

ORDINANCE NO. 2021-\_\_\_\_\_

**AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS, AMENDING CHAPTER 28 ZONING SEC. 28-109 HOME OCCUPATION REGULATIONS OF THE CITY OF ANGLETON CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND PROVIDING FOR REPEAL AND EFFECTIVE DATE.**

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**WHEREAS**, the City is authorized by Chapter 211 of the Texas Local Government Code to promulgate rules and regulations governing regulation of land use, structures, businesses and related activities; and;

**WHEREAS**, the City Council further finds that the rules and regulations governing land use, structures, and related activities within the territorial limits of the City promote the safe, orderly, and healthful development of the City;

**WHEREAS**, each and every applicable requirement set forth in Chapter 211, Subchapter A, Texas Local Government Code, and the Code of Ordinances, City of Angleton, Texas, concerning public notices, hearings, and other procedural matters has been fully complied with; and

**WHEREAS**, the City Council desires to amend Chapter 28, Sec. 28-109 in the City Code of Ordinances as it relates to home occupations;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:**

**Section 1.** That all of the facts recited in the preamble to this Ordinance are hereby found by the City Council to be true and correct and are incorporated herein by this reference and expressly made a part hereof, as if copied herein verbatim.

**Section 2.** Code of Ordinances, City of Angleton, Texas, Chapter 28 Zoning, Section 28-109 Home Occupation Regulations is hereby amended and replaced with the following:

**“Sec. 28-109. Home occupation regulations.**

(a) *Purpose:* Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

(b) *Special provisions for home occupations:*

- (1) Home occupations shall be permitted as accessory use in single- and two-family residential zoning districts provided that they comply with all restrictions herein.
  - (2) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street.
  - (3) Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding 25 percent of the combined gross floor area of dwelling unit and any accessory building(s) that are used for the home occupation (in no case shall the combined floor area utilized solely for a home occupation exceed 500 square feet).
  - (4) The occupation shall not employ any person who is not a member of the household in which the home occupation occurs.
  - (5) The operation of such an occupation shall be between the hours of 8:00 a.m. and 8:00 p.m. for outdoor activities.
  - (6) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of one and one-half tons, according to the manufacturer's classification.
  - (7) There shall be no outside storage, including trailers, or outside display related to the home occupation use.
  - (8) No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment, and that which is customarily associated with a hobby or avocation which is conducted solely for pleasure and not for profit or financial gain.
  - (9) The home occupation shall not generate noise, vibration, glare, fumes/odors, heat or electrical interference beyond what normally occurs within a residential district.
  - (10) The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood.
  - (11) The home occupation shall not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the premises through audio and/or visual means.
  - (12) The occupation shall not offer a ready inventory of any commodity for sale on the premises.
  - (13) The occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.
- (c) *Applicability of other regulations:* Home occupations shall also be subject to any and all other provisions of local, state and/or federal regulations and laws that govern such uses.

- (d) *Uses allowed as home occupations:* Subject to the provisions of subsection 28-109(b) above, home occupations may include the following uses:
- (1) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;
  - (2) Author, artist or sculptor;
  - (3) Dressmaker, seamstress or tailor;
  - (4) Music/dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than six pupils at a time;
  - (5) Individual tutoring and home schooling;
  - (6) Millinery;
  - (7) Office facility of a minister, rabbi, priest or other clergyman;
  - (8) Home crafts, such as rug weaving, model making, etc.;
  - (9) Office facility of a salesman, sales or manufacturer's representative, etc., provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;
  - (10) Repair shop for small electrical appliances, cameras, watches/clocks, small engines rated at ten horsepower or less, and other small items, provided that the items can be carried by one person without using special equipment;
  - (11) Food preparation establishments such as cake making/decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all state and local health regulations;
  - (12) Registered family homes (see definition in section 28-112), in compliance with applicable state laws, which are incorporated herein by reference, with no more than six children;
  - (13) Barber shop/beauty salon or manicure studio;
  - (14) Swimming lessons and water safety instruction, provided that such instruction involves no more than six pupils at any one time during daylight hours; ~~and~~
  - (15) In-home dog grooming with a specific use permit (SUP) with necessary restrictions as needed for the requested location; and
  - (16) Gunsmithing and firearms sales, in compliance with applicable state and federal laws, which are incorporated herein by reference.
- (e) *Uses prohibited as home occupations:* Home occupations shall not, in any event, be deemed to include the following uses:
- (1) Animal hospitals or clinics, commercial stables, or kennels;
  - (2) Schooling or instruction, except swimming/water safety classes and home schooling, with more than six pupils at a time;

- (3) Restaurants or on-premises food or beverage (including private clubs) consumption of any kind, except for limited food/meal consumption associated with the operation of a licensed registered family home;
  - (4) Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop for engines rated above ten horsepower; welding shop; large household appliance repair shop; or other similar type of business;
  - (5) Office facility for a doctor, dentist, veterinarian or other medical-related profession;
  - (6) On-premises retail or wholesale sales of any kind;
  - (7) Commercial clothing laundering or cleaning;
  - (8) Mortuaries or funeral homes;
  - (9) Trailer, vehicle, tool or equipment rentals;
  - (10) Repair shops or services, except as specifically provided in subsection 28-109(d) above;
  - (11) Drapery or furniture upholstery shops;
  - (12) Antique, gift or specialty shops;
  - (13) Repair shops for any items having internal combustion engines rated above ten horsepower;
  - (14) Any use that would be defined by the building code as an assembly, factory/industrial, hazardous, institutional or mercantile occupancy.
- (f) *Home occupation uses not classified:* Any use that is not either expressly allowed, nor expressly prohibited by subsections 28-109(d) and (e), respectively, is considered prohibited, unless and until such use is classified by amendment to this chapter by the Angleton City Council, subsequent to a recommendation by the planning and zoning commission.
- (g) *Effect of section 28-109 upon existing home occupations:* Any home occupation that was legally in existence as of the effective date of this chapter and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of section 28-21, provided that the home occupation use was not in violation of any other local, state or federal law or regulation on the effective date of this chapter. Any home occupation that was legally in existence as of the effective date of this chapter and that conforms with (i.e., is not in violation of) the provisions herein shall be hereby authorized to continue.
- (Ord. No. 2009-O-4A, §§ (V)(46)(46.1—46.7), 4-14-09; Ord. No. 2010-O-11A, § 3, 11-9-10; Ord. No. 2015-O-5A, §§ 1, 2, 5-12-15)”

**Section 3. Penalty.** Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than

Two Thousand and No/100 Dollars (\$2,000.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

**Section 4. Repeal.** All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

**Section 5. Severability.** In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Angleton, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 6. Effective date.** That this Ordinance shall be effective and in full force immediately upon its adoption and publication as required by law.

**Section 7: Proper Notice & Meeting**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED, APPROVED, and ADOPTED** this, the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jason Perez, Mayor

**ATTEST:**

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Frances Aguilar, City Secretary