ORDINANCE NO. 2019 - 4

AN ORDINANCE THAT INCLUDES MULTIPLE CITY CODE AMENDMENTS:

CREATING STANDARDS AND AN APPROVAL PROCESS FOR ARTS AND CRAFTS FESTIVALS (14.3 AND 14.700);

CREATING STANDARDS RELATED TO TEMPORARY OUTDOOR SALES (21.302.12);

ADDING TYPE II HOME BUSINESSES TO THE LIST OF CONDITIONAL USE PERMITS REQUIRING ONLY PLANNING COMMISSION APPROVAL (21.302.13).

THEREBY AMENDING CHAPTER 14, 19, 21 OF THE CITY CODE

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 14 of the City Code is hereby amended by deleting those words that are contained in brackets and [~~stricken through~~] and adding those words that are <u>underlined</u>, to read as follows:

CHAPTER 14
ARTICLE I: GENERAL PROVISIONS

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§ 14.03 FEES.

(a) Except as otherwise stated in this Code, the fees for the various licenses and permits shall be as hereinafter stated.

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License/Permit	Required by Section	Annual Fee
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<u>Arts and Crafts Festival</u>		
<u>Arts and Crafts Festival Permit 4-5 Vendors</u>	<u>14.700</u>	<u>$50</u>
<u>Arts and Crafts Festival Permit 6-15 Vendors</u>	<u>14.700</u>	<u>$100</u>
<u>Arts and Crafts Festival Permit 16 or More Vendors</u>	<u>14.700</u>	<u>$150</u>

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<u>ARTICLE X: ARTS AND CRAFTS FESTIVAL</u>

<u>§14.700 PURPOSE.</u>

<u>The purpose of Article X is to establish standards for the regulation of Arts and Crafts Festivals in the City to protect the health, safety, and general welfare of the public.</u>

§14.701 DEFINITION.

ARTS AND CRAFTS FESTIVAL. An association of two or more art vendors or handicraft vendors who assemble at a defined location primarily for the purpose of selling directly to the consumer their arts or crafts.

ART VENDOR. Art, as used in this chapter, are those items which are handmade and sold only by the creator of the item or the creator's designated seller. Art items shall include, but are not limited to: handmade baskets, glassware, jewelry, macramé, needlework, painted clothing, paintings, pottery, rugs, wooden toys or carvings, and other similar items.

FOOD SERVICE VENDOR. A vendor who sells foods prepared for immediate consumption at the festival and who is licensed according to Minnesota law or city ordinance.

HANDICRAFTS. Non-food products that are substantially made or crafted by hand, where any materials used for crafting a product must be significantly altered or enhanced by the handicraft producer and handcrafted components must functionally and/or aesthetically dominate any non-handcrafted (commercial) components.

HANDICRAFT (CRAFT) VENDOR. A vendor who produces handicrafts, who has control over the means and methods of production and who assumes the principal financial and liability risk for the production enterprise.

ISSUING AUTHORITY. The City of Bloomington License Section, Building and Inspection Division, Environmental Services Division or City Fire Marshal.

SECONDHAND GOODS. As defined in § 14.422 of this code.

VENDOR OF SERVICES. A vendor who provides a service intended for immediate consumption including, but not limited to, chair massage and face painting.

§ 14.702 PERMIT REQUIREMENTS.

(a) Permit required. An Arts and Crafts Festival must not be conducted without first obtaining a permit as required in this Article X.

§ 14.703 PERMIT APPLICATION.

(a) *Filing.* A person seeking a permit required by Article X must file a signed and completed application with the issuing authority on the forms provided. Applications must be filed at least 60 days prior to the Arts and Crafts Festival.

The issuing authority may waive the minimum filing period for good cause shown if, after due consideration of the date, time, place and nature of the Arts and Crafts Festival, the anticipated number of participants, and the city services required in connection with the Arts and Crafts Festival, it is determined that the waiver will not adversely impact the public health, safety or welfare.

