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**TOWN OF HIGHLAND BEACH
ORDINANCE NO**

AN ORDINANCE OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING SECTION 30-67, “USES PERMITTED, SPECIAL EXCEPTION, AND PROHIBITED USES,” AND SECTION 30-131, “DEFINITIONS OF TERMS,” OF CHAPTER 30, “ZONING CODE,” OF THE TOWN CODE OF ORDINANCES TO RENAME THE EXISTING HOME OCCUPATION USE TO “HOME-BASED BUSINESSES” AND MODIFY THE REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, through the enactment of Chapter 2021-202, Laws of Florida, the Florida Legislature adopted Section 559.955, Florida Statutes, restricting the ability of local governments to regulate home-based businesses; and

WHEREAS, Section 559.955, Florida Statutes, specifically prohibits local governments from enacting or enforcing any ordinance, regulation, or policy in violation of the restrictions set forth therein and allows any adversely affected current or prospective home-based business to file suit against the Town for a violation of the state-mandated restrictions and awards attorney’s fees and costs to the prevailing party in any such action; and

WHEREAS, the Town Commission wishes to revise its restrictions applicable to home occupations (renamed home-based businesses) to comply with the provisions of Section 599.955, Florida Statutes; and

WHEREAS, the Town Commission determines that the adoption of this Ordinance benefits the health, safety, and welfare of the residents of the Town of Highland Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2. The Town Commission hereby amends Article IV, “Zoning Districts,” and Article VIII, “Definitions,” of Chapter 30, “Zoning Code,” of the Town Code of Ordinances as follows (additional is underlined and deleted is ~~stricken through~~):

Sec. 30-67. – Uses permitted, special exception, and prohibited uses.

(b) Uses not listed. Unless otherwise provided by this chapter, uses not listed in Table 30-4 are prohibited in the Town of Highland Beach.

**Table 30-4
Permitted Uses
Legend**

SP = Site Plan Approval Required			X = Prohibited					
SE = Special Exception Town Commission Approval Required			P = Permitted					
SEP = Special Exception Planning Board Approval Required								
USE CATEGORY	RE	RS	RML	RMM	RMH	RPUD	GSD	Additional Standards (See Notes)
RESIDENTIAL								
Dwelling, Single-family, Detached	SP	SP	SP	SP	SP	SP	X	
Dwelling, Single-family, Attached	X	X	SP	SP	SP	SP	X	
Dwelling, Single-Family, Zero Lot Line	X	X	SE	SE	SE	SE	X	(1)
Dwelling, Multiple-Family	X	X	SP	SP	SP	SP	X	
Dwelling, Patio or Villa	X	X	SP	SP	SP	SP	X	
Dwelling, Three-Family (Triplex)	X	X	SP	SP	SP	SP	X	
Dwelling, Townhouse	X	X	SP	SP	SP	SP	X	
Dwelling, Two-Family (Duplex)	X	X	SP	SP	SP	SP	X	
Dwelling, Mobile Home	X	X	X	X	X	X	X	
Accessory Dwellings	P	P	P	P	P	P	P	(2)
Guardhouse, Residential	P	P	P	P	P	P	X	(3)
<u>Home-based Businesses Occupation</u>	P	P	P	P	P	P	X	(4)
Timeshare Residence	X	X	X	X	X	X	X	
Accessory Uses	P	P	P	P	P	P	P	

(4) Home-based businesses occupations. A business that operates from a residential property is permitted. A business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following standards:

- 1
2 a. Employees of the business who work at the residential dwelling must also reside
3 in the residential dwelling, except that up to a total of two (2) employees or
4 independent contractors who do not reside at the residential dwelling may work at
5 the business. The business may have additional remote employees who do not
6 work at the residential dwelling.
7
8 b. Parking for the home-based business must comply with the provisions of article
9 IV, Chapter 30 of the Town code. Additionally, the need for parking generated by
10 the business may not be greater in volume than would normally be expected at a
11 similar residence where no business is conducted, and vehicles and trailers used in
12 connection with the business must be parked in legal parking spaces that are not
13 located within the right-of-way, on or over a sidewalk, or on any unimproved
14 surfaces at the residence.
15
16 c. Parking or storage of heavy equipment at the home-based business shall not be
17 visible for the street or neighboring property. For the purposes of this subsection,
18 “heavy equipment” means commercial, industrial, or agricultural vehicles,
19 equipment, or machinery.
20
21 d. External modifications made to a residential dwelling to accommodate a home-
22 based business must conform to the residential character and architectural
23 aesthetics of the neighborhood. As viewed from the street, the use of the
24 residential dwelling shall be consistent with the uses of the residential areas that
25 surround the property.
26
27 e. The home-based business may not conduct retail transactions at a structure other
28 than the residential dwelling; however, incidental business uses and activities may
29 be conducted at the residential property.
30
31 f. The activities of the home-based business shall be secondary to the property’s use
32 as a residential dwelling.
33
34 g. To that extent not inconsistent with the requirements of this section, all business
35 uses and activities must comply with all Town code standards and requirements,
36 including the applicable noise regulations, and with the standards for permitted
37 uses and structures for the zoning district in which the home-based business exists.
38
39 h. All business activities shall comply with any relevant local, state, and federal
40 regulations with respect to the use, storage, or disposal of any corrosive,
41 combustible, or other hazardous or flammable materials or liquids.
42
43 i. Transient accommodations are not permitted as a home-based business except as
44 expressly provided elsewhere in the Town code.
45

