



Steve Kreidt
Chair

Ryan Santurri
Vice-Chair

David Gragg
Board Member

David Nelson
Board Member

Melissa Gibson
Board Member

PUBLIC NOTICE
PLANNING AND ZONING BOARD MEETING – September 13, 2021

WELCOME! We are very glad you have joined us for today’s Planning and Zoning meeting. The Planning and Zoning Board is an advisory board to City Council comprised of citizen members who voluntarily and without compensation devote their time and talents to a variety of zoning and land development issues in the community. All P&Z recommendations are subject to final action by City Council. The results of today’s meeting will be presented at the noted City Council meeting for approval of recommended actions. Any person desiring to appeal a recommended action of the Board should observe the notice regarding appeals below. **CAUTION:** Untimely filing by any appellant shall result in an automatic denial of the appeal.

The Planning and Zoning Board as the Local Planning Agency for the City of Edgewood will meet at 405 Bagshaw Way, Edgewood, Florida, to consider the items of business listed herein at the time and date indicated below.

Monday, September 13, 2021 at 6:30 pm

- Call to Order
- Pledge of Allegiance
- Roll Call and Determination of Quorum
- Approval of Minutes
 - August 9, 2021 – P&Z Meeting (Pages 1-4)
- New Business
 - **Ordinance 2021-08 IPMC Update** (Pages 5-8)
AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, AMENDING SECTION 102-71 OF THE CITY OF EDGEWOOD CODE OF ORDINANCES BY ADOPTING THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, WITH CERTAIN AMENDMENTS, THERETO TO CONFORM TO FLORIDA LAW AND THE CITY’S EXISTING CODE OF ORDINANCES; REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY, AND FIT FOR OCCUPANCY AND USE; PROVIDING THAT THE PROVISIONS OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE SHALL BE SUPPLEMENTAL TO ALL OTHER CODES

AND ORDINANCES OF THE CITY; PROVIDING FOR CODIFICATION, SEVERABILITY, AND CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.

- **Ordinance 2021-09 Fire Impact Fees Repeal** (Pages 9-22)
AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA REPEALING THE CITY OF EDGEWOOD FIRE/RESCUE SERVICES IMPACT FEE, PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE
- **Ordinance 2021-10 Home-based Businesses** (Pages 23-28)
AN ORDINANCE OF THE CITY OF EDGEWOOD, ORANGE COUNTY, FLORIDA AMENDING CHAPTER 134, "ZONING," SECTION 134-518, RELATED TO HOME-BASED BUSINESSES; MAKING THE CODE CONSISTENT WITH RECENT STATE LEGISLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, CONFLICTS, AND EFFECTIVE DATE.
- Comments/Announcements
- **FUTURE MEETINGS:** Schedule contingent upon submittal of items that require consideration of the Planning & Zoning Board as the local planning agency for the City of Edgewood).
 - September 21, 2021 at 6:30 pm City Council meeting
 - October 11, 2021 at 6:30 pm P&Z meeting

GENERAL RULES OF ORDER

You are welcome to attend and express your opinion. The Board is pleased to hear non-repetitive comments related to business before the Board; however, a five (5) minute time limit per person has been set by the Board. Large groups are asked to name a spokesperson. If you wish to appear before the Board, please fill out an Appearance Request Registration Form and give it to the City Clerk. When recognized, state your name and speak directly into the microphone. The City is guided by ROBERTS RULES OF ORDER in governing the conduct of the meeting. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at 407-851-2920 at least 24 hours in advance of the meeting.

WE ASK THAT ALL ELECTRONIC DEVICES (IE. CELL PHONES, PAGERS) BE SILENCED DURING OUR MEETING!

Thank you for participating in your government!

APPEALS: According to Edgewood City Code Section 26-24 (2), "any person aggrieved by any recommendation of the Board acting either under its general powers or as a Board of Adjustment may file a notice of appeal to the City Council within seven (7) days after such recommendation is filed with the City Clerk. Per Section 286.0105, Florida Statutes state that if you decide to appeal a decision made with respect to any matter, you will need a record of the proceeding and may need to ensure that a verbatim record is made.



**Planning and Zoning Draft Minutes
August 9, 2021**

Call to Order

Vice-Chair Santurri called the meeting to order at 6:30 pm and led the Pledge of Allegiance.

Roll Call and Determination of Quorum

The following Planning and Zoning and staff members were present.

Board Members: (Quorum)
Steve Kreidt, Chair (absent)
Ryan Santurri, Vice-Chair
David Gragg, Board Member
David Nelson, Board Member
Melissa Gibson, Board Member

Staff:
Sandra Riffle, Deputy City Clerk
Tim Cardinal, Police Sergeant
Drew Smith, City Attorney
Allen Lane, P.E. CPH
Jim Winter, RLA, CPH
Ellen Hardgrove, AICP City Planner

Applicants:
Sam Sebaali, P.E. - Suncoast Building Materials

Approval of Minutes

- **July 12, 2021 Workshop Minutes**

Board Member Gragg made a motion to approve the July 12, 2021 minutes; second by Board Member Nelson. The motion was approved (4/0).

New Business

- **Sign Code**

ORDINANCE NO. 2021-04 - AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, RELATING TO SIGNS; AMENDING CHAPTER 122 OF THE CITY OF EDGEWOOD CODE OF ORDINANCES TO REFINE DEFINITIONS AND CERTAIN

REGULATORY TERMS TO PROVIDE FOR MORE EFFECTIVE APPLICATION AND BETTER CLARITY IN INTERPRETATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, CONFLICTS, AND EFFECTIVE DATE.

Attorney Smith read the Ordinance in title only.

He summarized that this draft sign ordinance presents minor changes to the City’s sign regulations, with needed clarification for staff and users of the regulation. The report summarizes the changes and the explanation for the proposed changes.

Planner Hardgrove proposed two changes. She recommends adding copy to line 49 to read, “the copy area includes all features, decorative glass, plastic, masonry, or other materials.”

She explained that Line 306 is for nonresidential copy area, and she suggests modification for ease of use. The proposed language would read, “Unless otherwise specified, including copy area limitations of the ECD, a maximum total copy area of two square feet for each linear foot of building frontage or 100 square feet, whichever is less, shall be allowed per parcel.”

In response to Board Member Nelson regarding line 134, Planner Hardgrove said that line could be deleted. Some items in a window are not considered to be a sign.

There was no public comment.

Vice-Chair Santurri made the motion to recommend to Council to adopt Ordinance 2021-04, with suggested changes from Planner Hardgrove and the removal of line 134; second by Board Member Gragg. The motion was approved (4/0).

The motion was approved by roll call vote. (4/0) approved.

| | |
|---------------------|--------|
| Board Member Nelson | Favor |
| Board Member Gibson | Favor |
| Vice-Chair Santurri | Favor |
| Board Member Gragg | Favor |
| Chair Kreidt | Absent |

• 101 Mary Jess Road - Suncoast Building Materials Commercial Business Review

Engineer Lane said that Planning and Zoning is reviewing the commercial plans for the second building. Since the July meeting, the landscaping was completed both along Mary Jess Road, including groundcover, mulch, trees, and irrigation, and was inspected by the CPH landscaping inspector. They checked the perimeter of the new building and the irrigation, including potential damage to roots on trees on Mary Jess Road. The independent arborist gave a favorable review of the tree roots.

