

## ORDINANCE 2022-36

**AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS AMENDING SECTION 23-303 STREETS, SECTION 23-348 HOME OCCUPATIONS, AND SECTION 23-802 DEFINITIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED**, by the City Commission of the City of Lake Wales,

### **SECTION 1:**

#### *Sec. 23-303.3 Street Access Requirements.*

a. *Adequate access.* Approval of any new development or expansion of an existing development shall be contingent upon provision of adequate access as provided in this section. "Adequate access" shall be determined by the permitting authority based upon the standards for streets in this section and in accordance with the concurrency requirements of article VII, div. 1.

1. No subdivision or planned development project shall be approved by the City Commission unless there is adequate access to the property via existing public streets or a commitment has been made by the applicant or by the city, county, or state in the applicable capital facilities plan, to render the access adequate to serve the proposed development at the level of service standards required under article VII of this chapter, concurrent with development of the property.

2. Every building hereafter erected or moved shall be on a lot with a minimum width of 20 feet adjacent to or abutting on a paved public street, or with access to a paved public street by means of a private street approved by the City Commission, which has a minimum of 24 feet wide right-of-way or easement. All structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection and related emergencies and required off-street parking.

3. No building permit or site plan approval pursuant to [section 23-222](#) shall be issued for construction or placement of a building on a lot unless that lot has adequate access. Provided the concurrency requirements of article VII are met, access shall be deemed adequate if the lot has the required frontage on a public street constructed to city standards or a private street meeting the standards required by the city at the time of its approval for construction. If the street is unpaved, or does not meet other design requirements of this section necessary for

adequate service to the proposed development, the administrative official, or the planning board, as applicable, shall require the applicant to upgrade the street to provide adequate access, unless the improvements are scheduled by the city, county, or state, and will render access adequate at the time the proposed structures are occupied.

### **Section 23-348 ~~Home Occupations~~ Home Based Businesses**

~~A home occupation shall be allowed in any residence provided such home occupation shall be clearly incidental and secondary to the use of the dwelling as a residence, and provided there shall be no external appearance of commercial activity. Any person operating a home occupation is required to obtain local business tax receipt pursuant to chapter 19 of the Lake Wales Code of Ordinances.~~

~~a. No person shall be employed in a home occupation who is not a permanent resident of the dwelling unit in which the home occupation exists.~~

~~b. The floor area devoted to a home occupation shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit excluding porches, garages, carports, and other areas which are not considered living area.~~

~~c. There shall be no external evidence of the existence of a home occupation on the premises. Signs, displays, off-street parking areas other than driveways normally required for residential use, or other advertising of any kind are prohibited.~~

~~d. No goods or services of any kind shall be sold or transferred to a customer, consumer or client on the premises of a home occupation except via facsimile machine, telephone and/or postal transactions. No demonstration of products for sale will be permitted as part of a home occupation.~~

~~e. A home occupation shall not create noise, vibration, glare, fumes, odors, dust, smoke or electromagnetic disturbances. No equipment or processes shall be used which create visual or audible interference in any radio or television receiver located nearby. No chemicals or chemical equipment shall be used or stored, except those that are used for domestic or household purposes.~~

~~f. The following shall not be permitted as home occupations: beauty shops, barbershops, band instrument or dance instruction, swimming instruction, studio for group instruction, public dining facility or tearoom, antique or gift shop, photographic studio, fortune telling or similar activity, outdoor repair, automotive work, food processing, retail sales, commercial kennel, nursery school, or kindergarten.~~

~~g. Consultation with one (1) individual at a time or the giving of individual instruction, such as an art or piano teacher, to one (1) person at a time shall be deemed a home occupation. Group consultation or the giving of group instruction of any type shall be considered a business enterprise not eligible for consideration as a home occupation.~~

~~h. Deliveries of any kind required by and made to the premises of a home occupation shall not exceed one (1) business delivery per day.~~

a. The purposes of this section are to:

1. Permit the residents of the City of Lake Wales a choice in the use of a limited area of their home as a place of livelihood and the production or supplementing of personal and family income;
2. Permit no-nuisance commercial businesses within residences while maintaining a residential area or neighborhood without excessive noise, light, or other nuisances that undermine the purpose and character of the residential district;
3. Protect residential properties from any adverse impacts associated with home-based businesses;
4. Ensure that the rights of neighbors and other residents are not compromised by intrusive, hazardous, or environmentally degrading business activities;
5. Protect residential property values;
6. Permit "Cottage Food Operations" consistent with the provisions of the "Home Sweet Home Act" (Chapter 500, F.S.);
7. Ensure consistency with Section 559.955, F.S. (Home-based businesses); and
8. Establish performance criteria and standards for home-based businesses that will provide fair and equitable administration and enforcement of this section.

b. Home-based businesses shall include the following types or categories of activities:

1. Home occupation – a business, personal services, digital services, professional services, on-line teaching or training to individuals or groups, computer services such as repair or assembly, an occupation or trade conducted by the occupant of a dwelling as a secondary use. Usually conducted in a home office space, studio or defined workspace.
2. Telecommuting/Telework – a "work at home" arrangement between an employer and employee for performing work at a location other than the primary work location, such as at the home of an employee, and sending and receiving material by phone, email or other electronic means.
3. Cottage Food Operation – a natural person or entity that produces or packages cottage food products at the residence of the natural person or at the residence of a natural person who has an ownership interest in the entity, and sells such products in accordance with Section 500.08, F.S. (Chapter 500, F.S.)

4. Home-based cottage industry – a small-scale, light manufacturing business carried on at home by family members using their own equipment. Typically referred to as handmade, handcrafted or artisan items made using hand tools, mechanical tools and electronic tools for the manufacture of finished products or parts that are valued for their uniqueness, handmade qualities, artistic value or traditional characteristics.
- c. A home-based business shall be allowed in any residence provided such home-based business is clearly incidental and secondary to the use of the dwelling as a residence and provided there are no external appearance of a business or commercial activity. Any person operating a home-based business is required to obtain a local business tax receipt pursuant to Chapter 19 of the Lake Wales Code of Ordinances.

1. **Employment:**

- i. The home-based business shall be conducted by a member of the immediate family residing on the premises and up to a maximum of two (2) non-resident employees or independent contractors on-site at any time. [§559.955(3)(a), F.S.]
- ii. A cottage food operation may employ a person who does not reside on the premises provided the residence is occupied by a person who has an ownership interest in the home-based business. [§500.03(j), F.S.]
- iii. The home-based business may have additional remote employees that do not work on premise at the residential dwelling.

2. **Location and area:**

- i. Regardless of the location of the home-based business, the principal dwelling unit on the property shall be the bona fide residence of the home-based business practitioner. The home-based business shall be clearly incidental and secondary to the property's use for residential purposes.
- ii. The floor area devoted to a home-based business shall not exceed twenty-five (25) percent of the gross floor area of conditioned air space of the dwelling.
- iii. A home-based business may be conducted from a completely enclosed accessory structure with the approval of a special exception use permit pursuant to the requirements of Section 23-216 of this Code.

3. **Outward Appearance:** As viewed from any travelway, the use of the residential property shall be consistent with the uses of any surrounding residential uses. Outdoor storage, displays or equipment associated with a home-based business other than those that are customarily associated with a residential use are prohibited. 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.

4. **Customers and clients:** Visits to the premises by customers and clients of the home-based business shall occur only by scheduled appointment and no more than two (2) customers or clients may visit the premises at one time.
5. **Signage:** One non-illuminated business identification sign, mounted flush to the dwelling unit and not more than two (2) square feet in area shall be allowed.
6. **Nuisances:** A home-based business shall not create noise, vibration, glare, fumes, odors, dust, heat, or smoke.
7. **Electronic Interference:** No equipment, electrical devices or processes shall be used which may cause electromagnetic disturbances, electrical interference or create visual or audible interference in any radio, television, or satellite receiver or telephone, which violates FCC standards, or which causes fluctuation in off-site voltages.
8. **Hazardous Substances:** No highly toxic, explosive, flammable, combustible, corrosive, radioactive, volatile organic chemical compounds or similar hazardous materials shall be used, stored, or manufactured on the premises in amounts exceeding those which are typically found in normal residential use. No chemicals or chemical equipment shall be used or stored, except those that are used for domestic or normal household purposes.
9. **Vehicle Traffic:** Traffic generated by the proposed use must not negatively impact the safety, ambiance and characteristics of the residential area or neighborhood. Any increase to existing traffic created by the home-based business shall not exceed ten (10) additional trips per day. Based on the assumption that a single-family residence generated ten (10) vehicle trips per day, and residence with a home-based business will not exceed a total of twenty (20) vehicle trips per day.
10. **Truck traffic:** Delivery and shipping of merchandise, goods, or equipment, to the site of the home-based business shall be made by a vehicle typically employed in residential deliveries and shipping, such as, passenger vehicles, mail carriers, or step vans (i.e. UPS, Federal Express, etc.). No deliveries or shipping to the site of the home-based business by semi-tractor/trailer truck or vehicles having more than two (2) axles shall be permitted. Deliveries of any kind shall not exceed one (1) per day.
11. **Parking:**
  - i. Home-based businesses shall provide adequate parking spaces for any and all anticipated increase in vehicles at the dwelling including residents.

- employees, visitors, clients and customers of the home-based business. Such parking shall be provided in a manner and style that does not diminish the residential quality of the surrounding area and does not create adverse parking impacts on the adjacent street or properties.
- ii. All vehicles shall be parked within the driveway or in a designated parking space(s) that is located on the lot of the home-based business other than a required front yard and not within the road right-of-way unless on-street parking is legally authorized.
  - iii. Sufficient lane widths on the adjacent roadway shall be maintained free of parked vehicles for the safe flow of through traffic.
  - iv. Vehicles shall not be parked over a sidewalk or on any unimproved surfaces at the residence.

**12. Sales of services or products:**

- i. Retail sales on-site shall be made by appointment only and are limited to services which are provided on-site; goods which are manufactured, assembled, or grown on site; or products which are directly related to the goods or services rendered by the home-based business.
- ii. There shall be no sales of services or products on the premises which are not provided or produced on the premises, except those sales which are incidental to the business.
- iii. The home-based business and the address of the premises shall not be advertised in such a manner that would encourage customers or salespersons to come to the property without an appointment.
- iv. A cottage food operation may sell, offer for sale, and accept payment for cottage food products over the Internet or by mail order. Such products may be delivered in person directly to the customer, or a specific event venue, or by United States Postal Service or commercial mail delivery service. A cottage food operation may not sell, offer for sale, or deliver cottage food products at wholesale. [§500.80(2), F.S.]
- v. All other retail or wholesale sales shall be made via telephone, Internet, or mail order. Products shall be delivered in person directly to the customer, a specific event venue, by United States Postal Service or a commercial delivery service.

**13. Prohibited Business Activities:** The following shall not be permitted as a home-based business:

- i. Music instruction for groups of more than two (2) clients or students at one time;
- ii. Group consultation or giving group instruction of any type for more than two (2) people at one time;

- iii. The use of any machinery, tools, or equipment that in scale, size or numbers beyond what is typically found in a home;
- iv. Beauty shop/salon or barbershop
- v. Private club;
- vi. Antique or gift shop;
- vii. Commercial kennel;
- viii. Nursery school or pre-school;
- ix. Public dining facility or tearoom;
- x. Automotive work of any type, including that of recreational vehicles; and

Repair of equipment that takes place outdoors.

## **Sec. 23-802. Definitions**

~~*Home occupation.* A business that is operated entirely or partly within a dwelling unit and is incidental and subordinate to the residential use.~~

*Home-based business.* Any occupation, professional activity, business, profession, or commercial activity conducted entirely within a dwelling unit and carried on by a member or members of the immediate family or household occupying the dwelling and up to a maximum of two (2) non-resident employees or independent contractors on-site at any time. A home-based business is clearly incidental and secondary to the use of the property for residential purposes and does not change the appearance or character of the dwelling. Home-based business includes: home occupation, telecommuting/telework, cottage food operations, and home-base cottage industry.


## **SECTION 2:**

**Severability:** If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated.

## **SECTION 3:**

**Effective date:** This ordinance shall become effective immediately upon its passage by the city commission.

**CERTIFIED AS TO PASSAGE** this 3rd day of August 2022.

By:   
Mayor/Commissioner  
City of Lake Wales, Polk County, FL

ATTEST: \_\_\_\_\_  
City Clerk