

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2593

101ST GENERAL ASSEMBLY

5321S.02C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 196.298 and 442.404, RSMo, and to enact in lieu thereof nine new sections relating to the use of private property.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 196.298 and 442.404, RSMo, are
2 repealed and nine new sections enacted in lieu thereof, to be
3 known as sections 64.008, 65.710, 71.990, 89.500, 196.298,
4 260.295, 436.337, 442.404, and 535.012, to read as follows:

**64.008. 1. As used in this section, the term "home-
2 based work" means any lawful occupation performed by a
3 resident within a residential home or accessory structure,
4 which is clearly incidental and secondary to the use of the
5 dwelling unit for residential purposes and does not change
6 the residential character of the residential building or
7 adversely affect the character of the surrounding
8 neighborhood.**

**9 2. A zoning ordinance or regulation adopted pursuant
10 to this chapter that regulates home-based work shall not:**

**11 (1) Prohibit mail order or telephone sales for home-
12 based work;**

**13 (2) Prohibit service by appointment within the home or
14 accessory structure;**

**15 (3) Prohibit or require structural modifications to
16 the home or accessory structure;**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (4) Restrict the hours of operation for home-based
18 work; or

19 (5) Restrict storage or the use of equipment that does
20 not produce effects outside the home or accessory structure.

21 3. A zoning ordinance or regulation adopted pursuant
22 to this chapter that regulates home-based work shall not
23 contain provisions that explicitly restrict or prohibit a
24 particular occupation.

25 4. The application of this section does not supersede
26 any deed restriction, covenant, or agreement restricting the
27 use of land nor any master deed, by law or other document
28 applicable to a common interest ownership community.

 65.710. 1. As used in this section, the term "home-
2 based work" means any lawful occupation performed by a
3 resident within a residential home or accessory structure,
4 which is clearly incidental and secondary to the use of the
5 dwelling unit for residential purposes and does not change
6 the residential character of the residential building or
7 adversely affect the character of the surrounding
8 neighborhood.

9 2. A zoning ordinance or regulation adopted pursuant
10 to this chapter that regulates home-based work shall not:

11 (1) Prohibit mail order or telephone sales for home-
12 based work;

13 (2) Prohibit service by appointment within the home or
14 accessory structure;

15 (3) Prohibit or require structural modifications to
16 the home or accessory structure;

17 (4) Restrict the hours of operation for home-based
18 work; or

19 (5) Restrict storage or the use of equipment that does
20 not produce effects outside the home or accessory structure.

21 3. A zoning ordinance or regulation adopted pursuant
22 to this chapter that regulates home-based work shall not
23 contain provisions that explicitly restrict or prohibit a
24 particular occupation.

25 4. The application of this section does not supersede
26 any deed restriction, covenant, or agreement restricting the
27 use of land nor any master deed, by law or other document
28 applicable to a common interest ownership community.

 71.990. 1. As used in this section, the following
2 terms mean:

3 (1) "Goods", any merchandise, equipment, products,
4 supplies, or materials;

5 (2) "Home-based business", any business operated in a
6 residential dwelling that manufactures, provides, or sells
7 goods or services and that is owned and operated by the
8 owner or tenant of the residential dwelling.

9 2. Any person who resides in a residential dwelling
10 may use the residential dwelling for a home-based business
11 unless such use is restricted by:

12 (1) Any deed restriction, covenant, or agreement
13 restricting the use of land; or

14 (2) Any master deed, bylaw, or other document
15 applicable to a common-interest ownership community.

16 3. Except as prescribed under subsection 4 of this
17 section, a political subdivision shall not prohibit the
18 operation of a no-impact, home-based business or otherwise
19 require a person to apply for, register for, or obtain any
20 permit, license, variance, or other type of prior approval
21 from the political subdivision to operate a no-impact, home-
22 based business. For the purposes of this section, a home-
23 based business qualifies as a no-impact, home-based business
24 if:

25 (1) The total number of employees and clients on-site
26 at one time does not exceed the occupancy limit for the
27 residential dwelling; and

28 (2) The activities of the business:

29 (a) Are limited to the sale of lawful goods and
30 services;

31 (b) May involve having more than one client on the
32 property at one time;

33 (c) Do not generate on-street parking or cause a
34 substantial increase in traffic through the residential area;

35 (d) Occur inside the residential dwelling or in the
36 yard of the residential dwelling;

37 (e) Are not visible from the street; and

38 (f) Do not violate any narrowly tailored regulation
39 established under subsection 4 of this section.