The review for the proposed Phase II new building was initially on the January 2021 agenda. Engineer Lane said the plans meet City zoning requirements, and CPH does not have any objections for approval.

Engineer Lane referred to the plans, and a short discussion ensued amongst the Board members and the engineer. Engineer Sebaali, representing Suncoast Building Materials, confirmed that the irrigation is installed. The irrigation performs adequately, and Suncoast will continue to be in compliance.

Landscape Architect Jim Winter came to the podium and said the only element that fell short of the requirements was the palm trees that are approximately 4 feet below the specified height. However, they exceed Code requirements.

Public Comment:

Mary Woznack, an Edgewood resident, said the proposed new building relies on the special exception, which requires no junk storage. She said there are tires and other garbage outside on the property.

Ms. Woznack further complained about the hours of operation and the response from Code Enforcement and the Police Department.

Jim Muszynski, an Edgewood resident, thanked the Board for the improvements with the landscaping. He then discussed concerns with trucks that park against the wall and approval for the proposed new building. He said the trucks and their materials are visible from the other side of the wall. Mr. Muszynski reviewed Suncoast's active lawsuit with Rosen Materials. He requested that the new building not be approved until the case is resolved.

Engineer Sebaali responded that the property is zoned C-3, which allows the use for the business. Outside storage is not permitted in C-3, but trucks can park on the property. There is a 9-foot-high wall. He said they have worked with the residents, and the building complies with Code. They need to move forward.

Further discussion ensued regarding the conditions of the special exception. In response to Vice-Chair Santurri, Engineer Sebaali said the special exception was for the north parcel, and the development has shifted to the south lot.

In response to Board Members Nelson and Gragg, Attorney Smith said hours of operation is a code enforcement issue and the Board is making a recommendation on the site plan review. They can condition the recommendation that the applicant will report to City Council on the issues reported tonight.

Board Member Gragg encouraged residents to attend City Council. He is empathetic with what has happened over the length of time this has gone on.

Vice-Chair Santurri made the motion that, based on the recommendation of city engineers, to recommend City Council approves the proposed site plan. As a condition of approval, the Board recommends that Council require a report from the owner's representative regarding meeting all the special exception requirements, including outdoor storage of materials and debris, and meeting operational requirements. Board Member Gibson seconded the motion. The motion was approved (4/0).

The motion was approved by roll call vote.

| | |
|---------------------|--------|
| Board Member Gragg | Favor |
| Vice-Chair Santurri | Favor |
| Board Member Gibson | Favor |
| Board Member Nelson | Favor |
| Chair Kreidt | Absent |

Engineer Sebaali confirmed his understanding that the issues are the hours of operation and storage of materials such as tires and concrete. He will discuss loading trucks farther from the perimeter with the owner, but they have space limitations. Attorney Smith confirmed that operations and outdoor storage of materials and debris are code enforcement issues. The City is challenged as it does not have a code enforcement officer at this time.

Comments/Announcements

None.

Adjournment

Vice-Chair Santurri made a motion to adjourn the meeting; second by Board Member Gragg.
The meeting adjourned at 7:29 pm.

Steve Kreidt, Chair

Sandra Riffle, Deputy City Clerk

ORDINANCE NO. 2021-08

AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, AMENDING SECTION 102-71 OF THE CITY OF EDGEWOOD CODE OF ORDINANCES BY ADOPTING THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, WITH CERTAIN AMENDMENTS, THERETO TO CONFORM TO FLORIDA LAW AND THE CITY'S EXISTING CODE OF ORDINANCES; REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS, AND STRUCTURES TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY, AND FIT FOR OCCUPANCY AND USE; PROVIDING THAT THE PROVISIONS OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE SHALL BE SUPPLEMENTAL TO ALL OTHER CODES AND ORDINANCES OF THE CITY; PROVIDING FOR CODIFICATION, SEVERABILITY, AND CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Edgewood has adopted the 2015 International Property Maintenance Code published by the International Code Council; and

WHEREAS, the City of Edgewood actively participates in the enforcement of regulations relevant to safe, sanitary, and habitable property maintenance and structures; and

WHEREAS, under its home rule powers, the City of Edgewood may regulate and govern property maintenance to ensure the well-being of its citizens; and

WHEREAS, the City of Edgewood has determined that it is in the best interest of the health, safety, and welfare of the citizens, businesses within the City, and patrons of such businesses, to adopt the 2021 International Property Maintenance Code as published by the International Code Council for the maintenance and control of buildings and structures, with amendments thereto to comply with Chapter 162, Florida Statutes, the Florida Building Code, and the City's Code of Ordinances; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Edgewood, Florida, as follows:

SECTION 1. Legislative Findings and Intent. The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

SECTION 2. Section 102-71 of the City of Edgewood Code of Ordinances is hereby repealed in its entirety and replaced with the following:

Sec. 102-71. International Property Maintenance Code Adopted by Reference

(a) The City hereby adopts the ~~2015~~2021 edition of the International Property Maintenance Code published by the International Code Council, and incorporates the same by reference as if fully set forth herein. At least one copy of the ~~2015~~2021 International Property Maintenance Code is on file in the city clerk's office together with a copy of this Ordinance.

(b) The following sections and subsections of the ~~2015~~2021 edition of the International Property Maintenance Code are hereby amended as follows:

(1) Subsection 101.1. These regulations shall be known as the Property Maintenance Code of the City of Edgewood, hereinafter referred to as "this Code."

(2) Subsection 102.3 entitled "Application of other codes," shall read as follows: Repairs, additions or alterations to a structure, or changes in occupancy, shall be done in accordance with the provisions of the Florida Building Code and amendments thereto.

(3) Subsection 103.1 entitled "General," shall read as follows: The City of Edgewood, code enforcement division, is hereby charged with the primary responsibility of enforcing this Code.

(4) Subsection 103.2, entitled "Appointment," shall read as follows: The code inspector shall be appointed by the Mayor of the City of Edgewood.

~~(5) Subsection 103.5, entitled "Fees," is hereby deleted in its entirety. [RESERVED].~~

(6) Subsection ~~105~~104.1, entitled "General," shall read as follows: The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code. The code enforcement official shall report to the council any policies and procedures adopted pursuant to this subsection.

~~(7) Subsection 106.2, entitled "Notice of Violation," is hereby deleted in its entirety. [RESERVED].~~

~~(8) Subsection 106.3, entitled "Prosecution of Violation," is hereby deleted in its entirety. [RESERVED].~~

~~(9) Section 107, entitled "Notices and Order," is hereby deleted in its entirety. [RESERVED].~~

(10) Subsection ~~111.4~~108.3, entitled "Notice," shall read as follows: Whenever the code inspector has condemned a structure or equipment under the provisions of this section, notice shall be protected from the weather and posted in a conspicuous place on or about the structure affected by such notice and served on the owner, the owner's authorized agent, or the

person or persons responsible for the structure or equipment in accordance with Chapter 162, Florida Statutes. If the notice pertains to equipment, it shall be placed on the condemned equipment.

(11) Subsection ~~409~~112.5, entitled “Costs of emergency repairs,” shall read as follows: Costs incurred in the performance of emergency work shall be paid by the owner or agent responsible for the property and if not paid by the owner or agent responsible for the property the City may thereafter file a lien on the property for such costs.

(12) Subsection ~~409~~112.6, entitled “Hearing,” shall read as follows: Any person ordered to take emergency measures shall comply with such order forthwith. Any adversely affected person shall thereafter, upon application directed to the city council, be afforded an appeal from the code inspector’s decision upon payment of appeal fees as set by resolution of council.

~~(13) Section 111, entitled “Means of Appeal,” of this Code is hereby deleted in its entirety.~~ [RESERVED].

(14) Section ~~110~~2.4, entitled “Failure to Comply,” shall read as follows: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a fine in accordance with limits established by Florida Statutes.

(15) Subsection 302.4, entitled “Weeds,” is hereby deleted in its entirety.

(14) Subsection 302.8, entitled “Motor vehicles,” is hereby deleted in its entirety.

(16) Subsection 304.14, entitled “Insect Screens,” shall read as follows: Year-round, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved, tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

(17) Subsection 602.3, entitled “Heat Supply,” shall read as follows: Every owner and operator of any building who rents, leases, or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from November 15th to April 15th to maintain a temperature of not less than 68 degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms.

(18) Subsection 602.4, entitled “Occupiable Work Spaces,” shall read as follows: Indoor occupiable work spaces shall be supplied with heat during the period from November 15th to April 15th during the period the spaces are occupied.

(19) References in this Code to the International Plumbing Code shall be replaced with the Plumbing Code of the Florida Building Code.

(20) References throughout this Code to the ICC Electrical Code shall be replaced with the Florida Building Code.

(21) Supplemental Code. The provisions of this Code shall be supplemental to all other codes and other ordinances of the City.

SECTION 3. Codification. It is the intent of the City Council of the City of Edgewood that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 4. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 5. Conflicts. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2021, by the City Council of the City of Edgewood, Florida.

PASSED ON FIRST READING: _____

PASSED ON SECOND READING: _____

Richard A. Horn, Council President

ATTEST:

Bea L. Meeks
City Clerk

ORDINANCE NO. 2021-09

**AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA
REPEALING THE CITY OF EDGEWOOD FIRE/RESCUE
SERVICES IMPACT FEE, PROVIDING FOR
SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE**

WHEREAS, the City of Edgewood contracts with Orange County for fire/rescue services; and

WHEREAS, the City of Edgewood has no foreseen plans to create its own local fire department; and

WHEREAS, due to restrictions on use of impact fee funds, it is not possible for the City to use fire/rescue impact fees to offset its contractual costs of services received from Orange County, Florida; and

WHEREAS, the City Council of the City of Edgewood, Florida, finds it to be in the best interest of the City to repeal the fire/rescue impact fee.

NOW, THEREFORE, BE IT ENACTED, by the City of Edgewood, Florida:

SECTION 1. The City of Edgewood amends Section 110-2, of the City of Edgewood Code of Ordinances to repeal the fire/rescue impact fee as follows:

Sec. 110-2.- Law enforcement, ~~fire/rescue services~~ and transportation impact fees.

(a) *Short title and authority.*

- (1) This section shall be known and may be cited as the "City of Edgewood Impact Fees Ordinance."
- (2) The city council has authority to adopt this section through city home rule powers pursuant to state statutes, the state constitution, and the city Charter.
- (3) Planning for additional capital equipment needed to serve new growth and development that generate additional demands on governmental services and facilities, and the implementation of these needs is a responsibility of the city under state statutes, the state constitution, and the city Charter, and is in the best interest of the health, safety and welfare of the citizens of the city.

(b) *Findings and declarations.*

- (1) The city council finds that new development in the city requires additional governmental services and facilities, including specifically, law enforcement services provided, ~~fire/rescue services provided~~, and transportation services provided. It is the policy of the city council, as set forth in the city growth management policy, that new development should be permitted to occur only where as adequate level of governmental services and facilities, such as law enforcement, ~~fire/rescue services~~, and transportation services can be provided.

- (2) It is the policy of the city council that new development should pay a portion of the overall capital costs related to the additional governmental services and facilities to accommodate that new development.
- (3) The purpose of this section is to ensure the provision of an adequate level of governmental services and facilities made necessary by such new development and to avoid paying those costs from the city's general fund.
- (4) It is the purpose of this section to require new development to bear a portion of the overall capital costs related to the additional governmental services and facilities made necessary by such new development and to avoid paying those costs from the city's general fund.
- (5) The city council hereby finds that impact fees provide a reasonable method of regulating new development in the city to ensure that such new development pays a portion of the capital costs of governmental services and facilities necessary to accommodate the new development.
- (6) The additional impact imposed by new development upon the capital costs of providing governmental services and facilities occurs at the time that development of the property takes place.
- (7) The provisions of this section relating to adequate law enforcement services in the city, the additional law enforcement services needed for new development in the city, the capital costs relating to those additional law enforcement services needed for new development in the city, and the impact fee for those capital cost are based upon and supported by the Orange County Law Enforcement Impact Fee Update dated March 2005, and as follows:
 - a. The city council hereby adopts as the standard for adequate law enforcement services in the city a service standard index of 175 calls for service per field officer per year.
 - b. Providing an adequate level of law enforcement service within the city consistent with the adopted service standard index and recommendations of the report is essential to and in the best interests of the public health, safety and general welfare of the citizens of the city.
 - c. It is the intent of the city council that the impact fees imposed pursuant to this section be used to pay for those capital costs related to the additional law enforcement services required for new development in the city.
 - d. Based on the report, the city council hereby finds that there exists a rational relationship between the capital costs of providing law enforcement at the service standard index adopted above and the impact fees imposed on new development by this section.
 - e. The city council hereby finds that there exists a rational relationship between the impact fees to be collected pursuant to this section and the expenditure of those funds on capital costs relating to law enforcement services, as limited and restricted by this section.
- (8) ~~The provisions of this section relating to adequate fire/rescue services in the city, the additional fire/rescue services needed for new development in the city, the increased costs relating to those additional fire/rescue services needed for new development in~~

~~the city, and the impact fee for those increased costs are based upon and supported by the findings and recommendations of the city council as follows:~~

- ~~a. It is the intent of the city council that the impact fees imposed pursuant to this section be used to pay for those increased costs to the city related to the additional fire/rescue services required for new development in the city.~~
 - ~~b. The city council hereby finds that there exists a rational relationship between the costs of paying for fire/rescue service and the impact fees imposed on new development by this section.~~
 - ~~c. The city council hereby finds that there exists a rational relationship between the impact fees to be collected pursuant to this section and the expenditure of those funds on costs relating to fire/rescue services, as limited and restricted by this section. [RESERVED].~~
- (9) The provisions of this section relating to adequate transportation services in the city, the additional transportation services needed for new development in the city, the capital costs relating to those additional transportation services needed for new development in the city, and the impact fee for those capital costs are based upon and supported by the findings and recommendations of the city growth management policy (comprehensive plan), as follows:
- a. In order to finance the necessary new capital improvements, several combined methods of financing shall be employed, one of which will impose a regulatory impact fee on new growth and development which does not exceed a pro rata share of the reasonably anticipated costs of transportation system expansion and improvements.
 - b. Implementing a regulatory scheme that requires new development to pay a road impact fee that does not exceed a pro rata share of the reasonably anticipated costs of transportation-related improvements needed to serve new growth and development is the responsibility of the city in order to carry out the traffic circulation element of its comprehensive plan, as amended and adopted and is in the best interest of the health, safety and welfare of the citizens of the city.
 - c. The purpose of this section is to enable the city to allow growth and development to proceed in the city in compliance with the adopted comprehensive plan, and to regulate growth and development so as to require growth and development to share in the burdens of growth by paying its pro rata share for the reasonably anticipated transportation improvements.
 - d. It is not the purpose of this section to collect fees from growth and development in excess of the cost of the reasonably anticipated improvements to the transportation system needed to serve the new growth and development. The city council hereby finds that this section has approached the problem of determining the transportation impact fee in a conservative and reasonable manner. This section will only partially recoup the governmental expenditures associated with growth. Under this section, existing residents also shall pay a fair share of the cost of needed improvements to the city's transportation.
 - e. The technical data, findings and conclusions herein are based on the city's comprehensive plan, as amended, and in part on the following studies, programs, and reports:
 - 1. Orange, Osceola and Seminole Counties Statistical Data 1990—2020.

2. Orlando Urban Area Transportation Study — Year 2020 Plan, December 1995, adopted by Orlando Urban Area Metropolitan Planning Organization.
3. Orange County Law Enforcement Impact Fee Update (March 2005).

(c) *Rules of construction.* For the purposes of administration and enforcement of this section, unless otherwise stated in this section, the following rules of construction shall apply:

- (1) In case of any difference of meaning or implication between the text of this section and any caption, illustration, summary table or illustrative table, the text shall control.
- (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (3) Words used in the present tense shall include the future and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- (4) The word "person" includes an individual, a corporation, a partnership, and incorporated association, or any other similar entity.
- (5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either or," the conjunction shall be interpreted as follows:
 - a. The term "and" indicates that all the connected terms, conditions, provisions or events may apply singly or in any combination.
 - b. The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. The term "either" or indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (6) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (7) Land use changes. If a structure's land use is changed from a higher impact fee rate to a lower impact fee rate, no additional impact fees are charged provided the square footage of the structure remains the same. If the use is returned to the higher impact fee rate, impact fees are not charged since the structure either paid the fees at the higher category or was "grandfathered-in" to the impact fee program at the higher category. The applicant is responsible for notifying the building department and providing proof that the higher use existed.
- (8) Where road right-of-way is used to define benefit area boundaries, that portion of the road right-of-way demarcating the boundary shall be considered as part of either benefit area it bounds.

(d) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Access improvements means improvements designed to ensure safe and adequate ingress and egress.

Accessory building or structure shall mean a detached, subordinate building, the use of which is clearly indicated and related to the use of the principal building or use of the land and which is located on the same lot as the principal building or use.

Agricultural structures means structures designed to protect farm equipment or livestock or otherwise serve an agricultural purpose which shall be deemed as horticulture, floriculture; viticulture, forestry; dairy; livestock poultry; beekeeping; and all forms of farm products and farm products and farm production.

Applicant means the person who applies for a building permit.

Building permit shall mean an official document or certificate issued by the authority having jurisdiction authorizing the commencement of construction of any building or parts thereof.

Calls for service means calls which are manually recorded on dispatch cards by the sheriffs communication center and compiled in the RSD 55 (reports of sheriffs department) reports which are the official and chronological log of calls for service as maintained by the county sheriffs information systems' section.

Capital cost means any expenditure which, under generally accepted accounting principals for local governments, would be considered a capital expense.

Certificate of occupancy means a certificate issued by the city building department upon completion of a building erected in accordance with approved plans, and after final inspection of a building, stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, in accordance with the Standard Building Code.

City growth management policy means the most recently amended comprehensive plan for the city, adopted by the city council as required by the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.

Development means any improvement to real property for which a building permit is legally required to be obtained from the city prior to the improvement being made.

Development permit shall include any building permit, zoning approval, subdivision approval, rezoning, development order, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

Dwelling unit means single-family and multifamily residential units, attached and detached dwellings, houses of conventional construction, manufactured housing, and all other structures used for permanent residents or the dwellings, houses of conventional construction, manufactured housing, and all other structures used for permanent residents or for dwelling purposes, regardless of whether occupied by an owner or tenant. The term "dwelling unit" shall not include hotels, motels or tourist trailer camps.

Encumbered means, with reference to funds for capital improvements, funds committed in the capital improvements program for a specified improvement on a specified time schedule.

Gross leasable area (gla) shall mean the total gross square footage under roof, less those areas referenced in subsection 110-2(g) herein, less ten percent.

Off-site improvements shall mean road improvements located outside of, and not contiguous to, the boundaries of the parcel proposed for development site which are required by the city in order to serve the development's external trips.

Residential development means a standard for measuring the level of law enforcement services based on the number of calls for service received by the county sheriff's office per field officer per year.

Restaurant, fast food shall mean eating establishments characterized by a large carry-out clientele; long hours of service (some are open for breakfast, all are open for lunch and dinner, some are open late at night or 24 hours); and high turnover rates for eat-in customers. The establishment may or may not include a drive-through window or indoor seating.

Restaurant, high turnover shall mean sit-down eating establishments with turnover rates of approximately one hour or less. This type of restaurant is usually moderately priced and frequently belongs to a restaurant chain. Generally, these restaurants serve lunch and dinner; they may also be open for breakfast and are sometimes open 24 hours per day. Some facilities contained within this land use category may also contain a bar area for serving food and alcoholic drinks.

Restaurant, quality shall mean eating establishments of high quality and with turnover rates usually of at least one hour or longer. Generally, quality restaurants do not serve breakfast; some do not serve lunch; all serve dinner. Often, the restaurants in this land use category are not a chain and reservations are required.

Retirement housing shall mean a facility that typically consists of one or more multiunit buildings designed for elderly living. It may also contain dining rooms, medical facilities, and recreational facilities.

Temporary uses means uses that are required in the construction phase of development or are uniquely seasonal in nature, including, but not limited to: contractor's project offices, project sales offices, and seasonal and holiday sales.

Time share shall mean any dwelling unit or rooming unit for which a timesharing plan, as defined by F.S. ch. 721 has been established and documented.

Transportation system means those transportation systems described in subsection (f)(6)b. of this section.

Traffic-generating development means land development designed or intended to permit a use of the land which will contain more dwelling units or floor space than the then-existing use of land, or to otherwise change the use of the land in a manner that increases the generation of vehicular traffic.