(b) *Contents.* The application for a permit under this Article X must include the following information:

(1) The name, address, electronic mail address, and telephone number of the applicant;

(2) The names, addresses, electronic mail addresses, and telephone numbers of the owner of the land upon which the Arts and Crafts Festival is to be conducted and the name of the person within that organization responsible for the Arts and Crafts Festival ;

(3) A letter of authorization from the property owner, if different from the applicant;

(4) The names, addresses, electronic mail addresses, and telephone numbers of the persons who will act as the Arts and Crafts Festival manager(s) responsible for the Arts and Crafts Festival;

(5) The date and hours when the Arts and Crafts Festival will start and terminate, including set-up and teardown times;

(6) A description of the planned activities, including the approximate number of vendors and the approximate number of customers and guests reasonably anticipated;

(7) A site plan depicting the location of the Arts and Crafts Festival that includes loading or unloading areas, vendor stand locations, parking areas, gathering and seating areas, tents, stages, platforms, temporary structures, tables, booths, first-aid or relief stations, dumpsters, fencing, portable toilets, signs or banners and a parking, pedestrian circulation and traffic plan;

(8) A description of any sound amplification equipment and its positioning, and other mechanical or electronic equipment to be used in connection with the Arts and Crafts Festival and the names, addresses and telephone numbers of any sound technicians for the Arts and Crafts Festival;

(9) A description of any public facilities or equipment to be utilized;

(10) A description of the applicant's plan to clean up and restore the site;

(11) Vendor information. For each Arts and Crafts Festival vendor the following information must be supplied:

(A) Business or vendor name;

(B) Description of goods to be sold;

(C) Vendor type (i.e. Art Vendor, handicraft vendor, cottage food vendor, retail food vendor, food service vendor, plant vendor, vendor of service, etc.);

(D) A description of how vendors who intend to provide food samples or food demonstrations will comply with M.S. § 28A.151; and

(E) Applications for required city licenses related to vendor type; and

(12) Such other information as the issuing authority requires in order to make a fair determination as to whether or not a permit should be issued.

§ 14.704 FEES.

(a) *Permit fees.* Permit fees for Arts and Crafts Festival are listed in § 14.03 of this code, and the permit fee must be submitted with the application. Additional permits and fees may be required if the Arts and Crafts Festival includes public facility rental, tents, retail food vendors, food service vendors , or other attributes subject to separate regulation.

(b) *Contractual police overtime deposit.* A fee for contractual police overtime must be paid at the time the application is submitted if the Chief of Police determines, based upon the festival's size, date, time of day, location, concentration of persons, vehicles, equipment, that additional police services, over and above that which can be provided by regularly scheduled on-duty police personnel, is necessary to protect the public health, safety and welfare. The fee for contractual police overtime shall be based upon the established contractual overtime rates for the patrol and supervisory officers available, which include regular salary, plus regular fringe benefits. In making this determination, the Chief of Police may not reference or consider the content of the expressive activity or views expressed or anticipated to be expressed at any public assembly at the Arts and Crafts Festival or the response it may provoke.

(c) *Other city staff overtime deposit.* A fee for estimated city staff overtime must be paid at the time the application is submitted if the issuing authority determines, based upon the Arts and Crafts Festival's size, date, time of day, location, concentration of persons, vehicles, or equipment that additional city staffing is necessary to protect the public health, safety and welfare. The fee for city staff overtime shall be based upon the actual overtime rates for the city staff available to serve the Arts and Crafts Festival, which shall include regular salary, plus regular fringe benefits. In making this determination, the issuing authority may not reference or consider the content of the expressive activity or views expressed or anticipated to be expressed at any public assembly at the Arts and Crafts Festival or the response it may provoke.

§ 14.705 PERMIT APPLICATION AND VERIFICATION.

(a) *Application consideration.* An application for a permit pursuant to this Article X must be submitted to the issuing authority, which will verify the information on the application form. The issuing authority is empowered to conduct any and all investigations to verify the information on the application. The issuing authority may include in its approval such conditions as may be necessary to ensure adequate parking and traffic circulation, to minimize impacts on adjacent property, to ensure compliance with all applicable laws and to otherwise protect the health, safety and welfare of the community. A permit may not be granted unless the issuing authority finds that:

(1) The conduct of the Arts and Crafts Festival will not impair the safe and orderly movement of pedestrian or vehicular traffic;

(2) The conduct of the Arts and Crafts Festival will not require the diversion of so great a number of city police resources as to pose an adverse impact on the health, welfare and safety of the public;

(3) The concentration of vehicles, persons at the Arts and Crafts Festival will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the Arts and Craft Festivals;

(4) The conduct of the Arts and Crafts Festival is not reasonably likely to cause injury to persons or property;

(5) Adequate sanitation and other required health facilities are or will be made available in or adjacent to the arts and craft Festivals area;

(6) There are sufficient parking places near the Arts and Craft Festivals;

(7) The applicant has paid all fees required under § 14.03;

(8) The application meets all applicable code requirements; and

(9) The application is not detrimental to the public health, safety or welfare.