1 Home occupation means a commercial or business use performed in a residential dwelling by a
2 resident or family member. A home occupation use shall comply with the standards listed below:

- 3
- 4 a. ~~Only resident family members or residents of the dwelling unit shall be engaged in the~~
5 ~~occupation.~~
- 6
- 7 b. ~~Provision of services to clients within a dwelling is prohibited.~~
- 8
- 9 e. ~~The use of the premises for the home occupation shall be clearly incidental and~~
10 ~~subordinate to its use for residential purposes by its occupants. The use shall not change~~
11 ~~the residential character of the premises.~~
- 12
- 13 d. ~~There shall be no change in the outside appearance of the building or premises, or other~~
14 ~~visible evidence of the conduct of the home occupation.~~
- 15
- 16 e. ~~Home occupations shall not be conducted in any accessory building or structure, or any~~
17 ~~open porch, garage, or carport.~~
- 18
- 19 f. ~~Home occupation shall not occupy more than fifteen (15) percent of the floor area of the~~
20 ~~dwelling unit or accessory dwelling. Home occupations shall not be conducted within any~~
21 ~~open porch, attached garage, or similar space not suited or intended for occupancy as~~
22 ~~living quarters.~~
- 23
- 24 g. ~~Traffic shall not be generated by the home occupation in greater volumes than would~~
25 ~~normally be expected in a residential neighborhood.~~
- 26
- 27 h. ~~Vehicle parking shall be located on the lot or premise of the home occupation.~~
- 28
- 29 i. ~~Equipment or processes which create noise, vibration, glare, fumes, odors, or electrical~~
30 ~~interference detectable to the normal senses at any lot line shall not be used in the home~~
31 ~~occupation. In addition, equipment or processes shall not be used which create any~~
32 ~~interference for neighboring properties in receiving radio, television, or other wireless~~
33 ~~devices, or which cause fluctuations in electrical service to such properties.~~
- 34
- 35 j. ~~Private instructions or other lessons shall be limited to not more than one person and shall~~
36 ~~be limited to academic, artistic, and musical subjects.~~
- 37
- 38 k. ~~Manufacture or fabrication of articles such as are commonly classified under the terms of~~
39 ~~arts and handicrafts may be deemed a home occupation, subject to the other terms and~~
40 ~~conditions of this definition.~~
- 41
- 42 l. ~~On premises sales of stock, supplies, or products is prohibited.~~
- 43
- 44 m. ~~On premises use or storage of hazardous materials is prohibited.~~
- 45
- 46 n. ~~On premises signs or other advertising of home occupations is prohibited.~~

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~~o. Employees, other than family members or residents of the dwelling, are prohibited.~~

~~p. Owners or operators of home occupations may obtain an occupational license from Palm Beach County.~~

Sec. 30-131. – Definition of terms.

For the purposes of this chapter, the definitions provided below shall apply. In the event of a conflict between the definitions provided in this section, and a definition provided in another section, then the definition provided in the other section shall prevail. In case of a conflict with the building, life/safety, or similar code, the more stringent definition will apply.

~~Home-based business occupation~~ means a professional, occupational, trade, or business use, as those terms are defined in Section 15-1, that operates, in whole or in part, from performed in a residential dwelling, subject to the requirements of Section 30-67 by a resident or family member.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. Section 2 of the Ordinance may be made a part of the Town Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption at second reading.

The foregoing Ordinance was moved by _____, seconded by _____ and upon being put to the vote, the vote was as follows:

	YES	NO
Mayor Natasha Moore	_____	_____
Vice Mayor David Stern	_____	_____
Commissioner Evalyn David	_____	_____

1 Commissioner Judith Goldberg _____
2 Commissioner Don Peters _____

3
4 PASSED on first reading at the Regular Commission meeting held on this _____ day of
5 _____, 2024.

6
7 The foregoing Ordinance was moved by _____, seconded by
8 _____ and upon being put to the vote, the vote was as follows:

9
10 YES NO
11 Mayor Natasha Moore _____
12 Vice Mayor David Stern _____
13 Commissioner Evalyn David _____
14 Commissioner Judith Goldberg _____
15 Commissioner Don Peters _____

16
17 PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held
18 on this _____ day of _____, 2024.

19
20 ATTEST:

21
22 By: _____
23 Lanelda Gaskins, MMC
24 Town Clerk

25
26 APPROVED AS TO FORM AND LEGALITY:

27
28 By: _____
29 Leonard G. Rubin, Town Attorney