40 4. A political subdivision may establish reasonable
41 regulations on a home-based business if the regulations are
42 narrowly tailored for the purpose of:

43 (1) Protecting the public health and safety, including
44 regulations related to fire and building codes, health and
45 sanitation, transportation or traffic control, solid or
46 hazardous waste, pollution, and noise control; or

47 (2) Ensuring that the business activity is compliant
48 with state and federal law and paying applicable taxes.

49 5. No political subdivision shall require a person, as
50 a condition of operating a home-based business, to:

51 (1) Rezone the property for commercial use;

52 (2) Obtain a home-based business license or other
53 general business license; or

54 (3) Install or equip fire sprinklers in a single-
55 family detached residential dwelling or any residential
56 dwelling with no more than two dwelling units.

57 6. Whether a regulation complies with this section is
58 a judicial question, and the political subdivision that
59 enacts the regulation shall establish by clear and
60 convincing evidence that the regulation complies with this
61 section.

 89.500. 1. As used in this section, the term "home-
2 based work" means any lawful occupation performed by a
3 resident within a residential home or accessory structure,
4 which is clearly incidental and secondary to the use of the
5 dwelling unit for residential purposes and does not change
6 the residential character of the residential building or
7 adversely affect the character of the surrounding
8 neighborhood.

 2. A zoning ordinance or regulation adopted pursuant
9 to this chapter that regulates home-based work shall not:
10

11 (1) Prohibit mail order or telephone sales for home-
12 based work;

13 (2) Prohibit service by appointment within the home or
14 accessory structure;

15 (3) Prohibit or require structural modifications to
16 the home or accessory structure;

17 (4) Restrict the hours of operation for home-based
18 work; or

19 (5) Restrict storage or the use of equipment that does
20 not produce effects outside the home or accessory structure.

21 3. A zoning ordinance or regulation adopted pursuant
22 to this chapter that regulates home-based work shall not
23 contain provisions that explicitly restrict or prohibit a
24 particular occupation.

25 4. The application of this section does not supersede
26 any deed restriction, covenant, or agreement restricting the

27 **use of land nor any master deed, by law or other document**
28 **applicable to a common interest ownership community.**

196.298. 1. As used in this section, the following
2 terms shall mean:

3 (1) "Baked good", includes cookies, cakes, breads,
4 danish, donuts, pastries, pies, and other items that are
5 prepared by baking the item in an oven. A baked good does
6 not include a potentially hazardous food item as defined by
7 department rule;

8 (2) "Cottage food production operation", an individual
9 operation out of the individual's home who:

10 (a) Produces a baked good, a canned jam or jelly, or a
11 dried herb or herb mix for sale at the individual's home; **and**

12 (b) **[Has an annual gross income of fifty thousand**
13 **dollars or less from the sale of food described in paragraph**
14 **(a) of this subdivision; and**

15 **(c)]** Sells the food produced under paragraph (a) of
16 this subdivision only directly to consumers;

17 (3) "Department", the department of health and senior
18 services;

19 (4) "Home", a primary residence that contains a
20 kitchen and appliances designed for common residential usage.

21 2. A cottage food production operation is not a food
22 service establishment and shall not be subject to any health
23 or food code laws or regulations of the state or department
24 other than this section and rules promulgated thereunder for
25 a cottage food production operation.

26 3. (1) A local health department shall not regulate
27 the production of food at a cottage food production
28 operation.

29 (2) Each local health department and the department
30 shall maintain a record of a complaint made by a person
31 against a cottage food production operation.

32 4. The department shall promulgate rules requiring a
33 cottage food production operation to label all of the foods
34 described in this section which the operation intends to
35 sell to consumers. The label shall include the name and
36 address of the cottage food production operation and a
37 statement that the food is not inspected by the department
38 or local health department.

39 5. A cottage food production operation shall not sell
40 any foods described in this section through the internet
41 **unless both the cottage food production operation and the**
42 **purchaser are located in this state.**

43 6. Nothing in this section shall be construed to
44 prohibit the authority of the department of health and
45 senior services or local health departments to conduct an
46 investigation of a food-borne disease or outbreak.