(b) *Denial.*

(1) Denying an application. The issuing authority may deny an application completely or in part. The issuing authority must explain the reason for denial in a written notice. The issuing authority must mail the notice of denial to the applicant at the street address provided in the application, and may send a copy electronically to the electronic mail address provided in the application. The notice of denial must inform the applicant that he or she has 20 days to request an administrative review, counting from the date the issuing authority mailed the notice of denial.

(2) Request for administrative review. An applicant has a right to request an administrative review of the issuing authority's decision to deny a permit. The applicant must serve the request for review on the issuing authority within 20 days, counting from the date the issuing authority mailed the notice of

denial. The applicant must include with the request all documents and written arguments in support of the applicant's position.

(3) Written decision. If the issuing authority receives a request for administrative review within the 20-day period, the City Manager or the City Manager's designee must review the request and issue a written decision to the applicant within 20 days, counting from the date of receipt of the request. This written decision must be mailed to the applicant at the address on the permit application.

§ 14.706 REQUIREMENTS FOR ARTS AND CRAFT FESTIVAL.

(a) *Location.* Arts and Craft Festivals are subject to the following location requirements:

(1) *Zoning districts.* Arts and Craft Festivals are permitted uses in multiple zoning districts as stated in Chapter 19 and 21 of the city code.

(2) *Permitted within the right-of-way.* Arts and Craft Festivals are permitted within the right-of-way subject to requirements in § 17.68 of this code.

(b) Arts and Craft Festivals vendors.

(1) *Primarily Arts and Handicraft Vendors.* At least 60% of Arts and Craft Festivals vendors must be Arts and Handicraft Vendors. The other vendors, up to 40%, are limited to the following types:

(A) Retail food vendors;

(B) Cottage food vendors;

(C) Plant vendors; and

(D) Vendors of services.

(2) *Minimum Number of Vendors*. The Arts and Craft Festival must include at least four vendors.

(c) *Hours and frequency.*

(1) Arts and Craft Festival vendors are not allowed to begin setting up earlier than 7:00 a.m. if located on or within 250 feet of a residential property. This restriction does not apply to an Arts and Crafts Festival vendor if all residential property within 250 feet of the vendor is situated on the other side of an arterial street.

(2) No Arts and Crafts Festival is allowed to be open for the transaction of business on any day of the week before 7:00 a.m. or after 10:00 p.m.

(3) The Arts and Crafts Festival is permitted up to three occurrences per calendar year with each occurrence limited to no more than four consecutive days in a 30 day period on the same site under one permit.

(4) The Arts and Crafts Festival site must be entirely free of refuse, litter, recyclables, equipment, and vendors two hours after the Arts and Crafts Festival’s advertised closing time.

(d) *Parking.*

(1) An Arts and Crafts Festival must provide two code-compliant parking stalls per Arts and Crafts Festival vendor.

(2) The applicant must demonstrate that display area and Arts and Crafts Festival parking will not negatively impact the parking required on site for non- Arts and Crafts Festival uses during periods when the Arts and Crafts Festival is open.

(e) *Tents and canopies*. Permits are required for tents subject to requirements stated in § 19.63.06 of this code.

(f) *Arts and Crafts Festival goods*.

(1) Compliance with local, state, and federal regulations.

(A) All items must be transported, prepared, labeled, displayed, stored, and sold in accordance with local, state and federal regulations and are subject to inspection.

(2) Prohibited vendors and goods. The following types of vendors are prohibited from Arts and Crafts Festival:

(A) Vendors selling secondhand goods.

(g) *Signs*. Signs for the Arts and Crafts Festival are subject to requirements stated in Chapter 19 Article X of this code.

(h) *Permits and licenses*. All permits and licenses required by the Minnesota Departments of Health or Agriculture or city are the responsibility of the vendors.

(i) *Arts and Crafts Festival manager*. All Arts and Crafts Festivals must have a designated Arts and Crafts Festival manager. The festival manager must be present when the Arts and Crafts Festival is open and is responsible for the supervision, management, and control of the Arts and Crafts Festival, including:

(1) Obtaining any required permits for the Arts and Crafts Festival from the City of Bloomington;

(2) Ensuring compliance with Arts and Crafts Festival's policy documents and all the Arts and Crafts Festival requirements listed herein;

(3) Ensuring all Arts and Crafts Festival vendors are in compliance with all required local, state, and federal licenses and regulations prior to vending;

(4) Ensuring a current list of all Arts and Crafts Festival vendors is available to city staff to review at all times during the Arts and Crafts Festival;

(5) Ensuring prompt removal of all refuse, litter, and recyclables from the Arts and Crafts Festival and areas of public right-of-way within 100 feet of the Arts and Crafts Festival; and

(6) Maintaining a record, on site and easily accessible to city staff and other officials, of all festival vendors who qualify for exemption under M.S. Chapter 28A152 Cottage Food Exemption. Each individual vendor record must contain at minimum the following data:

(A) Vendor name, business name, and contact information;

(B) The address of individual preparing and selling the food; and

(C) A list of products sold.

