

FIRST REGULAR SESSION

HOUSE BILL NO. 491

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIER.

0823H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 89.080, RSMo, and to enact in lieu thereof two new sections relating to regulations by local governments.

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

Section A. Section 89.080, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 71.990 and 89.080, to read as follows:

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

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

19 (2) The activities of the business:

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

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

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

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

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

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

28 4. A municipality may establish reasonable regulations on a home-based business
29 if the regulations are narrowly tailored for the purpose of:

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

33 (2) Ensuring that the business activity is:

34 (a) Compatible with the residential use of the property and surrounding properties;

35 (b) Secondary to the property's use as a residential dwelling; and

36 (c) Compliant with state and federal law and paying applicable taxes; or

37 (3) Limiting or prohibiting a home-based business whose business involves:

38 (a) Selling illegal drugs;

39 (b) Selling liquor;

40 (c) Operating or maintaining a structured sober-living home;

41 (d) Pornography;

42 (e) Obscenity;

43 (f) Nude or topless dancing; or

44 (g) Other adult-oriented business.

45 5. No municipality shall require a person, as a condition of operating a home-based
46 business, to:

47 (1) Rezone the property for commercial use;

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

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

51 **6. Whether a regulation complies with this section is a judicial question, and the**
52 **municipality that enacts the regulation shall establish by clear and convincing evidence**
53 **that the regulation complies with this section.**

 89.080. Such local legislative body shall provide for the appointment of a board of
2 adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections
3 89.010 to 89.140 may provide that the board of adjustment may determine and vary their
4 application in harmony with their general purpose and intent and in accordance with general or
5 specific rules therein contained. The board of adjustment shall consist of five members, who
6 shall be residents of the municipality except as provided in section 305.410. The membership
7 of the first board appointed shall serve respectively, one for one year, one for two years, one for
8 three years, one for four years, and one for five years. Thereafter members shall be appointed
9 for terms of five years each. Three alternate members may be appointed to serve in the absence
10 of or the disqualification of the regular members. All members and alternates shall be removable
11 for cause by the appointing authority upon written charges and after public hearing. Vacancies
12 shall be filled for the unexpired term of any member whose term becomes vacant. The board
13 shall elect its own chairman who shall serve for one year. The board shall adopt rules in
14 accordance with the provisions of any ordinance adopted pursuant to sections 89.010 to 89.140.
15 Meetings of the board shall be held at the call of the chairman and at such other times as the
16 board may determine. Such chairman, or in his absence the acting chairman, may administer
17 oaths and compel the attendance of witnesses. All meetings of the board shall be open to the
18 public. The board shall keep minutes of its proceedings, showing the vote of each member upon
19 question, or, if absent or failing to vote, indicating such fact, and shall keep records of its
20 examinations and other official actions, all of which shall be immediately filed in the office of
21 the board and shall be a public record. **A record of** all testimony, objections thereto and rulings
22 thereon, shall be:

23 **(1) Taken down by a reporter employed by the board for that purpose; or**

24 **(2) Made by a competent person utilizing any form of audiotape, videotape, or**
25 **digital recording.**

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