

Prince George's County Council

Agenda Item Summary

Meeting Date: 3/30/2004
Reference No.: CB-011-2004
Draft No.: 3
Proposer(s): Dean
Sponsor(s): Dean, Exum, Knotts, Shapiro
Item Title: An Ordinance defining Low-Impact Home Occupations and permitting the use in certain residential zones, amending the definition of home occupation, and making related amendments concerning home occupations.

Drafter: Jackie Brown, Director, PZED Committee
Resource Personnel: Nellvenia J. Johnson, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	2/17/2004	Executive Action:	
Committee Referral:	2/17/2004 - PZED	Effective Date:	6/28/2004
Committee Action:	3/17/2004 - FAV(A)		
Date Introduced:	3/30/2004		
Public Hearing:	5/11/2004 - 11:00 AM		
Council Action (1)	5/11/2004 - ENACTED		
Council Votes:	MB:A, SHD:A, TD:A, CE:A, DCH:A, TH:A, TK:A, DP:A, PS:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-107.01, 27-253, 27-441, 27-445.11

COMMITTEE REPORTS:

PLANNING, ZONING & ECONOMIC DEVELOPMENT REPORT

Date 3/17/2004

Committee Vote: Favorable with amendments, 4-0 (In favor: Council Members Dernoga, Bland, Dean, and Exum)

Staff gave an overview of the purpose of the bill and summarized referral comments that were received. The bill amends the Zoning Ordinance to define "low-impact home occupations" and to permit the use in certain residential zones. The legislation also amends the definition of home occupation by deleting existing Section 27-445.11 pertaining to home occupations and by transferring the content of that section to the definition of home occupation at Section 27-107.01(118).

The bill was presented for the purpose of addressing a situation in which a resident has attempted to obtain a business license for a nurse staffing agency to be operated in her townhome located on property zoned R-T. The resident has indicated that she will conduct business from her home, although there will be no "check pick-ups", interviews, or other reason for employees to visit the residence. The resident has been unable to obtain a use and occupancy permit, which is a requirement of obtaining a business license, because existing R-T regulations do not allow home occupations in "attached" dwellings. In her request for assistance with this matter, the resident provided

a copy of certain provisions in the Montgomery County Code that allow “no-impact” home occupations in townhomes.

The Planning Department staff provided the following comments prior to the bill’s presentation. The rationale for restricting home occupations in townhouses is that a home occupation generally includes comings and goings of customers and employees, signage, additional parking and delivery trucks, all of which could create more problems in a townhouse development than in a detached residential development. However, the type of very low-impact operation requested, where there would be no employees, no customers, no delivery trucks, no additional parking and no signage, would seem less likely to create incompatibilities with residential neighborhoods. With modern technology and trends toward telecommuting and self-employment, this type of low-impact home occupation merits consideration.

The Planning Board supports CB-11-2004 with modification. CB-11 proposes to delete the last five word of subsection (D) in Section 27-107.01(118) so that on-premises storage is prohibited. Currently, on-premises storage is not permitted “unless storage is specifically permitted.” The proposed prohibition of storage conflicts with subsection (H)(iii) that permits temporary storage of door-to-door, home party, and mail-order sales items and (H)(viii) that permits the creation, production, and storage of art or craft items. To resolve the conflict, it is recommended that the language in subsection (D) remain unchanged. This means that the existing rules with respect to storage would remain unchanged.

The Board’s comments also noted that proposed subsection (I)(iv) prohibits “hair cutting, nail, or beauty establishments of more than one chair each.” This provision currently exists. However, the word “each” could be construed to allow one chair each for hair cutting, nail, and beauty in a single establishment. It is recommended that the word “each” be deleted to clarify the intent that each establishment is limited to one chair.

The Chief Zoning Hearing Examiner requested that the committee consider amending existing language to make subsections (H)(vi) and (I)(iv) consistent in terms. Currently, (H)(vi) refers to “beauty parlors and barber shops” and (I)(iv) refers to “hair cutting, nail, or beauty establishments.”

The Office of Law found the bill to be in proper legislative form, and also provided comments consistent with those of the Principal Counsel to the District Council concerning removing the home occupations requirements from the current Section 27-445.11 and placing them in the definition of home occupation in Section 27-107.01(118). The Principal Counsel indicated that as a matter of drafting style, it is almost always preferable to have the definitions section contain only that, definitions, and to place substantive use requirements elsewhere, near the table showing which zones permit which uses. The substantive requirements are different from the definitions, particularly use definitions, and the definition and requirements provisions should be separate.

Staff informed the committee that the bill was drafted in this manner to simplify the use tables by limiting the need to cross reference other sections in the ordinance that contain the specific requirements. The Committee Chairman indicated that as part of the ongoing work of the Zoning Ordinance Task Force, Use Tables Subcommittee, the subcommittee will review this issue further, however, the bill should not be amended to move the requirements from Section 27-107.01 at this time.

The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-11-2004.

The committee accepted the amendments suggested by the Planning Board and the Zoning Hearing Examiner for inclusion in a Draft-2 of the bill.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

Certain home occupations are permitted in most residential zones pursuant to criteria in Section 27-445.11 of the Zoning Ordinance. This legislation defines low-impact home occupations and permits the use in most residential zones under certain circumstances and makes clarifying amendments to the definition of home occupation.

CODE INDEX TOPICS:

INCLUSION FILES:
