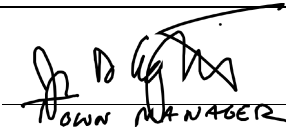


**Town of Lake Park Town Commission****Agenda Request Form****Meeting Date:** December 7, 2022**Originating Department:** Community Development**ORDINANCE** 14-2022

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE V OF THE TOWN OF LAKE PARK'S CODE OF ORDINANCES BY REPEALING SECTION 78-151, ENTITLED "HOME OCCUPATIONS" AND REPLACING IT WITH A NEW SECTION 78-151 ENTITLED "HOME-BASED BUSINESSES"; PROVIDING FOR THE AMENDMENT OF TABLE 78-1 CONTAINED IN CHAPTER 78, ARTICLE III, SECTION 78-70 AND SECTION 78-78 OF THE TOWN OF LAKE PARK'S CODE OF ORDINANCES TO DELETE THE TERM HOME OCCUPATIONS AND REPLACING IT WITH THE TERM HOME-BASED BUSINESSES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Agenda Title: _____**Approved by Town Manager:** _____
TOWN MANAGER**Date:** 11-18-2022**Cost of Item:** Legal ad
\$862.60**Funding Source:** _____

Note additional item and cost:
ordinance review by Town Attorney,
Acct. # 001-52-524-500-34910 -

Account Number: 001-52-524-
500-34910**Finance Signature:** _____**Jeffrey P. Duvall**

Digitally signed by Jeffrey P. Duvall
DN: cn=Jeffrey P. Duvall, o, ou,
email=jduvall@lakeparkflorida.gov, c=US
Date: 2022.11.15 09:22:48 -05'00'

Advertised:**Date:** 10-28-2022**Newspaper:** _____Palm Beach Post**Attachments:** Staff Report, Ordinance, Legal Ad**Please initial one:**Yes I have notified everyoneKJG Not applicable in this case

Summary Explanation/Background:

The Town Commission will consider on first reading an ordinance amending the Town's existing regulations for home occupations, to bring Town regulations into conformance with Florida statutes that were approved by the legislature in 2021. The proposed changes are detailed in the attached staff report.

The Planning and Zoning Board held a Public Hearing on November 7 and voted unanimously to recommend approval of the ordinance to the Town Commission.

Recommended Motion:

I MOVE TO APPROVE THE ORDINANCE ON FIRST READING.

**TOWN OF LAKE PARK
TOWN COMMISSION
Public Hearing
Meeting Date: December 7, 2022**



STAFF REPORT

Ordinance

Background

In 2021 the Florida Legislature adopted legislation affecting a local government's ability to regulate home occupations. This is codified as FS section "559.955 Home-based businesses; local government restrictions". (See **Attachment A** for statute)

In summary, State law now prohibits local governments from regulating or restricting home-based businesses any different from other businesses in the local government's jurisdiction, except as provided in the legislation. The legislation does include certain performance standards for neighborhood compatibility.

Review of new ordinances adopted to address the legislation indicates that many communities are basically replacing their current language with that from the state statute itself. This includes West Palm Beach and Palm Beach Gardens. North Palm Beach has not yet amended its code.

The Town's ordinance, as proposed, would also basically utilize the state language, with minor additions to reflect Town ordinances. The current code section (Attachment C) would be repealed and replaced with the new text shown in **Attachment B**.

The ordinance also contains amendments to two zoning districts to replace the term "home occupation" with "home-based business" for consistency with state statute.

Analysis

Major Differences between current code and proposed language

The major differences between the Town's existing regulations and those mandated by the state are listed below.

Regulation Subject	Town's Current Code	Proposed Code (per State Statute)
Uses	No retail sales, specific uses listed as prohibited	No prohibition on uses. However residential character must be maintained.
Restriction on Employees	Must reside in home	Resident + up to two non-residents
Maximum area of residence to be used	10 %	No set limitation. However must be secondary to the residential use

Signage	None, unless required by state licensing law and maximum of 24 square inches	Per local code - Therefore, Town current restriction will carry forward.
	See attachment C for current Code	See attachment B for proposed code

Protections for the Neighborhood

While the State clearly opened the door to a number of new types of home businesses, the legislation did include some safeguards for residential neighborhoods. This statutory language is shown below in *blue italics*.

1. Residential Appearance

The following section of the statute can be broadly construed to protect residential neighborhood appearance, by requiring the following:

“As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood.”

“The home-based business may not conduct retail transactions at a structure other than the residential dwelling”

This statutory language, included in the Town’s proposed ordinance will serve as a major safeguard, insuring the continuing appearance of a residential neighborhood. In addition to retail transactions, the Town has added service transactions as well.

2. Parking

The Town’s ability to control the type of uses that are allowed depends to a large degree on parking. The legislation states, “... *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.*”

Existing Town ordinances relating to parking in driveways and requiring hard surfaces for parking will serve to prohibit customers from parking on the grass. However, unless prohibited by Town Code or quantified, on-street parking would be enforced by making a determination that the volume of vehicles was exceeding what “*would normally be expected at a similar residence where no business is conducted.*”

3. Trucks

The legislation states

“Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this paragraph, the term heavy equipment means commercial, industrial, or agricultural vehicles, equipment, or machinery.”

Therefore the Town will continue to enforce “Section 30-35 - Parking of commercial vehicles in residential districts” which dictates that:

“Commercial vehicles in residential districts— Parking conditions. Commercial vehicles, with the exception of one taxicab, or high-capacity passenger van or work van, or standard vehicle with equipment or commercial signage as defined herein, shall not be parked, stored or left on any street, right-of-way, swale or alley or on any private property in any residential districts, except that commercial vehicles may be parked or stored in an enclosed garage on private property in a residence district when completely screened from public view.”

4. Nuisances such as noise, odors etc.

The legislation allows the enforcement of local regulations in regards to noise, odors, etc. Sections 78-151 (C) 4. and 5. of the proposed code address this. (See attachment B.

Overall Impact on Town Neighborhoods

The above four sections in the statute provide the main tools to limit or prohibit certain uses that are not compatible with a residential neighborhood, and these have been included in the Town’s proposed ordinance.

With the limitation on parking many of the uses that the Town currently prohibits would continue to be prohibited based on the parking volume they generate. Included for example would be uses such as restaurants and grocery stores, and high volume retail.

Certain uses that are currently prohibited such as hair salons and barber shops could occur, with limited customers or appointment only. Retail uses such as a bakery or pick up orders deli might also occur.

The requirement that business must be within the residence will eliminate uses that would negatively impact a neighborhood.

The legislation does not supersede any current condominium declaration or any future declaration of condominium adopted pursuant to chapter 718.

While it is not anticipated that there will be a large volume of requests for the new types of uses that will be allowable, the possibility that some businesses will not adhere to all the regulations exists and may require greater vigilance for code enforcement.

While an impingement on home rule, the Town has no option but to comply with the State Statute. The proposed ordinance will accomplish that.

The Town currently requires home businesses to have a business tax receipt from the Town, and this will continue.

Legal Notice

Legal Notice was provided via a display ad in the Palm Beach Post, which ran October 28, in accordance with state statute and the Town code for ordinances that change permitted uses in zoning districts.

Planning and Zoning Board Recommendation

The Planning and Zoning Board held a Public Hearing on November 7 and voted unanimously to recommend approval of the ordinance to the Town Commission.

RECOMMENDED MOTION:

I RECOMMEND APPROVAL OF THE ORDINANCE ON FIRST READING.

Attachments:

- a. State Statute
- b. Proposed Amendments
- c.. Current Town Regulations