

City of Mauldin Planning Commission

Minutes
July 24, 2018

Meeting called to order. In attendance were Chairman Ray Atchinson, Michael Forman, Elizabeth Wiygul, Dean Oang and Rachel Davis. Rachel Davis made the motion to adopt the agenda. Elizabeth Wiygul seconded. Vote was unanimous. Dean Oang motioned to approve the May 22 hearing minutes Michael Forman seconded. Vote was unanimous for approval.

M-2018-9-PC
Cottage Food Bill

Kim Hamel provided the staff report. On June 7, 2012, the "Home Based Food Production Law" (AKA the "Cottage Food Bill") became law. It allows limited production and sale of foods produced in home kitchens. The cottage food law authorizes production in home kitchens on non-potentially hazardous food products worth no more than \$15,000 in gross sales annually. The only foods allowed to be produced in home kitchens are non-potentially hazardous foods, such as baked goods and candies. This law does not allow jams, jellies, pickles, or any product that would require refrigeration to be produced under this exemption.

The Cottage Food Law only allows direct sell to the end consumer (i.e. the person who intends to eat the food). It does not permit sales to a retail food establishment or to a retail food establishment (including permitted mobile food units). Products may be sold at venues such as farmer's and flea markets.

At the time of the law was adopted, the State left it up to each individual municipality and/or county to adopt the bill so it could be tailored to address individual community needs. Typically, the regulations are adopted as a form of home occupation with conditions.

The only Conditional Use standard that currently prevents a Cottage Food Operation as a Home Occupation is Section. 10.11 that states, "Neither wholesale nor the retail sales of goods shall occur on the premises. Sales of goods where all transactions occur exclusively "on-line" shall be exempt from this standard."

Greenville County and the City of Greenville have very similar Home Occupation ordinances and standards to ours except that theirs do not prohibit product sales when they are directly related to the service performed.

On Monday, July 2, 2018, the Building Codes Committee reviewed the proposed ordinance and unanimously voted to forward the draft ordinance to the Planning Commission for their consideration and a recommendation to City Council.

Mr. Forman requested a change to Section 5 to read, "(i.e. beautician who sells hair products, or sales of home baked goods and candies as covered under Section 44-1-143, known as the South Carolina Cottage Food Law). It was also asked if the cap was needed. If the business exceeds the cap, it must move.

Mr. Forman motioned to approve the ordinance with the condition of the change in wording. Mrs. Wiygul seconded. Vote was unanimous.

M-2018-10-PC
Precious Metals

Mrs. Hamel read the staff report. In December of 2014, Council approved Ordinance 783 that created Special Exception standards for non-depository financial institutions, debt relief businesses, precious metal dealers, and all like businesses. The ordinance also set standards for these uses to only be permitted within an S-1 (Service) zoning classification and defined Debt Relief Company, Precious Metal and Precious Metal Dealers.

Since the time of the ordinance adoption, the Business and Development Services Department received one application. Upon receipt of the Tenant Occupancy application, staff informed the applicant that a pawn shop was an allowed retail use in the C-2 zoning district but that precious metal sales could not be part of the business due to the restrictions of the ordinance. It was later found that the business had a precious metal permit. The City Attorney advised that our local zoning ordinance does not prohibit precious metal sales but rather dictates where they can be located. So while a precious metals license may be issued to a business owner, the owner is still subject to compliance with local zoning regulations. He then advised the City Administrator that Business and Development Services should send a letter by certified mail notifying the property owner that they were in violation of their zoning permit by engaging in the sale of precious metals.

Some council members have expressed concern that it was not the intent or their understanding that ordinance 783 would affect Pawn Shop operations. If council desires to clarify the intent and exclude pawn shops from being regulated under this ordinance, staff suggests amending Section 3:2, Definitions by including language specifically excluding Pawn Shops from the definitions of Debt Relief Company and Precious Metal Dealer; and to also amend Section 7:6 to add similar language to section A. excluding pawn shops as a "like business".

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Mr. Paulsen asked if it exempted them from high rate loan. Mrs. Hamel responded that she was not asked. She was specifically asked about precious metals. Mrs. Wiygul wanted to know who assumed the ordinance did not include pawn shops. Mr. Forman asked if they were overstepping their bounds. He is not comfortable with approving the ordinance and wants an airtight definition of a pawn shop. Mrs. Wiygul thinks it sets a bad precedence. If you don't like Mauldin's ordinance, they will change it for you. She asked if the current pawn shop was allowed to keep operating.

Mr. Forman asked if the Commission could hold the ordinance up. Mrs. Hamel explained that they could table it for 30 days. She agreed that "pawn shop" needed a definition and it is a form of debt relief. Mr. Oang wanted to know why the ordinance couldn't be clarified instead of changing it. Mrs. Wiygul made a motion to table until further clarification was received, specifically the definition for pawn shops. Mr. Paulsen seconded. Vote was unanimous.

M-2018-8- PC
Short Term Rentals

The staff report was provided by Mrs. Hamel. During the October Council meeting and again at the November B&DS Committee meeting, residents spoke during the public comment section about the ongoing issues on Pine Gate Drive as it related to suspicious activity. Residents in the areas attribute their problem to a home being rented out on nightly basis. Residents expressed concern over nightly tenants trespassing on their property, as well as, illegal parking and blocked driveways. One complainant even discussed ongoing safety concerns occurring at the designated school bus stop, due to parents having issues with “unknown persons” being around the location.

During the April Council meeting, another group of residents from the Pine Forest neighborhood spoke during the public comment section about an issue several neighbors had with the occupants of a short term rental in the neighborhood. Council informed the citizens that staff was completing a draft of the ordinance that would be reviewed by the Building Codes Committee in May.

Following the Council meeting the City Administrator and Director of Business and Development Services met with property owners who operate the Short term rentals in the Pine Forest neighborhood. They are prepared to attend the Committee meeting in May to provide another perspective on the value of Short term rentals in the community. They also suggested that in addition to requiring fees for short term rental owners, an annual business license and registration fee for owners of (long term) residential rental units should be subject to the same requirements.

The decision on whether to establish standards that allow short term rentals of homes in residential neighborhoods is difficult since there are advantages and difficulties in either direction. The decisions of cities on the subject, regionally (and nationally), vary widely and reflect local business and neighborhood protection passions. One factor present in all in cities where STR’s are allowed in residential neighborhoods is a strong commitment to providing adequate staffing and enforcement for implementation of the annual registration, inspection and licensing process to ensure compliance with the standards. The proposed ordinance was drafted following review of multiple STR ordinances adopted by a number of other jurisdictions. She explained the amendments and fees that would be associated if City Council approved the ordinance.

Mrs. Hamel discussed and the actions to date and asked for guidance and input from the Planning Commission on the following two items (item #3 has been incorporated into the ordinance per the Committee’s direction):

- 1) **Consider appropriate spacing requirements.** The draft currently has a 1,000 foot separation requirement. Short term rental property owners have stated this will significantly affect their existing businesses. Staff has developed a set of maps that illustrates the following:
 - Shows the location of the existing short term rental on Pinecrest and illustrates the proposed 1,000 foot separation requirement and separation at 500 feet, and 750 feet.
 - Shows the location of the three existing STR’s in the Pine Forest neighborhood and illustrates the proposed 1,000 foot separation requirement and separation at 500 feet, and 750 feet.

- 2) ***Considering amending the draft amendment for Short term rentals, to allow a 2-day rental period versus the current proposal of a minimum “7” day rental period.*** Staff feels that this is an area where greater balance could be achieved, particularly since the draft requires all STR’s to obtain a Special Exception permit from the Zoning Board of Appeals.

- 3) INCORPORATED INTO DRAFT ORDINANCE: Following the public meeting staff received feedback from the Police Department that we should not require a sign to be posted during the rental period as it may draw unwanted criminal activity. Staff has revised the standard to say: “...during a rental period... proof of registration must be made readily available for review by City or public safety officials.”

Jeff Swartwood, 402 Mapleton Drive) spoke in favor of the ordinance. What concerns him is the proposed ordinance to place limitations on short term rentals. While he does not fundamentally oppose restrictions he opposes the discrimination of one business over another that is the SAME CLASS of business. He is concerned about any member of council that would sign their name as an architect to the ordinance that discriminates against one group of rental landlords while applying zero restrictions to another group of rental landlords. He specifically discussed time limitations. One any day limitation over two days would put STRs out of business. Any spacing limitation would also put STRs out of business. Any number of days that you apply to a rental property is completely arbitrary and will not stand in a court of law. He requested that the same standards be applied to all. He requested that the commissioners do not discriminate and apply the law fairly to all landlords. Leo Swartwood of 306 Mapleton Drive also opposed the proposed ordinance.

Mr. Paulsen commented that some neighborhoods were predominately rentals. He asked why the city wanted to eliminate the number of short term rentals when the long term seems inconsistent. Mr. Forman stated that long term meant people were going to live there verses short term was people must visiting. Mr. Oang suggested that long term be inspected just like a business. Maybe just not as often as an Air B&B. He also suggest that the Commission pass standards of living but he thinks a minimum of 7 days would destroy an Air B&B. Mrs. Hamel suggested instead of 7 days to make it 2 days but all short term rentals would be required to go before the Zoning Board for approval. Mr. Oang wanted to know if the ordinance would be applied across the board. Mr. Forman suggested that they focus on short term rental. He hesitates to use the feet apart but considers percentage. He also wanted to know what zoning districts they would be allowed in. Mrs. Hamel told him the ordinance would allow short term rental in the single-family and residential multi-family districts. Jonathon Paulsen wanted to know if there was an explosion of short term rentals would it hurt the community. He is not sure that he is ready to have restrictions based on vague implications. Mrs. Wiygul wanted to know if a study had been done to support the crime allegations. Chairman Atchinson thought the distance could be discriminating. Mr. Foreman motioned to approve and move forward with no spacing requirements and no period requirements. Mr. Paulsen seconded adding that the maximum occupancy be 10 guest or 2 people per bedroom. Vote was 5 to 1 for approval. Rachel Davis recused herself.

Mr. Paulsen motioned to adjourn. Mrs. Davis seconded. Meeting adjourned.