Trip generation means the attraction or production of trips caused by a given type of land development.

(e) *Economic impact determination.* The city council does hereby determine and find that sufficient information has been provided for the city council to assess the economic impact of this section on the development of real property in the city. The city council does hereby determine and find that no future economic impact statement or economic impact information is required in this matter. If the ongoing planning studies and review reveal a detrimental economic impact, this section shall be reviewed and revised accordingly.

(f) *Presumptions, limitations on expenditure of funds collected.*

(1) No impact fees shall be expended on capital equipment pursuant to this section unless or until the city council approves such expenditure by motion at a regularly scheduled city council meeting. Such review shall occur only after a request for purchase has been received by the city council identifying the capital equipment to be purchased.

- (2) All funds shall be used in a manner consistent with the principles set forth in applicable case law in the state, and otherwise consistent with all requirements of the Constitution of the United States and the state and all applicable laws. Such funds shall not be used to maintain or repair any capital equipment.
- (3) Any funds on deposit not immediately necessary for expenditure shall be invested in interest-bearing accounts. All interest income derived from monies collected to date and in the future shall be deposited in the applicable trust account.
- (4) Limitations on expenditure of funds collected for law enforcement impact fees.
 - a. The law enforcement impact fees collected by the city pursuant to this section shall be kept as a separate fund from other revenue of the city.
 - b. The funds collected by reason of the establishment of the law enforcement impact fee in accordance with this section shall be used solely for the purpose of purchasing capital equipment, including but not limited to the following types:
 1. Patrol vehicle.
 2. Safety shield.
 3. Light bar with lights, siren and speaker. Tear drop blue light (fed. fireball).
 4. Shotgun.
 5. Shotgun rack.
 6. Spotlight.
 7. First aid kit.
 8. Blanket.
 9. Equipment box.
 10. Latent kit.
 11. Magnetic light and charger.
 12. Radio for vehicle.
 13. Service pistol.
 14. Protective vest with extra cover.
 15. Desk and chair.
 16. Typewriter.
 17. Bookcase.
 18. Telephone.
 19. Facsimile machine.
 20. Uniforms.
 21. Computers, communications equipment.
 22. Cost of expansion of police office space.

~~(5) Limitations on expenditure of funds collected for fire/rescue services impact fees.~~

- ~~a. Fire/rescue service impact fees collected by the city pursuant to this section shall be kept as a separate fund from other revenue of the city.~~
- ~~b. Funds collected by reason of the establishment of the fire/rescue service impact fee in accordance with this section, if and until the city has its own fire/rescue service, shall be used solely for the purpose of paying for increases in the cost of fire/rescue protection services from the county which are attributable to increased capital costs associated with the provision for fire/rescue services to the new development, and for the purchase of fire/rescue/disaster protection equipment. [RESERVED].~~

(6) Limitations on expenditure of funds collected for transportation impact fees.

- a. The transportation impact fees collected by the city pursuant to this section shall be kept as a separate fund from other revenue of the city.
- b. The funds collected by reason of the establishment of the transportation impact fee in accordance with this section shall be used solely for the purpose of acquisition, expansion and development of the sidewalks, bikes and pedestrian paths, roads, and bridges determined to be needed to serve new development, including, but not limited to:
 - 1. Design and construction plan preparation;
 - 2. Right-of-way acquisition;
 - 3. Construction of new through lanes;
 - 4. Construction of new turn lanes;
 - 5. Construction of new bridges;
 - 6. Construction of new drainage facilities in conjunction with new roadway construction;
 - 7. Purchase and installation of traffic control devices;
 - 8. Construction of new curbs, medians and shoulders;
 - 9. Conservation area mitigation;
 - 10. Compensating storage; and
 - 11. Design and construction of sidewalks, bike and pedestrian paths and other facilities that encourage the use of alternatives to automobile use.

(g) *Exemptions.* The following types of development are exempt from the payment of the impact fees imposed pursuant to this section to the extent there is no increase in traffic generation associated with the property or use:

- (1) The construction of any addition or expansion to a residential building which does not increase the number of dwelling units in the building.
- (2) The construction of accessory buildings or structures which will not increase the traffic counts associated with the principal building or structure (or the land).
- (3) Any reconstruction of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, provided that the destruction of the building or structure occurred other than by willful razing or demolition.

- (4) Expansions of or additions to existing structures, provided that such expansion or addition does not create a new dwelling unit or add over 1,000 square feet to any nonresidential structure.
- (5) Publicly owned and operated buildings or structures used for general governmental purposes (including, but not limited to sewer, stormwater, police, fire, ground transportation, solid waste, parks, recreation, and cultural purposes).
- (6) Agricultural structures.
- (7) Eaves, overhangs, and enclosed canopied walkways.
- (8) Temporary uses as defined in subsection 110-2(d).

To the extent that such construction does increase traffic generation rates, the new or additional trips shall be subject to payment of the impact fee under this article.

Any claim of exemption must be made no later than the time for application for a development permit. Any claim not so made shall be deemed invalid.

(h) *Limitation on issuance of building permits; time of payment.*

- (1) Impact fees imposed on all new development shall be paid as a condition to the issuance of a building permit. No person shall obtain a building permit for new residential dwelling units or new commercial or industrial structures in the city until the developer thereof shall have paid the applicable impact fees to the city.
- (2) The obligation for payment of the impact fee shall run with the land. However, this section shall not be construed to relieve an applicant of any responsibility or liability whatsoever.
- (3) If a building permit expires and no construction has been commenced, then the fee payer shall be entitled to a refund of the impact fee paid if paid at time of permit issuance.

(i) *Imposition of fees; annual adjustment; time of payment.*

- (1) *Law enforcement impact fees.* The following law enforcement impact fees are hereby imposed upon all new development in the city:

Law Enforcement Impact Fee per Unit or Square Feet

| | |
|--------------------------------|------------------------------------|
| Single-family detached | \$193.00 per dwelling unit |
| Multifamily | 61.00 per dwelling unit |
| Commercial/retail | 308.00 per 1,000 gross square feet |
| Factory/industrial | 47.00 per 1,000 gross square feet |
| Office/institutional | 77.00 per 1,000 gross square feet |
| Warehouse (storage units only) | 47.00 per 1,000 gross square feet |
| Private school | 23.00 per 1,000 gross square feet |

- ~~(2) *Fire/rescue impact fees.* The following fire/rescue impact fees are hereby imposed upon all new development in the city and shall be determined by assignments of various types of structures and occupancies and application of the schedule of fees below.~~

| | Fee Based On | Impact Fee |
|------------------------|--------------|------------|
| Single-family detached | Per unit | \$208.23 |

| | | |
|----------------------------|--------------------|---------|
| Multifamily | Per unit* | -199.99 |
| Mobile home | Per unit | -208.23 |
| Hotel/motel | Per room* | -182.27 |
| Offices/institutional | Per 1,000 sq. ft.* | -186.36 |
| Industrial | Per 1,000 sq. ft.* | -44.62 |
| Storage | Per 1,000 sq. ft.* | -47.07 |
| Commercial retail/assembly | Per 1,000 sq. ft.* | -234.05 |

*Fee is limited to a per building maximum of \$8,041.00. [RESERVED].