260.295. No building code adopted by a political
2 **subdivision shall prohibit the use of refrigerants that are**
3 **approved for use under the provisions of 42 U.S.C. Section**
4 **7671k or the regulations promulgated thereunder, provided**
5 **any related equipment is installed in accordance with the**
6 **provisions of 42 U.S.C. Section 7671k or the regulations**
7 **promulgated thereunder. Any provision of a building code**
8 **that violates this section shall be null and void.**

436.337. Notwithstanding any other provision of law to
2 **the contrary, no political subdivision shall require a**
3 **property owner to have a home inspection conducted of a**
4 **residential property regarding the sale of the property.**
5 **This section shall not apply to any inspection requirement**
6 **of new construction, occupancy permits, septic systems, or**

7 **fire protection district life safety programs enforced for**
8 **single family or multi-family dwelling occupancy changes.**

442.404. 1. As used in this section, the following
2 terms shall mean:

3 (1) "Homeowners' association", a nonprofit corporation
4 or unincorporated association of homeowners created under a
5 declaration to own and operate portions of a planned
6 community or other residential subdivision that has the
7 power under the declaration to assess association members to
8 pay the costs and expenses incurred in the performance of
9 the association's obligations under the declaration or
10 tenants-in-common with respect to the ownership of common
11 ground or amenities of a planned community or other
12 residential subdivision. This term shall not include a
13 condominium unit owners' association as defined and provided
14 for in subdivision (3) of section 448.1-103 or a residential
15 cooperative;

16 (2) "Political signs", any fixed, ground-mounted
17 display in support of or in opposition to a person seeking
18 elected office or a ballot measure excluding any materials
19 that may be attached;

20 (3) **"Solar panel or solar collector", a device used to**
21 **collect and convert solar energy into electricity or thermal**
22 **energy, including but not limited to photovoltaic cells or**
23 **panels, or solar thermal systems.**

24 2. (1) No deed restrictions, covenants, or similar
25 binding agreements running with the land shall prohibit or
26 have the effect of prohibiting the display of political
27 signs.

28 [3.] (2) A homeowners' association has the authority
29 to adopt reasonable rules, subject to any applicable

30 statutes or ordinances, regarding the time, size, place,
31 number, and manner of display of political signs.

32 **[4.] (3)** A homeowners' association may remove a
33 political sign without liability if such sign is placed
34 within the common ground, threatens the public health or
35 safety, violates an applicable statute or ordinance, is
36 accompanied by sound or music, or if any other materials are
37 attached to the political sign. Subject to the foregoing, a
38 homeowners' association shall not remove a political sign
39 from the property of a homeowner or impose any fine or
40 penalty upon the homeowner unless it has given such
41 homeowner three days after providing written notice to the
42 homeowner, which notice shall specifically identify the rule
43 and the nature of the violation.

44 **3. (1) No deed restrictions, covenants, or similar**
45 **binding agreements running with the land shall limit or**
46 **prohibit, or have the effect of limiting or prohibiting, the**
47 **installation of solar panels or solar collectors on the**
48 **rooftop of any property or structure.**

49 **(2) A homeowners' association may adopt reasonable**
50 **rules, subject to any applicable statutes or ordinances,**
51 **regarding the placement of solar panels or solar collectors**
52 **to the extent that those rules do not prevent the**
53 **installation of the device, impair the functioning of the**
54 **device, restrict the use of the device, or adversely affect**
55 **the cost or efficiency of the device.**

56 **(3) The provisions of this subsection shall apply only**
57 **with regard to rooftops that are owned, controlled, and**
58 **maintained by the owner of the individual property or**
59 **structure.**

60 **4. (1) No deed restrictions, covenants, or similar**
61 **binding agreements running with the land shall prohibit or**

62 have the effect of prohibiting the display of sale signs on
63 the property of a homeowner or property owner including, but
64 not limited to, any yard on the property, or nearby street
65 corners.

66 (2) A homeowners' association has the authority to
67 adopt reasonable rules, subject to any applicable statutes
68 or ordinances, regarding the time, size, place, number, and
69 manner of display of sale signs.

70 (3) A homeowners' association may remove a sale sign
71 without liability if such sign is placed within the common
72 ground, threatens the public health or safety, violates an
73 applicable statute or ordinance, is accompanied by sound or
74 music, or if any other materials are attached to the sale
75 sign. Subject to the foregoing, a homeowners' association
76 shall not remove a sale sign from the property of a
77 homeowner or property owner or impose any fine or penalty
78 upon the homeowner or property owner unless it has given
79 such homeowner or property owner three business days after
80 the homeowner or property owner receives written notice from
81 the homeowners' association, which notice shall specifically
82 identify the rule and the nature of the alleged violation.

535.012. No county, municipality, or other political
2 subdivision shall impose or enforce a moratorium on eviction
3 proceedings unless specifically authorized by state law.

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