

ORDINANCE NO. 20230914-097

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 RELATING TO PERSONAL IMPROVEMENT SERVICES, THEATERS, PERFORMANCE VENUES, AND HOME OCCUPATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 25-2-4 (*Commercial Uses Described*) is amended to create a new “performance venue” commercial use, to amend use descriptions for “personal improvement services” and “theater”, and to renumber the remaining uses accordingly.

(50) PERFORMANCE VENUE use is the use of a site for presentation of plays, motion pictures, or other performances that includes the retail sale of alcoholic beverages for consumption on the premises. This use also includes live music performances.

(51[50]) PERSONAL IMPROVEMENT SERVICES use is the use of a site for the provision of informational, instructional, personal improvement, and similar services [~~of a non-professional nature~~]. This use includes music studios, martial arts studios, photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, and handicraft or hobby instruction.

(70 [69]) THEATER use is the use of a site for presentation of plays, motion pictures, or other [~~dramatic~~] performances within a building. This use also includes live music performances.

PART 2. The table in City Code Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) is amended to add additional base districts where theater use is a permitted use and conditional use; and to add performance venue to the table:

Theater is a permitted use in the following additional base districts:

Limited Office (LO)

General Office (GO)

Neighborhood Commercial (LR)

Community Commercial (GR)

Commercial Recreation (CR)

Warehouse/Limited Office (W/LO)

Theater is a conditional use in the following additional base districts:

Neighborhood Office (NO)

Performance venue is a permitted use in the following base districts:

Central Business District (CBD)

Performance venue is a conditional use in the following base districts:

Commercial Recreation (CR)

Community Commercial (GR)

Warehouse Limited Office (W/LO)

General Commercial Services (CS)

Commercial Liquor Sales (CS-1)

Commercial Highway Services (CH)

Limited Industrial Services (LI)

Downtown Mixed Use (DMU)

PART 3. City Code Chapter 25-2, Subchapter C, Article 4, Division 2 (*Commercial Uses*) is amended to add a new Section 25-2-819 to read as follows:

§ 25-2-819 PERFORMANCE VENUES.

- (A) The purpose of the performance venue is to enhance the development and preservation of venues that support art, music, and culture; and contribute to the City's status as the Live Music Capital of the World.
- (B) Production Space.
 - (1) A performance venue must allocate a minimum of 50 percent of the gross floor area for production and programming space.
 - (2) Production and programming space includes stages, green rooms, box offices and ticketing booths, audience areas, and equipment dedicated to producing plays, motion pictures, or other performances.
- (C) Sale of Alcoholic Beverages.
 - (1) A performance venue with a late-hours permit from the Texas Alcoholic Beverage Commission (TABC) is subject to Article 10 (*Compatibility Standards*) unless the venue is eligible for a waiver under Article 10, Division 3 (*Waivers*).

- (2) For a performance venue with a late-hours permit:
 - (a) an applicant must show all of the proposed parking on a site plan that is required for a conditional use or compatibility standards waiver; and
 - (b) the site is subject to the parking area setback described in Section 25-5-146 (*Conditions of Approval*).
- (3) During the Conditional Use Permitting Process, the Land Use Commission may:
 - (a) reduce the amount of gross floor area that can be dedicated as audience space if the Land Use Commission determines that the surrounding uses support a reduced amount of gross floor area; and
 - (b) allow an outdoor entertainment area.
- (4) The Land Use Commission shall identify the basis for its determination that surrounding uses support a reduced amount of gross floor area.

PART 4. City Code Section 25-2-900 (*Home Occupations*) is amended to read as follows:

§ 25-2-900 HOME OCCUPATIONS.

- (A) A home occupation is a commercial use that is accessory to a residential use. A home occupation must comply with the requirements of this section.
- (B) A home occupation must be conducted entirely within the dwelling unit or an ~~[one]~~ accessory structure ~~[garage]~~.
- (C) Participation in Home Occupation.
 - (1) Except as otherwise provided in this subsection, participation ~~[Participation]~~ in a home occupation is limited to occupants of the dwelling unit ~~[, except that one person who is not an occupant may participate in a medical, professional, administrative, or business office if off street parking is provided for that person].~~

(2) A person who does not reside on-site may participate in a home occupation if the home occupation is:

- (a) a medical, professional, administrative, or business office;
- (b) an art workshop or gallery;
- (c) a music, dance, or photography studio; or
- (d) handicraft or hobby instruction.

(D) The residential character of the lot and dwelling must be maintained. A home occupation that requires a structural alteration of the dwelling to comply with a nonresidential construction code is prohibited. This prohibition does not apply to modifications to comply with accessibility requirements.

(E) A home occupation may not generate more than three vehicle trips each day of customer-related vehicular traffic.

~~[(F) The sale of merchandise directly to a customer on the premises is prohibited].~~

(F[G]) Except for materials and equipment used in an art workshop, equipment
[Equipment] or materials associated with the home occupation must not be visible from locations off the premises.

(G[H]) A home occupation may not produce noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference, or waste run-off outside the dwelling unit or accessory structure [garage].

(H[I]) Parking a commercial vehicle on the premises or on a street adjacent to residentially zoned property is prohibited.

(I[J]) Advertising a home occupation by a sign on the premises is prohibited, except as provided under Section 25-10-156 (*Home Occupation Signs*). Advertising the street address of a home occupation through signs, billboards, television, radio, or newspapers is prohibited.

(J[K]) The following are prohibited as home occupations:

- (1) animal hospitals, animal breeding;
- (2) clinics, hospitals;

- (3) hospital services;
- (4) contractors yards;
- ~~[(5) dance studios;]~~
- (5[6]) scrap and salvage services;
- (6[7]) massage parlors other than those employing massage therapists licensed by the state;
- (7[8]) restaurants;
- (8[9]) cocktail lounges;
- (9[10]) rental outlets;
- (10[11]) equipment sales;
- (11[12]) adult oriented businesses;
- (12 [13]) recycling centers;
- (13 [14]) drop-off recycling collection facilities;
- (14[15]) an activity requiring an H-occupancy under Chapter 25-12, Article 1 (*Uniform Building Code*);
- (15 [16]) automotive repair services; and
- (16[17]) businesses involving the repair of any type of internal combustion engine, including equipment repair services.

PART 5. This ordinance takes effect on September 25, 2023.


PASSED AND APPROVED


September 14, 2023

§
§
§



Kirk Watson
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Myrna Rios
City Clerk