

RESOLUTION NO. 2025-____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
TO AMEND THE LAND DEVELOPMENT REGULATIONS
CHAPTER 122, DIVISION 5 ENTITLED 'SPECIFIC
USE REGULATION' SUBDIVISION IV ENTITLED 'HOME
OCCUPATIONS', SECTIONS 122-1306 ENTITLED
'CONDITIONS' AND 122-1307 ENTITLED 'ISSUANCE
OF PERMIT'; PROVIDING FOR SEVERABILITY;
PROVIDING FOR REPEAL OF INCONSISTENT
PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City of Key West Land Development Regulations Chapter 122, entitled "Zoning", Division 5 entitled "Specific Use Regulation", Subdivision IV, entitled "Home Occupations" provides that the Chief Building Official shall process and issue permits for home-based businesses; and

WHEREAS, the administrative and regulatory function of permitting home-based businesses is more consistent with the duties of the Chief Licensing Official; and

WHEREAS, the City desires to amend the Land Development Regulations to identify the Chief Licensing Official as the administrative official with the duty to review applications for and issue home occupation permits; and

WHEREAS, in accordance with Section 90-522, the Planning Board held a noticed public hearing on March 27, 2025 where the Planning Board recommended approval of the proposed amendments through Planning Board Resolution 2025-020; and

WHEREAS, the City Commission has also determined, in accordance with the criteria of Code Section 90-520(6) that the proposed amendments: are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1: Chapter 122, Division 5 entitled 'Specific Use Regulation' Subdivision IV entitled 'Home Occupations', Section 1306 entitled 'Conditions' and 1307 entitled 'Issuance of permit'; are hereby repealed as follows:

*Coding: Added language is underlined, deleted language is ~~struck through~~.

Sec. 122-1306. Conditions.

Home occupations shall only be allowed, provided the following specified conditions are met:

(1) *Character of use.* In any district where a home occupation is allowed, it shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof or the character of the neighborhood. When permitted to qualify as a home occupation, a use must demonstrate compliance with each and all of the following criteria:

a. No person other than the members of the family residing on the premises shall be engaged in such occupation. No persons other than permanent residents of the subject premises shall be engaged in such occupation.

b. There shall be no display of goods visible from any street.

c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation from any right-of-way, except that a nonilluminated nameplate, not exceeding two square feet in area, may be displayed providing the nameplate is affixed against the

exterior surface at a position not more than two feet from the main entrance to the residence.

d. No home occupation shall occupy more than 20 percent of the total living area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited for or intended for occupancy as living quarters. No rooms which have been constructed as an addition to the residence, nor any attached garage or porch which has been converted into living quarters, shall be considered as floor area until two years after the date of completion thereof.

e. No home occupation shall be conducted in an accessory building; such occupation must be conducted in the principal of the proprietor.

f. No motorized power other than electric motors shall be used in conjunction with home occupations. The total horsepower of such motors shall not exceed three horsepower, or one horsepower for any single motor.

g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit, if conducted in other than a single-family

residence. For electrical interference, no equipment or process shall be used which creates a visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

h. No occupation shall generate traffic exceeding volumes normally expected in a residential neighborhood. Occupations which rely on client contact at the premises are not permitted.

i. No home occupation shall include the following: cosmetology, barbering, or beauty shop; restaurant; retail sales; fortunetelling or clairvoyance; food processing for sale; kennels; animal grooming; radio or television repair; furniture repair, refinishing or building; cabinet making; boatbuilding; automobile or other vehicle servicing; rebuilding or repair shops; metal fabrication or other similar activity, including use of welding or cutting torches; funeral homes; medical or dental laboratories; showroom or display area; or any activity similar to any of the listed activities.

(2) *Application.* Any person desiring to conduct a home occupation in a district where such use is permitted shall first apply to the building licensing department official for a home occupation. Such application shall be on a form prepared by the building licensing department official and shall include but not be limited to the

following data:

a. Name of the applicant and an affidavit from the owner of the premises expressing that the owner is aware of the applicant's request for a home occupation and has no objection to the home occupation being sought. Each applicant shall submit to the city ~~building~~ licensing official a sworn application on a standard form and a recent photo of the residence showing the entire front yard and all driveways and carports, if any.

b. Location of residence wherein the home occupation, if approved, will be conducted.

c. Total floor area of the residence.

d. Area of the room to be utilized for the conduct of the home occupation.

e. A sketch showing the floor plan and the area thereof to be utilized for the conduct of the home occupation.

f. The nature and character of the home occupation sought to be approved and equipment to be used in operations associated with the occupation.

(3) *Standards.* Each home occupation will be evaluated on the basis

of its meeting the criteria, and once approved must adhere to the following standards:

a. A home occupation shall be subject to all applicable city business tax receipts and other business taxes.

b. If any home occupation requires a license or permit from the state or any agency thereof, the applicant for a home occupation permit shall provide the ~~building~~ licensing official with a current, valid copy of any such permit or license before any such occupation shall be conducted. Any such license or permit from the state or any agency thereof shall be kept active and current.

c. Failure to continuously comply with this division and all other sections of the land development regulations applicable to conditional uses generally and all conditions of any permit or license issued by the state or any agency thereof shall be grounds for revocation of the home occupation permit by the ~~building~~ licensing official after due notice and a public hearing.

d. The city may attach reasonable conditions to a permit granting approval of a home occupation permit in order to protect the public health, safety, and welfare and to preserve the stability and tranquility of residential areas. Such conditions may include but are not limited to placing limits on the hours of operation. Such

permit shall be renewable annually.

e. A permit for a home occupation shall be granted to the occupant of the premises and shall not run with the land and shall not be transferable. If the applicant granted a home occupation vacates the premises, the home occupation permit shall automatically expire.

(Ord. No. 97-10, § 1(2-7.20), 7-3-1997; Res. No. 06-292, § 1, 9-6-2006)

Sec. 122-1307. Issuance of permit.

Upon compliance with the procedure described in section 122-1306, the ~~building~~ licensing official shall issue a home occupation permit. Any such permit may be revoked by the ~~building inspector~~ licensing official at any time when it has been determined that the home occupation has become a public nuisance.

(Ord. No. 97-10, § 1(2-7.20), 7-3-1997)

Secs. 122-1308–122-1335. Reserved.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional

for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the Florida Department of Commerce, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2025.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2025.

Authenticated by the presiding officer and Clerk of the Commission on ____ day of _____, 2025.

Filed with the Clerk _____, 2025.

Mayor Danise Henriquez _____

Vice Mayor Donald "Donie" _____

Commissioner Lissette Carey _____

Commissioner Aaron Castillo _____

Commissioner Monica Haskell _____

Commissioner Mary Lou Hoover _____

Commissioner Sam Kaufman _____

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK