the storage of goods and equipment, shall not reduce or render unusable areas provided for the required off-street parking spaces;
 9. Electrical or mechanical equipment which creates visible or audible interference in radio or television receivers or cause fluctuations in the line voltage outside the dwelling unit or which creates noise not normally associated with residential uses shall be prohibited;
 10. All customer parking must be located so as to not negatively impact other properties and all home occupations must comply with parking regulations applicable to residential areas including, but not limited to, Sections 415.280 to 415.350 of this Chapter. A minimum of two (2) off-street parking spaces shall be provided on the premises for said home-based work;
 11. No commercial vehicles shall be displayed or stored outside of a structure on the property;
 12. Solid waste must not be stored or otherwise maintained on the property, except as otherwise allowed pursuant to Chapter 230 of this Code.
 13. No home-based work shall cause an increase in the use of any one (1) or more utilities (water, sewer, electricity) so that the combined use for the residence and the home-based work exceeds the average for residences in the neighborhood;
 14. The business activity performed by the owner or tenant of the dwelling unit shall be compliant with all State and federal laws and ordinances of the City, including the payment of applicable taxes, licenses and fees.

Section Two. Chapter 415, amended hereby, along with the City of Wildwood Zoning Map, are all adopted pursuant to the authority granted to the City Council by the Constitution of the State of Missouri through the Charter of the City of Wildwood granting the City all such powers that the General Assembly of the State of Missouri has authority to confer upon any City, including such authority relating to the regulation of housing, construction, sanitary sewers, grading and rights-of-way acceptance and management, among its other police powers, independently of any authority separately granted by state statute. Additionally, the provisions of Chapter 415, or portions thereof, are further adopted pursuant to the authority granted by Chapter 89 of the Missouri Revised Statutes relating to zoning and subdivision regulations, Missouri Revised Statutes Section 82.190 relating to control of streets and public places, and all such other powers as are granted to regulate the public health, welfare, and safety.

Section Three. The portions of this Ordinance and attachments hereto shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be

invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent. Nothing herein shall limit the enforceability of any amended provision for violations or activities occurring prior to its amendment.

Section Four. All other conditions of these sections of the Zoning Ordinance remain unchanged and in full force. This ordinance shall be in full force and effect both from and after its passage and approval.

This Bill was passed and approved this ____ day of _____, 2023, by the Council of the City of Wildwood, Missouri, after having been read by title or in full two (2) times prior to its passage.

Presiding Officer

ATTEST:

City Clerk

James R. Bowlin, Mayor

ATTEST:

City Clerk