

ORDINANCE NO. 18-2360

AN ORDINANCE TO PROVIDE CERTAIN REQUIREMENTS FOR
HOME OCCUPATIONS AND DAY CARE CENTERS
WITHIN RESIDENTIAL AREAS OF THE CITY OF HOOVER

WHEREAS, the conducting of home occupations and the operation of various types of day care and child care centers are currently permitted in residential areas as conditional uses under the *Zoning Code of the City of Hoover, Alabama*;

WHEREAS, the review of the Planning and Zoning Commission of the City of Hoover, Alabama and the approval of the City Council of the City is currently required for the operation of these conditional uses within the City;

WHEREAS, the City of Hoover ("City") desires to formally enumerate certain requirements for the operation of these conditional uses within the City as set forth herein; and

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Hoover, Alabama, in regular meeting duly assembled, a quorum being present, as follows:

Section 1. MODIFICATIONS AND ADDITIONS TO APPENDIX I, ZONING.

- A. **Modification and Additions to Appendix I, Article IV Definitions.** The definition of "home occupation" as set forth in Appendix I Zoning, Article IV Definitions of the *Municipal Code of the City of Hoover, Alabama* ("Code") shall be deleted in its entirety and replaced with the definition set forth below. The definitions of "day care center or day care nursery", "day care home", "group care home", "incidental, customary, remunerative activities", and "night care facility home" shall be added as set forth below. The remainder of the definitions found in this article shall remain unchanged.

Day care center or day care nursery: A facility, other than a day care home or group care home, which receives children for care during the day. The term does not include: programs operated as part of public or private schools; programs operated on federal governmental premises; and special activities programs such as athletics, crafts, and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations.

Day care home: A child care facility licensed by the Alabama Department of Human Resources which is a family dwelling and which receives not more than five (5) children for care during the day.

Group care home: A child care facility licensed by the Alabama Department of Human Resources which is a family dwelling and which receives at least seven (7) but not more than twelve (12) children for care during part of the day where there are at least two (2) adults present and supervising the activity.

Home occupation: An accessory use of a dwelling conducted entirely within the enclosed dwelling, employing only the inhabitants thereof, which is clearly incidental and secondary to residential occupancy and does not change the

character thereof, and subject to the criteria set forth in Article III, Section 2.0, 2.30 of the zoning code.

Night care facility home: A child care facility licensed by the Alabama Department of Human Resources which is a family dwelling and receives a child or children for care after 7:00 p.m.

- B. Modification of Appendix I, Article VI, Zoning Districts.** Appendix I Zoning, Article VI Zoning Districts, Section 2.0 Single Family Estate District (E-1), 2.2 Permitted principal uses of the Code shall be deleted in its entirety and replaced with the following:

2.2. Permitted principal uses. Detached single-family dwellings and accessory structures. A home occupation shall be a permitted principal use only following the completion of an application by the requestor and the review and approval of such application by the Building Official or his/her designee for compliance with the provisions of this Appendix I.

- C. Modification of Appendix I, Article VI, Zoning Districts.** Appendix I Zoning, Article VI Zoning Districts, Section 2.0 Single Family Estate District (E-1), 2.3 Conditional uses of the *Code* shall be deleted in its entirety and replaced with the following:

2.3. Conditional uses. Public elementary, middle and high schools, and parochial or private schools that do not provide residential accommodations; churches, museums, libraries, art galleries, day care home, group day care home, and night care facility home, cluster residential developments and the following recreation facilities operated on a nonprofit basis: golf courses, parks, tennis courts and swimming pools. Conditional uses in residential districts shall be located and designed to be compatible with the surrounding residential areas.

- D. Modification of Appendix I, Article VI, Zoning Districts.** Appendix I Zoning, Article VI Zoning Districts, Section 15.0 PRD Planned Residential Development District, 15.2 Permitted principal uses of the Code shall be deleted in its entirety and replaced with the following:

15.2. Permitted principal uses. Detached single-family dwellings and accessory structures. A home occupation shall be a permitted principal use only following the completion of an application by the requestor and the review and approval of such application by the Building Official or his/her designee for compliance with the provisions of this Appendix I.

