

ORDINANCE NO. 2022-006

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 18, "TAXATION," ARTICLE I, "IN GENERAL," SECTION 18-1, "DEFINITIONS," AND ARTICLE II, "BUSINESS TAX RECEIPTS," SECTION 18-36, "HOME BASED BUSINESSES," IN ORDER TO UPDATE DEFINITIONS AND REGULATIONS APPLICABLE TO COTTAGE FOOD OPERATIONS AND HOME BASED BUSINESSES CONSISTENT WITH STATE LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the City's regulatory needs; and

WHEREAS, Section 500.80, Florida Statutes (2021), provides that local laws, ordinances, or regulations may not prohibit cottage food operations or regulate the preparation, processing, storage, or sale of cottage food products by a cottage food operation; and

WHEREAS, classification of cottage food operation establishments are subject to conditions for the operation of a home based business under Section 559.955, Florida Statutes; and

WHEREAS, Section 559.955, Florida Statutes (2021), provides certain guidelines regarding the operation of home based businesses and restricts local government regulatory control over those businesses; and

WHEREAS, Florida Statutes do permit the City to address some of the noise, parking, traffic, deliveries, and signage issues created by home based businesses in residential neighborhoods; and

WHEREAS, the City desires to update definitions and regulations for cottage food operations and home based businesses consistent with state law; and

WHEREAS, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on April 13, 2022, and voted to recommend that the changes be approved; and

WHEREAS, the City Commission has considered the amendment in its entirety, and determines the amendment is in the best interests of the City.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2: Amendment. That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 18, “Taxation,” Article I, “Definitions,” to read as follows:

Sec. 18-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(2) Cottage food operations shall mean a natural person, or an entity that exists at a residence of a natural person or at the residence of a natural person who has ownership interest in the business entity, that produces or packages food that is not a potentially hazardous food as defined by Department of Agriculture and Consumer Services rule, in accordance with Section 500.80, Fla. Stat., and sells such products in accordance with Section 500.80, Fla. Stat., as amended from time to time.

(23) *Manufacturers and manufacturing* shall mean a business that manufactures articles for sale. Under this license, such a business is entitled to sell its articles so manufactured at wholesale only.

(34) *Merchandise* shall mean any goods, wares or commodities bought or sold in the usual course of trade or business.

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- (45) *Professional* shall mean persons engaged in the practice of certain professions. A separate professional license for each person engaged in the practice of such profession is required. It is a personal license and is not transferable.
- (56) *Retail merchant* shall mean any merchant who sells to the consumer or for any purpose other than resale.
- (67) *Sale* shall mean the transfer of ownership, title or possession whether conditional or otherwise for a consideration.
- (78) *Wholesale merchant* shall mean any merchant who sells to another person for the purpose of resale.

Section 3: Amendment. That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 18, "Taxation," Article II, "Business Tax Receipts," Section 18-36, "Home based businesses," to read as follows:

Sec. 18-36. - Home based businesses.

- (a) Home based businesses, including cottage food operations operating in compliance with Section 559.955 Fla. Stat., conducted within the city shall be clearly incidental and secondary to the use of the residence for residential purposes and shall not change the residential character thereof. A proposed home based business must meet all of the following criteria:
 - (1) 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 (2) employees or independent contractors who do not reside at the dwelling may work on-site at the business. ~~Only the people who live at the dwelling may be involved in the business.~~
 - (2) The business ~~activities~~ is are clearly incidental and secondary to the use of the dwelling for dwelling purposes.
 - (3) Retail transactions may not be conducted at any structure other than the primary residential dwelling.
 - (4) The use does not change the character of the dwelling and any alterations to the dwelling to accommodate the business must conform to the zoning district and approved site plan requirements, and to the residential character and architectural aesthetic of the neighborhood ~~the appearance of the dwelling cannot be altered to accommodate the business.~~
 - (45) The garage or other accessory structure may not be used for the business for either the repair, storage, manufacturing, retailing, or warehousing of merchandise or goods in a way that would interfere with the ability to park the number of vehicles it was designed to accommodate.
 - (56) Storing of hazardous or flammable materials is prohibited. Outdoor storage or display of goods is likewise prohibited.

- (67) The business must not emit noise, sounds, smoke, fumes, odors, vibrations or interference that would create a nuisance to abutting properties or the surrounding neighborhood. No public health or safety risks may be created by the home based business.
- (8) Parking related to the business activities of the home based business must comply with the applicable zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Driveways and parking areas shall not exceed that allowed for the residential use under the applicable zoning requirements and approved site plan.
- (9) Pursuant to Section 559.955(3)(b) Fla. Stat., vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.
- (710) Commercial vehicles as defined in subsection 19-37(1)(a), and heavy equipment used in the conduct of a home based business, may only be parked within an enclosed garage or building or in a location otherwise completely shielded from view from the neighboring properties. For purposes of this section, the term "heavy equipment" means commercial, industrial, or agricultural vehicles, equipment, or machinery.
- ~~(8) No deliveries of merchandise are allowed to the residence by heavy commercial vehicles as defined in subsection 19-37(1)(b) with the exception of cube, box & step vans as described in subsection 19-37(1)(b)8.~~
- ~~(9) No employees, clients, or customers are allowed on the premises, to conduct business~~
- ~~(110) No signage may be displayed on the premises~~ Outdoor storage is prohibited.
- ~~(12) Signs or other advertising of any kind are prohibited unless required by state or federal law.~~
- (134) The home based business known as family day care home, as defined in F.S. § 402.302(5), shall be licensed in the following manner. An operator of such a business shall be issued a business tax receipt upon satisfaction of the application procedure provided by this article. The business tax receipt shall not be in effect for thirty (30) days following the date of issuance. During this thirty-day period the operator of the family day care home shall provide evidence of compliance with all provisions set forth in F.S. § 402.301 et seq., and compliance with any ordinance or resolution adopted by the county pursuant to the provisions set forth in the above referenced statute. If the operator does not provide evidence of compliance, the business tax receipt shall be considered null and void. Upon providing evidence of compliance the business tax receipt shall immediately become effective.

(b) A person desiring to conduct a home based business shall first apply to the director of sustainable development ~~services~~, or designee, and shall include the following information:

(c) Upon compliance with the foregoing procedure and after payment of the business tax, the director of sustainable development, ~~services or designee~~, shall issue a business tax receipt for the home based business. Any home based business tax receipt may be revoked by the code enforcement board or uniform citation process or special master pursuant to the procedures set forth in section 18-35 relating to suspension or revocation of business tax receipts.

Section 4: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 6: Codification. That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 7: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 26TH DAY OF MAY, 2022.

PASSED SECOND READING THIS 9TH DAY OF JUNE, 2022.

Joshua Rydell, Mayor

Attest:

Joseph J. Kavanagh, City Clerk

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	<u>1st</u>	<u>2nd</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>
Brodie	<u>Aye</u>	<u>Aye</u>

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