(3) ~~Application of fire/rescue fees.~~

- a. ~~Application of fees to new structures.~~ The fee for a new structure shall be a function of the cubic feet and applicable risk level of the structure.
- b. ~~Application of fees to additions to existing structures.~~ If an addition is added to an existing structure, the fee for such as addition shall be the difference of the fee required for the structure including the addition minus the fee required for the existing structure.
- c. ~~Application of fees to occupancy changes in existing structures.~~ If an existing structure experiences a change in occupancy which reclassifies the structure to a higher risk level, the alteration shall be charged the difference of the fee due for the new risk level category minus the fee due for the old risk level category. [RESERVED].

(4) *Transportation impact fees.* The following transportation impact fees schedule is hereby adopted for new development in the city:

| Use Category | Road Impact Fee | Unit |
|--|-----------------|------------------------|
| Single-family detached | \$ 2,075.00 | Dwelling |
| Multifamily | 1,439.00 | Dwelling unit |
| Manufactured home | 1,040.00 | Manufactured home site |
| Retirement housing | 468.00 | Dwelling unit |
| Hotel/motel | 1,762.00 | Room |
| Guest (tourist) home | 623.00 | Dwelling unit |
| Time share | 761.00 | Dwelling unit |
| Retail, 50,000 sf or less | 10,327.00* | 1,000 sf |
| Retail, 50,001—100,000 sf | 6,691.00* | 1,000 sf |
| Retail, tourist | 2,725.00* | 1,000 sf |
| Auto service (car wash, mechanical garage) | 2,843.00 | 1,000 sf |
| Bank | 14,897.00 | 1,000 sf |
| Day care center | 4,634.00 | 1,000 sf |
| Drug store | 4,679.00 | 1,000 sf |

| | | |
|--|-----------|----------|
| Racquet club | 1,676.00 | 1,000 sf |
| Restaurant, quality | 9,338.00 | 1,000 sf |
| Restaurant, high-turnover | 13,529.00 | 1,000 sf |
| Restaurant, fast food | 19,806.00 | 1,000 sf |
| Supermarket, 50,000 sf or less | 10,023.00 | 1,000 sf |
| Supermarket, 50,001—100,000 sf | 10,023.00 | 1,000 sf |
| Office, 100,000 sf or less | 3,734.00 | 1,000 sf |
| Office, 100,001—200,000 sf | 2,783.00 | 1,000 sf |
| Office, more than 200,000 sf | 2,303.00 | 1,000 sf |
| Office, medical/dental, 100,000 sf or less | 8,339.00 | 1,000 sf |
| Office, medical/dental, 100,001—200,000 sf | 8,339.00 | 1,000 sf |
| Office, medical/dental, more than 200,000 sf | 8,339.00 | 1,000 sf |
| Light industrial | 1,742.00 | 1,000 sf |
| Manufacturing | 633.00 | 1,000 sf |
| Warehouse | 1,238.00 | 1,000 sf |
| Miniwarehouse | 468.00 | 1,000 sf |
| Hospital | 3,271.00 | 1,000 sf |
| Library | 5,372.00 | 1,000 sf |
| Post office | 9,927.00 | 1,000 sf |
| Public assembly | 1,852.00 | 1,000 sf |
| School | 2,420.00 | 1,000 sf |

* Gross leaseable area (all others are gross floor area).

- a. If the development results in a land use which increases the number of existing dwelling units, increases the square footage, or changes the land use so as to constitute a greater impact on the roadway system, the impact fee that shall be imposed shall be equal to: the fee in accordance with the fee schedule above for the total development, less the amount that would have been imposed prior to the increase in the number of dwelling units, square feet, or change in land use.
 - b. When a structure contains more than one principal use, such structure shall pay a separate rate from the impact fee schedule shown above for the specific size of each principal use. When there is some question about whether or not the multiple uses should be considered separately, the city engineer or his/her designee shall determine whether or not separate rates from the impact fee schedule above shall be used for separate uses within the structure. In making such a determination, the definitions of each use category provided in the current editions of the ITE Trip Generation Report shall be reviewed in conjunction with the physical plan for the structure in order to determine whether or not a specific use shall be deemed subordinate or dependent upon another use, and therefore is not an additional principal use.
- (j) *Presumption of maximum impact.* Development is presumed to have the maximum impacts on the city's roadways. The proposed development activity for which an application for development permit has been filed shall be presumed to generate the maximum number of average daily vehicle trips, vehicle miles of travel and lane miles of travel to be generated by the most appropriate land use category(s) as determined by the city engineer or designee.

- (k) *Site-related road improvements.* The transportation impact fee schedule contained in this chapter is designed to calculate the costs inherent in the construction on non-site-related improvements to the municipal roadways and is not intended to assess an amount that constitutes an approximation of the costs to construct site-related roadway improvements. Therefore, if an assessment for or the construction of site-related roadway improvements is required as a condition of development approval, then to the extent permitted by law said assessment or construction requirements shall be considered as an addition to the assessment calculated pursuant to the terms of this chapter.
- (l) *Appeal process.*
- (1) Individuals who choose to appeal the application of any of the impact fees to a proposed development shall submit a written appeal for review by the city clerk or designee. Except as otherwise provided in this section, such review shall be requested by the applicant or owner within 15 calendar days, including Sundays and legal holidays, of the date the applicant or owner learns of the assessment of the impact fee for the proposed impact construction. Failure to request a review within the time provided shall be deemed a waiver of such right. Within 15 calendar days of receipt of such appeal request, the city clerk or designee shall forward to the applicant and owner a written review of and determination concerning the impact fee. The written review will be mailed or hand delivered to the person filing the appeal. A written request for review by the city clerk or designee shall contain the following:
- a. The name and address of the applicant or owner;
 - b. The telephone number at which the applicant or owner may be reached during daytime hours;
 - c. The legal description of the property in question;
 - d. If applicable, the date the building permit application was filed and any building permit number;
 - e. A brief description of the nature of the construction being undertaken pursuant to the proposed building permit;
 - f. If paid, the date the impact fee was paid; and
 - g. A statement of the reasons why the applicant or owner is requesting the review, including any supporting information and site or construction plan and the amount that the applicant or owner asserts would be the appropriate impact fee.
- (2) The applicant or owner shall have 15 calendar days from the receipt of the written review or, in the event of lack of response by the city clerk or designee, 30 days from filing of the request for review, to request in writing a hearing before the city council if the applicant or owner desires to appeal the decision of the city clerk or designee. Failure to request a hearing before city council shall be deemed a waiver of such right. The owner or applicant shall make a payment of a nonrefundable processing fee of \$100.00.
- a. Within 15 days after receipt of the written notice of appeal, the city clerk shall schedule a hearing before the city council at the first available regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant and owner written notice of the time and place of the hearing.