- E. Modification of Appendix I, Article VI, Zoning Districts.** Appendix I Zoning, Article VI Zoning Districts, Section 15.0 PRD Planned Residential Development District, 15.3 Conditional uses of the *Code* shall be deleted in its entirety and replaced with the following:

15.3. Conditional uses. The same conditional uses are permitted in this district as in the E-1 district, subject to the same conditions; plus uses ancillary to residential uses in the PRD, including, but not limited to: nonprofit recreation facilities, and commonly owned improvements intended to serve the residents of the PRD.

F. Modification of Appendix I, Article X Sign Regulations. Appendix I Zoning, Article X Sign Regulations, Section 3.0 Signs permitted within zones A-1, E-1, E-2, R-1, R-2 and R-3, Subsection B shall be deleted in its entirety and replaced with the following:

B. Conditional uses in the above stated districts are permitted one (1) freestanding or building wall sign, which does not exceed thirty-two (32) square feet of copy area. Freestanding signs shall not exceed ten (10) feet in height.

G. Modification of Appendix I, Article XII Planned Unit Development. Appendix I Zoning, Article XII Planned Unit Development, Section 4.0 PUD land use districts, A – Planned single family (PR-1), 2. Permitted principal uses of the Code shall be deleted in its entirety and replaced with the following:

2. Permitted principal uses. Attached and detached single-family dwellings, duplexes and accessory structures. A home occupation shall be a permitted principal use only following the completion of an application by the requestor and the review and approval of such application by the Building Official or his/her designee for compliance with the provisions of this Appendix I.

H. Modification of Appendix I, Article XII Planned Unit Development. Appendix I Zoning, Article XII Planned Unit Development, Section 4.0 PUD land use districts, A – Planned single family (PR-1), 3. Conditional Uses of the Code shall be deleted in its entirety and replaced with the following:

3. Conditional uses. Public elementary or high school, or parochial or private school having a curriculum compatible to the above public school, but not providing residential accommodations; day care home, group day care home, and night care facility home; church; museum; library; art gallery; open spaces; residential information offices and community buildings; recreational facilities operated on a nonprofit basis; golf courses[;] swimming pools; tennis courts; parks; including playgrounds, tot lots, ballfields, picnic areas, convenience commercial uses, and other uses, all as may be approved by the planning and zoning commission and city council.

I. Modification of Appendix I, Article XV Highway 280 Overlay District Regulations. Appendix I Zoning, Article XV Highway 280 Overlay Regulations, Section 7.0 Signs, 7.2 Signs permitted in the A-1, E-1, E-2, R-1, R-2, R-3, PRD, R-T-4 and RE districts, Subsection B shall be deleted in its entirety and replaced with the following:

B. Conditional uses in the above stated districts are permitted one freestanding sign which does not exceed thirty-two (32) square feet of sign face area; or one building wall sign which does not exceed fifteen (15) percent of the building wall area to which it is attached, up to a maximum sign face area of thirty-two (32) square feet. Freestanding signs shall not exceed eight (8) feet in height. Signs shall not be internally illuminated. All indirectly illuminated signs shall be constructed so that the light is focused on the premises and does not illuminate off the premises.

J. Addition of Appendix I, Article III, Administration and Review Procedures, Section 2.0 Review Procedures. Appendix I Zoning, Article III Administration and

Review Procedures, Section 2.0 Review Procedures, 2.30 Conditional uses of the *Code* shall be deleted in its entirety and replaced with the following:

2.30. *Conditional uses.* Requests for conditional uses as stipulated within the zone district regulations including the PUD, are permitted only after review by the planning and zoning commission and approval of the city council.

A. Review Procedure. The following review procedure shall be adhered to:

1. The applicant shall submit a complete conditional use application to the city clerk, at least twenty-one (21) days prior to the planning and zoning commission meeting at which the conditional use is to be considered, containing as a minimum, the following information.

a. a one hundred dollar (\$100.00) fee to defray the cost of processing the application.

b. fifteen (15) copies of a site development plan, each of which shall be folded to a dimension of eight and one-half (8-1/2) by eleven (11) inches, which shall show the following:

i. Existing and proposed topography;

ii. Property lines;

iii. Scale;

iv. Storm drainage facilities and other utility easements;

v. Existing and proposed structures and their uses;

vi. Exterior lighting;

vii. General landscaping and fences;

viii. Outside storage areas;

ix. Parking and loading areas;

x. Points of ingress and egress;

xi. Signs; and

xii. The location of all existing and proposed sidewalks and pedestrian ways on the subject property and adjacent property; and.

c. tree conservation plan.