(j) *Insurance*. Commercial General Liability and Auto insurance for all vendors at a minimum of $1,000,000 must be obtained to cover any Arts and Crafts Festival on city property. A certificate of insurance must be filed with the city.

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Section 2. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets and [~~stricken through~~] and adding those words that are <u>underlined</u>, to read as follows:

CHAPTER 19

ZONING

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ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

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§19.29 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

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(b) *Permitted principal uses.*

***

(9) Entertainment and recreation special events; [~~and~~]
(10) Farmers market subject to standards set forth in Chapter 14, Article IX[~~.~~]<u>; and</u>
<u>(11) Arts and Crafts Festival subject to standards set forth in Chapter 14, Article X.</u>

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§19.31.01 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

***

(b) *Permitted principal uses.*

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(11) Firearm sales, incidental, subject to standards set forth in § 21.302.11; [~~and~~]
(12) Farmers market subject to standards set forth in Chapter 14, Article IX[~~.~~]<u>; and</u>
<u>(13) Arts and Crafts Festival subject to standards set forth in Chapter 14, Article X.</u>

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ARTICLE IIIA. ADDITIONAL ZONING DISTRICTS

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§19.40.07 COMMERCIAL SERVICES CS-05 AND CS-1.

***

(b) *Permitted principal uses.*

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(8) Entertainment and recreation special events; [~~and~~]
(9) Farmers market subject to standards set forth in Chapter 14, Article IX[~~.~~]<u>; and</u>
<u>(10) Arts and Crafts Festival subject to standards set forth in Chapter 14, Article X.</u>

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§19.40.08 COMMERCIAL OFFICE DISTRICT CO-1.

***

(b) *Permitted principal uses.*

***

(5) Entertainment and recreation special events;
(6) Farmers market subject to standards set forth in Chapter 14, Article IX[~~.~~]<u>; and</u>
<u>(7) Arts and Crafts Festival subject to standards set forth in Chapter 14, Article X.</u>

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§19.40.09 RESIDENTIAL OFFICE DISTRICTS RO-24 AND RO-50.

***

(b) *Permitted principal uses.*

***

(5) Entertainment and recreation special events; [~~and~~]
(6) Farmers market subject to standards set forth in Chapter 14, Article IX[~~.~~]; and
(7) Arts and Crafts Festival subject to standards set forth in Chapter 14, Article X.

***

§19.40.10 CONSERVATION DISTRICT SC.

***

(b) *Permitted principal uses.*

***

(5) Entertainment and recreation special events; [~~and~~]
(6) Farmers market subject to standards set forth in Chapter 14, Article IX[~~.~~]; and
(7) Arts and Crafts Festival subject to standards set forth in Chapter 14, Article X.

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ARTICLE X. SIGN REGULATIONS

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DIVISION C: GENERAL REGULATIONS

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§19.105 REGULATED SIGNS EXEMPT FROM OBTAINING A SIGN PERMIT.

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(c) *Regulated signs exempt from permit requirements.*

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(23) *Farmers market and arts and craft festival signs.* Farmers market signs are exempt from obtaining a permit but must meet the following standards:

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(B) *Maximum height and minimum setbacks.* Any temporary signs must maintain a minimum setback of five feet from any street right-of-way unless the farmers market or Arts and Crafts Festival itself has approval to locate in the right of way. No temporary sign is allowed to be placed above the highest outside wall of a structure. All temporary signs are subject to the requirements of § 19.108(e)(1), clear view triangle area.

(C) *Time period for signage.* Temporary signs are not allowed to be displayed before 24 hours before the opening of the farmers market or Arts and Crafts Festival or after two hours after closure of the farmers market or Arts and Crafts Festival.

(D) *Location.* Temporary signs are only allowed to be placed in yard areas and on buildings below the roof line and are not allowed to be placed within two feet of public sidewalks, or on sidewalks, parking lots (except for vendor signs), parking lot islands, retaining walls, boulders, planters or any other areas prohibited by the city code. Signs are only allowed to be placed on the site of the farmers market or Arts and Crafts Festival and with property owner authorization.

