

ORDINANCE NO. 67-21

AN ORDINANCE AMENDING SECTIONS 210.01(f)(1)(A), 1226.01, 1226.02, 1226.07, AND 1262.08 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REQUIRING ZONING PERMITS FOR HOME OCCUPATIONS

WHEREAS, advances in technology and changes in lifestyles continue to significantly change the way goods and services are produced and delivered to the end users (consumers); and

WHEREAS, the City, to strengthen its local economy, encourages home based start-up businesses to thrive and create jobs and income for local residents; and

WHEREAS, in those instances where it is easier and more efficient for the income earner to remain in their home and earn a living, the City wants to encourage these entrepreneurs to start their own business or work remotely for that period of time where the only employees are few and restricted to members of their immediate household; and

WHEREAS, the Planning Coordinator, the Finance Director and other members of the Administration began to review the City's "Home Occupation" ordinance to determine its suitability to address these changes in the way our residents earn income; and

WHEREAS, the current Code does not address permits and fees for residents who are working out of their homes; and

WHEREAS, to address this omission, it was determined there was a need to consider amendments to Sections 210.01(f)(1)(A), 1226.01, 1226.02, 1226.07, and 1262.08 of the Codified Ordinances for the City of Avon, Lorain County, Ohio, as it pertains to the zoning code and zoning permits;

WHEREAS, these proposed amendments were presented to the Planning Commission on August 18, 2021 and a Public Hearing on said amendment was duly publicized according to law and held that same day; and

WHEREAS, on August 18, 2021, after more discussion with the Administration other interested parties, Planning Commission, by a vote of Five (5) in favor and Zero (0) opposed, recommended to Council amending Sections 210.01(f)(1)(A), 1226.01, 1226.02, 1226.07, and 1262.08 of the Codified Ordinances as these apply to "Home Occupations" and

WHEREAS, Council, on September 7, 2021, authorized a Public Hearing; and

WHEREAS, said Public Hearing was duly publicized according to law and was held on October 12, 2021 at 7:25 p.m.; and

WHEREAS, Council finds that the amendments set forth herein are reasonable and in the best interests of the health, safety, and welfare of the citizens of Avon and deems it desirable that Sections 210.01(f)(1)(A), 1226.01, 1226.02, 1226.07, and 1262.08 of the Codified Ordinances be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That Section 210.01(f)(1)(A) of the Codified Ordinances of the City of Avon which currently reads as follows:

- (f) Planning and Zoning Code.
 (1) Zoning Code
 A. Zoning permits \$15.00 upon filing of application with Clerk of Council for placement on agenda

Shall be amended to read as follows: (new language in bold print)

- (f) Planning and Zoning Code.
 (1) Zoning Code
 (A) Zoning permits \$15.00 upon filing of application with Clerk of Council for placement on agenda.
 (B) **Home occupation permit \$15.00 upon filing of application for initial permit or any renewal thereof with Clerk of Council.**

Section 2 – That Section 1226.01 of the Codified Ordinances of the City of Avon which currently reads as follows:

1226.01 PURPOSE.

The administrative provisions of this Chapter establish the procedures for reviewing and acting upon applications for zoning permits, including certificates of occupancy, in order to accomplish the purposes for which this Planning and Zoning Code is adopted. (Ord. 58-01. Passed 5-29-01.)

Shall be amended to read as follows: (new language in bold print)

1226.01 PURPOSE.

The administrative provisions of this Chapter establish the procedures for reviewing and acting upon applications for zoning permits, including certificates of occupancy **and home occupation permits**, in order to accomplish the purposes for which this Planning and Zoning Code is adopted. (Ord. 58-01. Passed 5-29-01.)

Section 3 – That Section 1226.02 of the Codified Ordinances of the City of Avon which currently reads as follows:

1226.02 ZONING PERMIT REQUIRED.

Except as specifically permitted in this Planning and Zoning Code, no building or structure shall be erected, constructed, enlarged, structurally altered, or moved in whole or in part, and no use shall be established or changed in the City until a zoning permit is issued by the

Zoning Enforcement Officer, unless it is clearly stated in this Planning and Zoning Code that a zoning permit is not required. A zoning permit shall be issued only when the plans for the proposed use, building or structure comply with the regulations set forth in this Planning and Zoning Code.

(a) A zoning permit shall be issued for the following when the required steps are accomplished:

(1) Single-Family Dwellings, Two-Family Dwellings and Uses Accessory Thereto: When an application for a single-family dwelling, two-family dwelling or use accessory thereto has been reviewed and approved by the Zoning Enforcement Officer according to the procedures of this Chapter.

(2) All Other Permitted Uses: When an application for development plan approval for any other permitted use not described in division (a)(1) above has been reviewed and approved by the Planning Commission according to the development plan procedures set forth in [Chapter 1228](#).

(3) Special Uses: When an application for a special use has been reviewed and approved by the Planning Commission and Council according to the procedures set forth in [Chapter 1230](#).

(4) Variance Requests: When an application for which a variance from a requirement of this Planning and Zoning Code is requested and has been reviewed and approved by the Board of Zoning and Building Appeals, according to the procedures set forth in [Chapter 1232](#).

(5) Similar Uses: When an application for any building or use not specifically listed in this Planning and Zoning Code as a permitted or special use has been reviewed and approved by the Planning Commission and Council according to the procedures set forth in [Section 1230.11](#).

(b) Applications for zoning permits are available in the office of the Zoning Enforcement Officer. A completed application form accompanied by all other applicable submission requirements shall be submitted by the applicant to the Zoning Enforcement Officer. (Ord. 58-01. Passed 5-29-01.)

Shall be amended to read as follows: (new language in bold print)

1226.02 ZONING PERMITS REQUIRED.

Except as specifically permitted in this Planning and Zoning Code, no building or structure shall be erected, constructed, enlarged, structurally altered, or moved in whole or in part, ~~and no use shall be established or changed in the City,~~ **and no home occupation shall be operated anywhere in the City** until a zoning permit is issued by the Zoning Enforcement Officer, unless it is clearly stated in this Planning and Zoning Code that a zoning permit is not required. A zoning permit shall be issued only when the plans for the proposed use, building or structure comply with the regulations set forth in this Planning and Zoning Code. **A home occupation permit shall be issued when, on an initial application or any renewal thereof, the applicant establishes compliance with the regulations contained herein and as set forth in Section 1262.08(g) of this Planning and Zoning Code. Each home occupation permit will expire three (3) years from the date of issuance. Renewals may be obtained thirty days prior to expiration.**

(a) A zoning permit shall be issued for the following when the required steps are accomplished:

(1) Single-Family Dwellings, Two-Family Dwellings, **Home Occupations** and Uses Accessory Thereto: When an application for a single-family dwelling, **a** two-family dwelling, **a home occupation** or a use accessory thereto has been reviewed and approved by the Zoning Enforcement Officer according to the procedures of this Chapter.

(2) All Other Permitted Uses: When an application for development plan approval for any other permitted use not described in division (a)(1) above has been reviewed and approved by the Planning Commission according to the development plan procedures set forth in [Chapter 1228](#).

(3) Special Uses: When an application for a special use has been reviewed and approved by the Planning Commission and Council according to the procedures set forth in [Chapter 1230](#).

(4) Variance Requests: When an application for which a variance from a requirement of this Planning and Zoning Code is requested and has been reviewed and approved by the Board of Zoning and Building Appeals, according to the procedures set forth in [Chapter 1232](#).

(5) Similar Uses: When an application for any building or use not specifically listed in this Planning and Zoning Code as a permitted or special use has been reviewed and approved by the Planning Commission and Council according to the procedures set forth in [Section 1230.11](#).

(b) Applications for zoning permits **and home occupation permits** are available through the office of the Zoning Enforcement Officer. A completed application form accompanied by all other applicable submission requirements shall be submitted by the applicant to the Zoning Enforcement Officer along with the appropriate fee. (Ord. 58-01. Passed 5-29-01.)

(c) Anyone currently engaging in a home occupation, as defined in ACO Section 1222.02(b)(57) and Section 1262.08(g), has until January 1, 2022 to obtain a home occupation permit. Engaging in a home occupation without a valid permit after the effective date of this legislation shall be deemed a nuisance under Section 1238.03 and punishable pursuant to Section 1238.09 of the Planning and Zoning Code.

Section 4 – That Section 1226.07 of the Codified Ordinances of the City of Avon which currently reads as follows:

1226.07 SCHEDULE OF FEES.

Council shall by ordinance establish a schedule of fees for review of and action on applications for zoning permits, development plan review, special use permits, appeals, variances, certificates of occupancy, amendments, subdivision plats, parks and other procedures and services pertaining to the administration and enforcement of this Planning and Zoning Code. Council shall consider the recommendation of the Zoning Enforcement Officer with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be available at City Hall, and may be altered or amended only by Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure. (Ord. 58-01. Passed 5-29-01.)

Shall be amended to read as follows: (new language in bold print)

1226.07 SCHEDULE OF FEES.

Council shall by ordinance establish a schedule of fees for review of and action on applications for zoning permits, **home occupation permits**, development plan review, special use permits, appeals, variances, certificates of occupancy, amendments, subdivision plats, parks and other procedures and services pertaining to the administration and enforcement of this Planning and Zoning Code. Council shall consider the recommendation of the Zoning Enforcement Officer with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be available at City Hall, and may be altered or amended only by Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure. (Ord. 58-01. Passed 5-29-01.)

Section 5 – That Section 1226.08 of the Codified Ordinances of the City of Avon which currently reads as follows:

1262.08 ACCESSORY USE REGULATIONS.

Buildings, structures and uses accessory to dwelling units shall conform to the standards contained in this section.

(g) Home Occupations. The purpose of this division is to set forth regulations that control the establishment and operation of home occupations. The intent of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations is expected to result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

(1) The home occupation shall be clearly incidental and subordinate to the residential use of the property.

(2) No sign or display, except for a nameplate sign, shall be permitted which indicates from the exterior that the building is being used for any purpose other than that of a dwelling.

(3) No person other than members of the immediate family residing on the premises shall be employed in the home occupation.

(4) A home occupation shall occupy no more than 25% of the total floor area of the dwelling, which for the purposes of this section, shall include the area of the garage.

(5) No commodity shall be sold on the premises, except that which is prepared on the premises.

(6) The business activity, including the storage of equipment, supplies or any apparatus used in the home occupation, shall be conducted entirely within the dwelling unit and/or garage.

(7) No equipment or process shall be permitted or used in such home occupation that creates a nuisance by reason of generating any noise, vibration, glare, fumes, odors, or electrical interference, or which is determined unsafe.

Shall be amended to read as follows: (new language in bold print)

(g) Home Occupations. The purpose of this division is to set forth regulations that control

the establishment and operation of home occupations. The intent of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations is expected to result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

(1) The home occupation shall be clearly incidental and subordinate to the residential use of the property.

(2) No sign or display, except for a nameplate sign, shall be permitted which indicates from the exterior that the building is being used for any purpose other than that of a dwelling.

(3) No person other than members of the immediate family residing on the premises shall be employed in the home occupation.

(4) A home occupation shall occupy no more than 25% of the total floor area of the dwelling, which for the purposes of this section, shall include the area of the garage.

(5) No commodity shall be sold on the premises, except that which is prepared on the premises.

(6) The business activity, including the storage of equipment, supplies or any apparatus used in the home occupation, shall be conducted entirely within the dwelling unit and/or garage.

(7) No equipment or process shall be permitted or used in such home occupation that creates a nuisance by reason of generating any noise, vibration, glare, fumes, odors, or electrical interference, or which is determined unsafe.

(8) A home occupation permit shall be issued when an application for the proposed use complies with the requirements set forth herein and any other applicable provision of the Planning and Zoning Code.

Section 6 – This ordinance shall take effect on January 1, 2022. Operation of a home occupation without the required permit shall be deemed a nuisance pursuant to Section 1238.03 and punishable pursuant to Section 1238.09(b) of the Avon Codified Ordinances.

Section 7 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7 –. That this Ordinance shall take effect and be in force at the earliest date allowed by law.

First Reading _____

Second Reading _____

Third Reading _____

PASSED: _____ DATE SIGNED: _____

By: _____
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director