

ORDINANCE No. 2022-05

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING/DENYING A TEXT AMENDMENT TO THE CITY OF DORAL LAND DEVELOPMENT CODE, CHAPTER 74, "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS," ARTICLE VIII, "MISCELLANEOUS SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 14, "HOME-BASED BUSINESS OFFICE," TO MODIFY HOME-BASED BUSINESS REGULATIONS FOR CONSISTENCY WITH SECTION 500.80 "COTTAGE FOOD OPERATORS" AND SECTION 559.955 "HOME-BASED BUSINESSES," FLORIDA STATUTES; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, HB 403 "Home-Based Business Bill" forbids municipalities from enacting or enforcing any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in a manner that is inconsistent with section 559.955, Florida Statutes; and

WHEREAS, HB 663 "Cottage Food Operations" allows an individual to produce or package cottage foods at his or her residence without obtaining a food permit from the Florida Department of Agriculture and Consumer Services if he or she sells such products in accordance with section 500.80, Florida Statutes; and

WHEREAS, the City of Doral (the "City") currently regulates home-based business offices via Chapter 74, Article VIII, Division 14 of the City's Land Development Code; and

WHEREAS, the existing City of Doral home-based business ordinance must be amended to comply with HB 403 and HB 663; and

WHEREAS, the City of Doral has prepared an amendment to Chapter 74, Article VIII, Division 14 to provide for regulations consistent with state law; and

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WHEREAS, on January 26, 2022, the City Council of the City of Doral sitting as the Local Planning Agency (LPA) at a properly advertised hearing received testimony and evidence related to the proposed text amendment to the City's Land Development Code as required by state law and local ordinances; and

WHEREAS, on January 26, 2022, the City Council of the City of Doral at a properly advertised hearing (First Reading) received testimony and evidence related to the proposed text amendment to the City's Land Development Code as required by state law and local ordinances; and

WHEREAS, on March 23, 2022, the City Council of the City of Doral at a properly advertised hearing (Second Reading) received testimony and evidence related to the proposed text amendment to the City's Land Development Code as required by state law and local ordinances; and

WHEREAS, the Mayor and City Council finds that the adoption of the text amendment to the City's Land Development Code is in the best interest of the health, safety and welfare of the residents of the City of Doral.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance upon adoption hereof.

Section 2. Code Amended. The City Council of the City of Doral hereby approve the text amendment to the City's Land Development Code modifying Chapter 74, Article VIII, Division 14, "Home Based Business Office," to update home-based business

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regulations and provide for consistency with section 559.955 and section 500.80, Florida Statutes. The Land Development Code of the City of Doral, Florida, is hereby amended to read as follows:

* * *

CHAPTER 74 – MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS
ARTICLE VIII. – MISCELLANEOUS SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 14. HOME BASED BUSINESSES OFFICE

Sec. 74-780. - Definitions

For the purpose of this section the following definitions shall apply:

Home-based Business. An accessory use of a residential property which meets the criteria in section 559.955, Florida Statutes, and complies with Chapter 74, Article VIII, Division 14 of the City's Land Development Code.

Home Office. A work or office space set up in a person's home where the office use is secondary to the property's use as a residential dwelling.

Sec. 74-781. Requirements and standards.

Notwithstanding any provision to the contrary herein contained, ~~offices for~~ certain businesses, professions or occupations may be maintained within residentially zoned areas as provided herein. Any person engaged in a business, profession or occupation who chooses to conduct said business, profession or occupation from his permanent, primary residence shall, prior to conducting such business, profession or occupation, apply for and receive an business tax receipt ~~occupational license~~ for a home occupation or home-based business ~~office~~. The license fee shall be in accordance with the city fee schedule. Said applicant shall list his home address as a place of business and must, at all times, comply with the following criteria:

- (1) The activities of the home-based business shall be secondary to the property's use as a residential dwelling.

~~Home occupation or home based business office activities shall be accessory and clearly incidental to the primary single-family residence or apartment unit and shall not use more than 20 percent of the overall living space of the property.~~

- (2) Home occupation or home based business ~~office~~ activities shall occur entirely within the residential dwelling.
- (3) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

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~~Employees, in addition to the person engaged in the business, profession or occupation of the home occupation or home based business office as provided in this section, shall reside at the subject residential dwelling; for purposes of this division, the term "permanent resident" means a person residing in a residential dwelling for no less than six calendar months.~~

- (4) The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.

~~No goods or services shall be dispensed, sold, distributed or provided directly from the residential dwelling, except for those transmitted by telephone, computer modem, facsimile or other similar electronic means.~~

- ~~(5) The aggregate of deliveries of any kind required by, received or sent by, or made in connection with a home occupation or home based business office at a residential dwelling shall not exceed two business delivery by courier per day in addition to regular U.S. Postal Service.~~

- (56) The home-based business shall obtain approval from Miami-Dade County Division of Environmental Resource Management (DERM) and Miami-Dade County Fire Department and shall meet other applicable local, state, and federal regulations prior to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.