2. A minimum of fourteen (14) days prior to the planning and zoning commission meeting at which the conditional use request is to be considered, the city clerk shall mail notification to all adjacent property owners. The notice shall state:

a. the location of the conditional use request;

- b. the nature of the request, indicating the current zoning of the site and the proposed conditional use; and
 - c. the time, date and location of the planning and zoning commission meeting at which the request will be considered.
3. The planning and zoning commission shall schedule a hearing on the application at the first regularly scheduled meeting after compliance with notice provisions as set forth herein. An application shall not be continued more than three (3) times at the request of the applicant.
4. Upon receipt of a favorable recommendation from the planning and zoning commission, the city clerk shall schedule and advertise the proposed conditional use request for a public hearing before the city council. A proposed conditional use request shall not be continued more than three (3) times at the request of the applicant.
5. Upon receipt of a negative recommendation from the planning and zoning commission, the city council review process will be initiated at the request of the applicant.
6. When the city council denies a conditional use request, the planning and zoning commission shall not reconsider the same request for a period of six (6) months. Each time the city considers a conditional use request, the fifty dollar (\$50.00) administrative fee must be paid.

B. Requirements for Certain Uses.

1. *Day care home, group care home, or night care facility home:* Uses set forth in this subsection may be approved by the planning and zoning commission as a conditional use, provided that all regulations and requirements set forth herein are satisfied and the required proof of such satisfaction is provided to the commission. The planning and zoning commission may also attach such reasonable conditions and safeguards in addition to those set forth in this subsection as it may deem necessary to implement the purposes of this appendix.
 - a. Dwelling and Premises Requirements. Any dwelling and the Premises on which it is located that is to be utilized for any of the

above uses set forth in this subsection (1) shall:

- i. comply with the applicable International Building and International Fire Codes currently adopted by the city;
 - ii. be adequate in size, suitably fenced, and adequately landscaped to provide a suitable environment for children and to prevent adverse effects upon adjacent uses; and
 - iii. provide safe, convenient driveways for the loading and unloading of children or infirm adults to take place on the driveway of the premises on which the dwelling is located and not on the street.
- b. Signage Restrictions. There shall be no signage erected or displayed on the Premises that in any way identifies or advertises such a use.
 - c. Renewal. Failure to renew a business license will rescind a prior use approval issued by the planning and zoning commission.
 - d. Transfer of Use Permitted. There will be no transfer of such permitted conditional use to another address. If the holder moves to another neighborhood, the holder be required to re-apply for the conditional use with the planning and zoning commission.

K. Addition of Appendix I, Article III, Administration and Review Procedures, Section 2.0 Review Procedures. Appendix I Zoning, Article III Administration and Review Procedures, Section 2.0 Review Procedures, 2.50 Requirements for Home Occupations as Principal Permitted Use of the *Code* shall be added as follows:

2.50. *Requirements for Home Occupations as Principal Permitted Use.* Applications for home occupation use shall be permitted as a principal permitted use, provided that all regulations and requirements set forth herein are satisfied and the required proof of such satisfaction is provided to the Building Official or his/her designee.

- A. General Restrictions. The home occupation shall be clearly incidental to the residential character of the dwelling and shall

not adversely affect the uses permitted in the zoning district in which it is located. No home occupations shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased pedestrian and vehicular traffic, or any other conditions which would constitute an objectionable use of residentially-zoned property.

- B. Limitation of Type of Home Occupation. Home occupations shall be limited to an office, or a business of a personal service nature and shall not include a day care home, group care home, or night care facility home as defined herein.
- C. Limitation of Area. The use of a dwelling for a home occupation purpose shall be limited to twenty-five percent (25%) of one floor of the principal building and accessory building; however, no visible outside storage of any kind will be permitted in connection with any home occupation.
- D. Employment Limitations. Employment shall be limited to members of the family residing in the dwelling with which the home occupation is associated; there shall be no employment of persons who are not members of said resident family.
- E. Limitation of Patrons. The number and frequency of patrons on the premises for any reason related to the home occupation (who are not members of the resident family) shall be in keeping with the residential character of the neighborhood in which the home occupation is located.
- F. Signage Restrictions. There shall be no signage erected or displayed on the premises that in any way identifies or advertises a home occupation.
- G. Renewal. Failure to renew a business license will rescind any prior approval that may have been issued (permitting a home occupation).
- H. Transfer of Home Occupation. There will be no transfer of a home occupation to another address. If the applicant moves to another neighborhood, the applicant be required to re-apply for approval of a home occupation.
- I. Business Related Vehicles on Premises. There shall be no more than one (1) business related vehicle located on the Premises or abutting streets containing signage advertising the home occupation. The parking or storage of a home occupation business related vehicle with an aggregate gross vehicle weight

of more than one (1) ton is not permitted on the Premises at any time.