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(H) *Temporary directional signs.* Farmers markets or Arts and Crafts Festivals may display temporary directional signs provided the following criteria are satisfied.

***

Section 3. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 21
ZONING AND LAND DEVELOPMENT

***

ARTICLE II. DISTRICTS AND USES

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DIVISION H: USES

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§21.209 USE TABLES.

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(c) *Residential Zoning Districts.*

Use Type	Zoning District									References; See listed section
	R-1	R-1A	RS-1	R-3	R-4	RM-12	RM-24	RM-50	RM-100	
TEMPORARY/SEASONAL										
Temporary Uses										
Arts and Crafts Festival	P				P	P	P	P	P	Chapter 14, Article X

***

(d) *Neighborhood and Freeway Commercial Zoning Districts.*

Use Type	Zoning District								References; See listed section
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	
TEMPORARY/SEASONAL									
Arts and Crafts Festival	P	P	P	P	P	P	P	P	Chapter 14, Article X

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(f) *Specialized zoning districts*.

Use Type	Zoning District		References; See listed section
	CX-2	LX	
TEMPORARY/SEASONAL			
Special Events			
Arts and Crafts Festival	P	P	Chapter 14, Article X

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ARTICLE III: DEVELOPMENT STANDARDS

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Division B: Use Standards

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§ 21.302.12 [~~RESERVED~~] TEMPORARY OUTDOOR SALES

(a) *Approval Process.* Temporary outdoor sales require administrative approval as a minor revision to final site and building plans or minor revision to final development plans if the site is a planned development (see § 21.501.01 and 21.501.03).

(b) *Standards*. Temporary outdoor sales must meet the following standards:

(1) *Limitations*. Temporary outdoor sales must be organized by a retailer that is regularly open for business, may only occur on the same site of that approved retail use, and may only sell products regularly sold by that retailer.

(2) *Duration.* Temporary outdoor sales are limited to five days per event and 15 days total per year per retailer except for the sale of seasonal plants and flowers, which is limited to 120 days per calendar year per retailer. For multiple tenant retail sites, no more than four separate temporary outdoor sales events may occur on site per calendar year.

(3) *Area.* Temporary outdoor sales are limited to an area not to exceed one quarter of the retail floor area of the retailer conducting the sale. Temporary outdoor sales of seasonal plants and flowers that exceed three days per calendar year in duration are limited to 300 sq. ft. in area.

(4) *Placement.* Temporary outdoor sales may not block fire lanes, needed traffic circulation drives, or clear view triangles.

(5) *Parking*. Applications for temporary outdoor sales must demonstrate that sufficient parking will be provided both for the sale and for any other activity on the site. Temporary outdoor sales of seasonal plants and flowers that exceed three days per calendar year may not encroach upon City Code required parking spaces.

(6) *Tents and Canopies*. Tents or Canopies are subject to requirements outlined in 19.63.06

(7) *Exception.* Sites with existing Planned Developments permitting outdoor sales as of January 1, 2019 are exempt from these requirements.

§ 21.302.13 HOME BUSINESSES.

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(c) *Types of home businesses.*

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(2) *Type II.* Type II home businesses are businesses of a type that the City Council has historically found to have the potential to adversely affect the health, safety or welfare of other persons residing in the area. Examples of Type II home businesses are listed below. This list is intended to be illustrative not exhaustive.

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(E) A Type I home business reclassified as a Type II home business by virtue of a conditional use permit approved by the City Council.

(d) *Standards.*

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(5) *Use of accessory buildings or garages.*

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(B) As provided in subsection (b) below, the [~~City Council~~] Planning Commission may approve Type II home business activities in accessory buildings or garages if it finds that the proposed activities would not alter the residential character of the neighborhood if performed within an accessory building or garage.

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(7) *Separate entrances.* The space devoted to or used by the home business must not have its own separate entrance and must be completely contained within the principal residential dwelling unit so as to have no exterior visibility. Any entrance leading to the space devoted to or used by the home business must also lead to the remainder of the home.

(A) *Exception.* Type II home businesses permitted by the [~~City Council~~] Planning Commission to operate from an accessory building or garage are exempt from this provision.

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(16) *Client visits.*

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(B) *Type II home businesses.* As provided in subsection (b) above, the [~~City Council~~] Planning Commission may determine the number and intensity of client visits per day and time.

Passed and adopted this 7th day of January, 2019.

/s/ Gene Winstead
Mayor

ATTEST:

/s/ Denise M. Christenson
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney