



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES
Planning and Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: April D. Getchius, AICP, City Planner

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SUBJECT: Report of Internet related businesses and how they fit into the Urbana Zoning Ordinance's Table of Uses.

Introduction

At the request of the City Council, staff has evaluated the different types of uses that could result from an internet-related business and examined how the table of uses, specifically the B-1 Neighborhood Business Zoning District, in the Urbana Zoning Ordinance could be amended to accommodate these new uses, if appropriate. The success of the internet has created many new and creative methods of conducting business and selling products. Unfortunately, these methods of business in the new economy are not well categorized in the Urbana Zoning Ordinance's table of uses which tends to only recognize traditional land uses, such as retail stores, offices, and industrial sites.

Overview

What is meant by an *Internet-Related Business*? It may mean the sale of a product via the internet which may or may not involve physical customer activity at a store or office and may or may not involve the sale of a good. Basically, the internet can be used to sell a service or a good.

Services via the Internet

A business offering an internet related services may, as an example, offer some of the following:

- ?? webpage construction and design for companies;
- ?? services, such as insurance sales or legal document preparation;
- ?? database maintenance or computer network maintenance for companies;

?? graphic design production

All of these uses may employ a number of people but have no actual customers visiting the site to purchase goods or merchandise. A service request could come in via the internet and the end product could be sent out via the internet. These uses may, however, include client consultation on the premises. Such activities would fit into the zoning ordinance's current definition of *office* which reads:

***Office:** A room or suite of rooms used for the practice of a profession or for the conduct of a business which does not involve the sale of goods from the premises, other than those directly related to the practice of the profession or business. The term does not include personal service shops. If the goods or merchandise are sold for delivery on or from the principal office use, then the premises shall be considered to be a store rather than an office.*

Goods via the Internet

The internet can also be used as a tool to sell merchandise similar to a classified ad, television commercial, or a catalog mailer. Consumers can log onto the website, select merchandise to purchase, and then pay by credit card, check or money order, at which time the goods would be sent to the consumer via conventional mail, UPS or Federal Express. In this scenario, the operation would have employees at a specific location who would take orders via the internet, package the goods, and then send them to the consumer. This type of operation may or may not also include the following:

- ?? Sale of goods to customers that happen to visit the location;
- ?? Manufacturing of the goods on the site;
- ?? Sale of goods to an intermediary purchaser and not the ultimate consumer.

The Urbana Zoning Ordinance only allows the above described operation to be classified as either a retail store or a wholesale store, as described below:

***Retail Store:** A store in which goods are sold for delivery on or from the premises to the ultimate consumer. If eighty (80) percent or more of the annual dollar volume of the sales made from a store is subject to the Illinois Retailers Occupation Tax, the store shall be considered a retail store. A food service establishment shall not be considered a retail store.*

***Wholesale Store:** A store at which goods are sold for delivery on or from the premises to a person other than the ultimate consumer. Should a store not qualify as a retail store as herein defined, it shall be deemed to be a wholesale store.*

In the definitions above, if a business does not qualify under the definition of a retail store, it is considered to be a wholesale operation by default, even if it may not truly fit the definition of a wholesale business either. If such an operation is required to be classified as a wholesale store, it is restricted to the more intense business zones, where in actuality the use may be appropriate in a lower business zone.

There seems to be a missing classification in between that for a retail store and that for a wholesale store for an internet based mail-order business that sells products to the ultimate consumer via a website. Such a use has to consider who the customer is, exactly how the goods are sold and delivered, and how the goods are manufactured.

Home Occupation Permit

The Urbana Ordinance allows for home occupation permits in all residential zones. A home occupation is defined as follows:

Home Occupation: *Any occupation or profession for gain or support, carried on as an accessory use in a dwelling unit by a member or members of the immediate family residing on the premises.*

In general, a home occupation permit can be obtained for occupations that are confined to the principal dwelling unit and where there are limited, if any, customers and employees. At most, a home occupation can have only one additional person, other than members of the immediate family residing in the dwelling unit, engaged in the occupation. Further, home occupations can have no more than two customers or clients on the premises at any one time. Home occupations may require the issuance of a Certificate of Occupancy depending on the proposed activity on the site. When a home occupation exceeds these restrictions, the activity is no longer compliant with the residential zoning district. The use must be properly classified and then the user must find a location with the proper zoning district. An internet-related business could be classified as a home occupation as long as it meets the home occupation requirements for customer visits, number of employees, etc.

Other Communities

From the research conducted to date, few communities have specific codified language regarding internet-related businesses. The American Planning Association Planning Advisory Services indicates that they receive many requests but that they currently have little information. In terms of an internet based mail order business, local communities would interpret the business as such:

Champaign

Similar to Urbana, The Champaign Zoning Ordinance would classify the business as either a retail store or a wholesale operation. The Champaign planning staff indicate that depending on size and operation,

they would probably classify internet / mail order businesses as a commercial use and would place it in a more intense business zone regardless of whether or not there were regular customers to the site.

Peoria

Unlike Urbana, Peoria has an office zoning district which allows limited warehousing and storage with distribution as an accessory use. According to Peoria planning staff a zoning interpretation of an internet mail-order business would most likely place it in an office zone.

Normal

Still waiting on this.....

Burr Ridge, Illinois

Burr Ridge has a land use in their table of uses for Catalog and Mail Order Establishment. They would allow an internet based mail order business in their B-2 zone (equivalent to Urbana's B-3 zone).

Conclusion

In essence, the internet is only a tool as to how merchandise is advertised and sold. A television commercial, newspaper advertisement or even a direct mailing to customers can all achieve the same end result of selling merchandise to consumers without having a open, functioning retail store. According to the Urbana Zoning Ordinance, most internet-related businesses that do not involve the sale of merchandise would be classified under the definition of an office. Under the ordinance as currently written, an internet-related business that sells merchandise would have to be classified as either a retail store or as a wholesale operation, even if it does not meet the definition of a wholesale business.

The Urbana Zoning Ordinance is currently deficient in offering a use category for a mail-order business, whether it is internet based or not. However, the advancement of the internet makes mail-order businesses more likely to evolve since merchandise can be displayed more elaborately and cheaper on a website than in a classified ad or television commercial. For this reason, the inclusion of a new category into the Urbana Zoning Ordinance table of uses is desirable.

Staff Recommendation

Staff recommends that City Council give direction to the Zoning Administrator to initiate a text amendment to the Urbana Zoning Ordinance in order to include a new category in the table of uses called "Internet / Mail Order Business". Such an amendment to the Zoning Ordinance should include the following:

?? Definition of Internet / Mail Order Business

?? Revised table of uses to include Internet / Mail Order Business in the B-1, B-2, B-3, B-3U, B-4, B-4E, IN and OP zones.

?? Revision of existing definitions of Retail Store and Wholesale Store

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Attachment: Existing Table of Uses from Urbana Zoning Ordinance