Section 2. MODIFICATIONS AND ADDITIONS TO CHAPTER 8 LICENSES AND BUSINESS REGULATIONS.

- A. **Addition of License Classification to Chapter 8 Licenses and Business Regulations, Article II General Business License, Section 8-16 License Schedule, (8)y.** Chapter 8, Article II, Section 8-16 of the *Code* is hereby amended to establish a new subsection which shall read as follows:

y. Day care center; Day care home; Group care home; Night care facility home
..... 100.00

- B. **Addition of Article XVI Day Care Center to Chapter 8 Licenses and Business Regulations.** Chapter 8 of the *Code* is hereby amended to establish a new article which shall read as follows:

ARTICLE XVI. DAY CARE CENTER.

Section 8-460. Definitions.

Day care center: A facility, other than a day care home or group day care home, which receives children for care during the day. For the purposes of this chapter only, a day care center (i) includes a day care home, group care home and night care facility home and (ii) shall be further classified as an existing home day care center or a new home day care center.

Day care home: A child care facility that operates within a dwelling, receives not more than five (5) children for care during the day, and is licensed by the Alabama Department of Human Resources.

Existing home day care center: A day care home, group care home, or night care facility home that (i) operates within a dwelling and (ii) had previously obtained a license to operate from the Alabama Department of Human Resources and had received approval for the operation of such from the State of Alabama Fire Marshal's office or his/her designee prior to adoption of this article.

Group care home: A child care facility licensed by the Alabama Department of Human Resources that is located in a dwelling and that receives at least seven (7) but not more than twelve (12) children for care during part of the day where there are at least two (2) adults present and supervising the activity.

New home day care center: A proposed day care center, day care home, group care home, or night care facility home presenting a business license application to the city to operate after the adoption of this article.

Night care facility home: A child care facility licensed by the Alabama Department of Human Resources that is located in a dwelling and that receives a child or children for care after 7:00 p.m.

Section 8-461. Compliance.

- (a) A day care center must comply with the requirements of this section (according to its classification as existing or new as defined in Section 8-429) and provide the required proof of such compliance to the city's revenue department before the issuance of a business license by the city.
- (b) An existing home day care center shall: (i) be licensed to operate by the Alabama Department of Human Resources, (ii) comply with the State of Alabama Fire Marshal's "Existing Home Daycare" procedure, and (iii) provide documentation to the city evidencing compliance with this procedure and approval to operate as a day care home, group care home or night care facility home prior to the adoption of this article.
- (c) A new home day care center shall: (i) be licensed to operate by the Alabama Department of Human Resources and (ii) comply with the applicable International Building and International Fire Codes currently adopted by the city.

Sections 8-462 – 8-470. --Reserved.

Section 3. ORDINANCES REPEALED. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. SEVERABILITY. That if any part, provision, or section of this Ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this ordinance not thereby affected shall remain in full force and effect. The City of Hoover hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. LEGAL RIGHTS NOT IMPAIRED. That nothing in this Ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

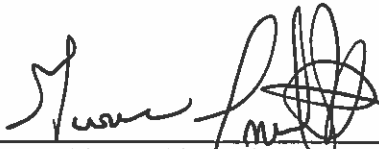
Section 6. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS. This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 7. PUBLICATION OF ORDINANCE. That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

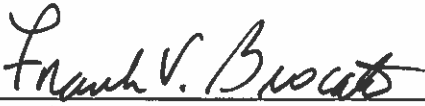
Section 8. EFFECTIVE DATE OF ORDINANCE. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

Done this the 5th day of March, 2018.


Gene Smith, President of the City Council

APPROVED:



Frank V. Brocato, Mayor

ATTESTED:


Margie Handley, City Clerk

CERTIFICATION

I, Margie Handley, City Clerk for the City of Hoover, Alabama, hereby certify that **Ordinance No. 18-2360** was adopted by the City Council of the City of Hoover, Alabama on the 5th day of March, 2018, and advertised in accordance with state law.



Margie Handley
City Clerk