- b. Such a hearing before city council shall be limited to the review of the determination made by the city clerk or designee concerning the application or calculation of the appropriate impact fee or, in the event of nonresponse of the city clerk or designee, direct review concerning the application or calculation of the appropriate impact fee.
- (3) In the event a person disagrees with the appellate decision of the city council, such person may challenge such decision in the circuit court by filing a petition for writ of certiorari no later than 30 days from the date of issuance of the decision of the city council.
 - (4) In the event a person pays the impact fees pursuant to this section under written protest with the intent of filing an appeal, and in the event his request is subsequently approved by the staff, or his request is subsequently rejected by the staff but the staff's determination is thereafter disapproved by the appellate decision, the city shall not pay interest on the funds paid under protest and subsequently refunded, unless it can be clearly demonstrated that the city has earned interest on such funds.
- (m) *Adjustments.* This section may be reviewed by the city council. The purpose of this review is to analyze the effects of inflation on the actual costs of capital equipment, to review and revise, if necessary, the items of capital equipment which may be listed, and to ensure that the fee charged new development will not exceed its pro rata share for the reasonably anticipated expansion costs of capital equipment for the required services necessitated solely by the presence of the new development.
 - (n) *Penalty.* Violations of this section shall be punished as an ordinance or Code violation and as provided by this Code. Additionally, the city may deny building permits, certificates of occupancy and occupational licenses, and/or obtain an injunction or other legal or equitable relief in the circuit court against any person violating this section.
 - (o) *Declaration of exclusion from administrative procedures act.* Nothing contained in this section shall be construed or interpreted to include the city in the definition of agency contained in F.S. § 120.52, or to otherwise subject the city to the application of the Administrative Procedures Act, F.S. ch. 120. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this section.
 - (p) *Severability.* If any subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion thereto.
 - (q) *Conflict.* To the extent this section conflicts with prior ordinances, resolutions or parts thereof, the more restrictive requirement shall prevail. Any conflicts shall be interpreted to the benefit of the city.
 - (r) *Effective date.* This section shall become effective immediately upon its adoption.

SECTION 3. Codification. It is the intent of the City Council of the City of Edgewood that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 4. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 5. Conflicts. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2021, by the City Council of the City of Edgewood, Florida.

PASSED ON FIRST READING: _____

PASSED ON SECOND READING: _____

Richard A. Horn, Council President

ATTEST:

Bea L. Meeks
City Clerk

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ORDINANCE NO. 2020-10

**AN ORDINANCE OF THE CITY OF EDGEWOOD,
ORANGE COUNTY, FLORIDA AMENDING CHAPTER
134, "ZONING," SECTION 134-518, RELATED TO HOME-
BASED BUSINESSES; MAKING THE CODE CONSISTENT
WITH RECENT STATE LEGISLATION; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CODIFICATION,
CONFLICTS, AND EFFECTIVE DATE.**

WHEREAS, the City of Edgewood has historically regulated home occupations, otherwise known as home-based businesses;

WHEREAS, the Florida Legislature recently enacted Chapter 2021-202, Laws of Florida, codified as § 559.955, Florida Statutes, with an effective date of July 1, 2021;

WHEREAS, new § 559.955, Florida Statutes, prohibits local governments, including the City from regulating home-based businesses in any manner inconsistent with the terms of such statute; and

WHEREAS, the City's current ordinance regulating home occupations is inconsistent with the mandates contained in newly enacted § 559.955, Florida Statutes, regarding home-based businesses, and the City desires to amend such ordinance to conform to § 559.955, Florida Statutes.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Edgewood, Florida as follows:

NOTE: Underlined words constitute additions to the City of Edgewood Code of Ordinances, ~~strike through~~ constitutes deletions from the original Code of Ordinances, and asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

Section 1. Chapter 134, Section 134-515 of the City of Edgewood Code of Ordinances shall be amended as follows:

Sec. 134-518. – ~~Home occupations~~ Home-based businesses.

In addition to the general requirements of this chapter, all home-based businesses ~~occupations~~ as defined in section 134-1 shall conform to the following requirements:

- (a) Unless otherwise expressly permitted by applicable statutes or residential zoning regulations, including, but not limited to, mixed-used development plans and agreements for planned unit development, only commercial activity meeting the definition of a home-based business, as defined in § 559.955, Florida Statutes, is permitted on property zoned for residential use.

46
47 (b) All home-based businesses located on property zoned for residential purposes
48 must operate subject to the following provisions, conditions and restrictions:
49

50 i. The employees of the business who work at the residential dwelling
51 must also reside in the residential dwelling, except that up to a total of two
52 employees or independent contractors who do not reside at the residential
53 dwelling may reside at the business. The business may have additional remote
54 employees that do not work at the residential dwelling.
55

56 ii. Parking related to the business activities of the home-based business
57 must comply with the zoning requirements applicable to other residential
58 properties within the same zoning classification, and the need for parking
59 generated by the business may not be greater in volume than would normally be
60 expected at a similar residence where no business is conducted. Home-based
61 businesses must comply with any regulations pertaining to the operation or
62 parking of vehicles and trailers to residences where no home business is
63 conducted. Any vehicles or trailers used in connection with the home-based
64 business must be parked in legal parking spaces that are not located within the
65 right-of-way, on or over a sidewalk, or on any unimproved surfaces of the
66 residence.
67

68 iii. As viewed from the street, the use of the residential property must be
69 consistent with the uses of the residential areas that surround the property.
70 External modifications made to a residential dwelling to accommodate a home-
71 based business must conform to the residential character and architectural
72 aesthetics of the neighborhood.
73

74 d. No heavy equipment, defined herein as commercial, industrial, or agricultural
75 vehicles, equipment, or machinery, may be parked or stored such that it is visible from
76 the street or a neighboring residential property.
77

78 e. The home-based business may not conduct retail transactions at a structure
79 other than the residential dwelling; however, incidental business uses and activities may
80 be conducted at the residential property.
81

82 f. The activities of the home-based business must be secondary to the property's
83 use as a residential dwelling. No sign shall be used other than one nonilluminated
84 nameplate attached to the building entrance, and such plate shall not exceed one square
85 foot in area. g. The business activities conducted at the residence must comply with any
86 relevant local or state regulations with respect to signage and equipment or processes that
87 create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors as such
88 regulations apply to other residences where no business is conducted.
89

90 h. All business activities conducted at the residence must comply with any
91 relevant local, state, and federal regulations with respect to the use, storage, or disposal of

92 any corrosive, combustible, or other hazardous or flammable materials or liquids as such
93 regulations would apply to a residence where no business is conducted.
94

95 ~~(1) Performance and design requirements.~~

96 a. ~~Location.~~ All home occupations shall be located only within the principal building
97 which is the bona fide residence of the principal practitioner. No home occupation
98 shall be conducted in any accessory building or structure.

99 b. ~~Area.~~ No home occupation may occupy more than 25 percent of the gross
100 habitable floor area of any one story of the dwelling unit, and in no event a total of
101 more than 500 square feet. Where more than one home occupation is approved
102 under this part, all of the home occupations together shall not exceed these
103 standards.

104 c. ~~Traffic and parking.~~ No home occupation shall generate vehicular traffic in excess
105 of two vehicles concurrently nor more than ten vehicles per day.

106 d. ~~Employees and volunteer workers.~~ No person shall be engaged in any home
107 occupation as an employee or volunteer worker other than members of the
108 immediate family residing in the dwelling unit.

109 e. ~~Merchandise storage and display.~~ No merchandise shall be displayed or sold on
110 the premises except articles made on the premises. No outside display of
111 merchandise or outside storage of equipment or materials shall be permitted. No
112 required parking area, garage or other structure required by this chapter or this
113 Code may be used for the home occupation or for storage of goods or
114 merchandise.

115 f. ~~External appearance.~~ No alterations shall be made to the external appearance of
116 any principal or accessory structures or of the building site which change the
117 residential character thereof.

118 g. ~~Electrical or mechanical equipment.~~ The use of electrical or mechanical
119 equipment which would change the fire rating of the dwelling unit or cause
120 fluctuations in line voltage outside the dwelling unit shall be prohibited, and no
121 electromagnetic interference shall be emitted which affects radio, television or
122 other electromagnetic equipment off the building site.

123 h. ~~Zero impact performance standards.~~ No equipment or process used in the home
124 occupation shall create noise, vibration, glare, fumes, odors or air pollution off the
125 building site.

126 i. ~~Signs.~~ Signs shall be prohibited.

127 j. ~~Property owners approval.~~ Wherever the occupant undertaking a home
128 occupation is not the owner of the premises, the property owner and/or agent must
129 give notarized written approval for the home occupation.

130 k. ~~Enforcement.~~ The property owner, agent and occupant shall be jointly and
131 individually responsible in all enforcement matters.

132 ~~(2) Prohibited home occupations. Notwithstanding any other provision of this section, the~~
133 ~~following uses shall be prohibited as home occupations:~~

134 ~~Adult entertainment.~~

135 ~~Antique shops.~~

136 ~~Auto service and repair.~~

137 ~~Barbershops and beauty shops.~~

138 ~~Bed and breakfast facilities.~~

139 ~~Cannabis farms.~~

140 ~~Child care centers.~~

141 ~~Churches.~~

142 ~~Clubs, private.~~

143 ~~Drive-in facilities.~~

144 ~~Eating and drinking establishments.~~

145 ~~Food processing.~~

146 ~~Fortunetellers.~~

147 ~~Funeral homes.~~

148 ~~Group instruction of more than four people.~~

149 ~~Health spas.~~

150 ~~Hospital and clinics.~~

151 ~~Hotels/motels.~~

152 ~~Kennels.~~

153 ~~Massage establishments.~~

154 ~~Medical marijuana dispensaries.~~

155 ~~Non-medical marijuana sales.~~

156 ~~Plasmapheresis facilities.~~

157 ~~Primary offices of professionals.~~

158 ~~Vehicle sales, rental or repair.~~

159 ~~Whole blood facilities.~~

160 ~~Any other similar use or activity as determined by the city clerk.~~

161 ~~(3) Requirements for particular home occupations. Secondary home offices. No retail or~~
162 ~~wholesale transactions shall be made on the premises. No religious services shall be~~
163 ~~conducted on the premises of a home office of a minister, rabbi, priest, etc.~~

164 ~~(4) Procedural requirements.~~

165 a. ~~Occupational license required.~~ All home occupations shall be required to obtain
166 an occupational license prior to the start of such use. In addition to any other
167 submittals required for an occupational license, the applicant shall also submit the
168 following:

169 1. ~~Location of dwelling unit where the home occupation will be conducted.~~

170 2. ~~Total floor area of the dwelling unit.~~

171 3. ~~Area of room or rooms to be utilized in the conduct of the home occupation.~~

172 4. ~~A sketch with dimensions showing the floor plan and the area to be utilized~~
173 ~~for the conduct of the home occupation.~~

174 5. ~~The exact nature of the home occupation.~~

175 6. ~~Notarized letter of approval for the home occupation from the property~~
176 ~~owner and/or property manager.~~

177 b. ~~Notice to abutting property owners.~~ Within 30 days after the issuance of the
178 occupational license for the home occupation, the city clerk shall mail to each
179 owner abutting the premises for which the home occupation permit was issued a
180 letter in substantially the following form with the appropriate information
181 inserted:

182 Dear _____:

183 On _____, 20____, zoning approval was given in accordance with the City of
184 Edgewood Zoning Code to _____ to conduct a home occupation of _____ in
185 a dwelling unit located at _____.

186 The restrictions provided by the city Code for home occupations are too numerous
187 to list here. In general, however, it may be said that the Code prohibits any
188 activity in conjunction with a home occupation which in any way changes or
189 adversely affects the peace and quiet or the residential character of the
190 neighborhood in which it is conducted.

191 If you see or hear any evidence of any commercial activity in your neighborhood
192 which might be related to this home occupation, please call the city clerk's office
193 at 407-851-2920. If his home occupation is not being conducted in accordance
194 with the requirements of the city Code, I have the authority to initiate revocation
195 of the permit for it.

196 Unless revoked or abandoned, the occupational license issued to _____ will be
197 good for one year.

198 Yours truly,

199 City clerk

200 c. ~~Expiration of occupational license.~~ Any occupational license for a home
201 occupation approved after the effective date of the ordinance from which this
202 chapter is derived shall expire one year from the date of issuance and must be
203 renewed every year from the date of issuance in accordance with the provisions
204 set forth in this section. The yearly review shall include a review of zoning

205 compliance, but the notice to abutting property owners shall not be reissued. The
206 occupational license shall also expire wherever the home occupation is not
207 initiated within six months from the date of issuance.

208 ~~d. *Nontransferability.* Authority to conduct a home occupation shall not be~~
209 ~~transferred to another person through the sale, leasing or rental of the property on~~
210 ~~which the home occupation is located or in any other manner. Said home~~
211 ~~occupation authority cannot be used by the applicant for any premises other than~~
212 ~~that for which it was granted.~~

213 ~~e. *Revocation of approval.* Any person may seek revocation of approval for a home~~
214 ~~occupation in accordance with the code enforcement procedures in chapter 2,~~
215 ~~article VII of this Code. In the event that the occupational license holder is found~~
216 ~~in violation of this chapter, the license shall be revoked and shall not be reissued.~~

217
218 **Section 2.** The provisions of this Ordinance shall be codified as and become and be
219 made a part of the Code of Ordinances of the City of Edgewood.

220
221 **Section 3.** If any section, sentence, phrase, word or portion of this ordinance is
222 determined to be invalid, unlawful or unconstitutional, said determination shall not be held to
223 invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or
224 portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

225
226 **Section 4.** All ordinances that are in conflict with this Ordinance are hereby repealed.

227
228 **Section 5.** This Ordinance shall become effective immediately upon its passage and
229 adoption.

230
231 **PASSED AND ADOPTED** this _____ day of _____, 2021, by the City
232 Council of the City of Edgewood, Florida.

233
234 PASSED ON FIRST READING: _____

235
236 PASSED ON SECOND READING: _____

237
238
239 _____
Richard A. Horn, Council President

240
241 *ATTEST:*

242
243 _____
244 Bea L. Meeks
245 City Clerk