~~No inventory or storage of materials, goods, products or supplies shall be permitted at the residential dwelling, except those minor supplies necessary for the operation of the home occupation or home based business office.~~

- ~~(7) No materials, goods, products or supplies shall be displayed for sale or kept as samples at the residential dwelling, except those which can be readily transported in a hand-carried sample case.~~

- ~~(8) No goods or service of any kind shall be sold or transferred to a customer, consumer or client on the premises of a home occupation, excluding facsimile machine, telephone and regular U.S. Postal Service.~~

- (69) The exterior of the residential dwelling or apartment unit shall not be altered in any manner to attract attention to the home occupation or home based business office or the residence as a place of business.

- ~~(740) No signs indicating the presence of the home occupation or home based business office shall be located on or about the residential dwelling.~~

- ~~(844) No noise, odor, smoke, hazard or other nuisance of any type shall arise from the conduct of the home occupation or home based business office.~~

- (912) Parking related to the business activities of the home-based business shall comply with the city's parking regulations. The operation of a home occupation or home based business office shall not cause any increase in parking at the residential dwelling or vehicular traffic to and from the residential dwelling.

- ~~(103)~~ No vehicle with the name of a home occupation or home based business shall be parked or stored on the site, except in a closed garage. Commercial vehicle, trailer or heavy equipment storage or parking is prohibited in all residential zoned districts.
- ~~(114)~~ ~~The conduct of a home occupation or home based business office shall not result in an increase in demand on city services as compared to the average typical residence of the same size.~~
- (12) Cottage Food Operations shall comply with section 500.80 and section 559.955, Florida Statutes. For purposes of this section, Cottage Food Operations means a natural person or an entity that produces or packages cottage food products at the residence of a natural person or at the residence of a natural person who has an ownership interest in the entity, and sells such products in accordance with section 500.80, Florida Statutes.
- ~~(15) Home occupation or home based business office activities may be advertised or publicized provided that the address of the residential dwelling shall not be referenced, and further provided that any advertisement or publication shall not in any manner invite, attract or draw persons to the single-family residence or apartment unit in which the home based business office is located.~~

Sec. 74-781. Prohibited.

A home occupation or home based business office which does not satisfy all of the standards in section 74-780 at all times during operation shall be prohibited and no license shall be issued to an applicant whose business operation would violate said standards.

Sec. 74-782. Business tax receipt.

All home occupation or home based business offices shall be required to obtain and maintain an business tax receipt from the city, at an annual fee in accordance with the fee schedule.

Sec. 74-783. Inspection for violation of provisions.

The City is authorized to conduct an inspection and issue a citation when, based upon personal investigation, a code compliance officer has reasonable basis to believe that there is a violation of one or more of the provisions of this section.

~~The city, upon probable cause to believe that there is a violation of one or more of the provisions of this division, may seek permission from the code compliance special magistrate to inspect a property in order to assist in making a finding as to whether or not there is a violation. The city shall not inspect a property without the permission required in this section.~~

Sec. 74-784. Notice of violation.

If the city manager or his designee believes that a licensee has engaged in conduct warranting the suspension or revocation of a business tax receipt license, he or she shall

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serve the home-based business licensee, by certified mail or by hand delivery, a notice of violation written administrative complaint which affords reasonable notice to the licensee of facts or conduct that warranted the intended action. The notice of violation complaint shall state what is required to be done to eliminate the violation, if any. The home-based business licensee shall be given adequate opportunity to request a prior administrative hearing unless the city manager finds that an emergency condition exists involving serious danger to public health, safety or welfare, in which case advance notice and hearing shall not be required. In case of emergency suspension or revocation, the home-based business licensee shall immediately be advised of the city manager's action and afforded a prompt post-suspension or revocation hearing before the special magistrate.

Sec. 74-785. Parking requirements.

A home occupation or home based business ~~office~~ shall comply with the city's parking requirements. ~~have no parking requirement in addition to the requirement for the single-family residence or apartment unit.~~

Sec. 74-786. Other restrictions.

- (a) Nothing contained herein shall be deemed to authorize, legalize, or otherwise permit a home occupation or home-based business ~~office~~ that is otherwise prohibited by a legally enforceable restrictive covenant, association document or other instrument or restriction on such use.
- (b) A home-based business that registers the residential property address with the Florida Division of Corporations (Sunbiz) as the principal place of business shall require a local business tax receipt.

Secs. 74-787—74-799. Reserved.

* * *

Section 3. Codification. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made part of the City of Doral Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Severability. That if any section, subsection, sentence, clause, phrase, work or amount of this Ordinance shall be declared unconstitutional or invalid by

Section 6. Effective Date. This Ordinance shall be effective immediately upon passage by the City Council on second reading.

The foregoing Ordinance was offered by Councilmember Cabrera, who moved its adoption. The motion was seconded by Vice Mayor Cabral upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 26 day of January, 2022.

PASSED AND ADOPTED on SECOND READING this 23 day of March, 2022.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY

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