



Planning Commission
January 13, 2022

SUBJECT

LDCT-21-05/ORDINANCE 22-01 – COUNTY INITIATED LAND DEVELOPMENT CODE TEXT AMENDMENT / HOME OCCUPATIONS/HOME-BASED BUSINESSES - PLN 2109-0197 - LEGISLATIVE - LISA WENZEL, COMPREHENSIVE PLANNING SECTION MANAGER
AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 2, DEFINITIONS; SECTION 200 DEFINITIONS; CHAPTER 3, REVIEW AUTHORITY AND PROCEDURES, SECTION 316.12 ALTERATIONS TO APPROVED SPECIAL PERMITS; AND SECTION 324.2, APPROVAL AUTHORITY; CHAPTER 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES, SECTION 511.7 HOME OCCUPATIONS.

Category

ADVERTISED PUBLIC HEARINGS (Presentations Upon Request)

Briefings

None

Contact and/or Presenter Information

Presenter: Lisa Wenzel, Comprehensive Planning Section Manager, 941-748-4501 ext. 6884,
lisa.wenzel@mymanatee.org

Contact: Natalie Chiapusio, Planning & Zoning Technician, 941-748-4501 ext. 6839,
natalie.chiapusio@mymanatee.org

Action Requested**ALTERNATIVE MOTION(S):****APPROVAL**

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and in accordance with the criteria for LDC Text Amendments in Section 341 of the Land Development Code, as conditioned herein, I move to recommend ADOPTION of Manatee County Ordinance 22-01, LDCT-21-05, amending the Manatee County Land Development Code.

DENIAL

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be INCONSISTENT with the Manatee County Comprehensive Plan and in accordance with the criteria for LDC Text Amendments in Section 341 of the Land Development Code, as conditioned herein, I move to recommend DENIAL of Manatee County Ordinance 22-01, LDCT-21-05, amending the Manatee County Land Development Code.

Enabling/Regulating Authority

Manatee County Comprehensive Plan
Manatee County Land Development Code
Florida Statute 559.955

Background Discussion

During the 2021 Legislative Session, Chapter 2021-202, Laws of Florida (Committee Substitute for HB No. 403) was passed, which preempts areas of local government regulation for home-based businesses to the state. The Bill prohibits Manatee County from enacting or enforcing any ordinance, regulation, or otherwise regulating a homebased business, except as otherwise contemplated by the Bill. The terms homebased business and home occupation are synonymous for purposes of the proposed Ordinance and are used interchangeably herein.

The Manatee County Land Development Code (LDC) currently regulates various aspects related to home occupations within the LDC and several sections are inconsistent with the Bill. As such, staff is processing the proposed amendments to the applicable sections of the LDC as they relate to home occupations to ensure consistency with the Bill. The home occupation business use limitations that the County may regulate, according to the Bill are outlined and discussed in the attached staff report.

Attorney Review

Other (Requires explanation in field below)

Other (if applicable)

Camilo Soto reviewed and responded by email to Matter 2021-0502 on December 14, 2021.

Reviewing Attorney

Soto

Instructions to Board Records

N/A

Cost and Funds Source Account Number and Name

N/A

Amount and Frequency of Recurring Costs

N/A

P.C. 01/13/2022

**LDCT-21-05/ORDINANCE 22-01 - LAND DEVELOPMENT CODE TEXT AMENDMENT /
HOME OCCUPATIONS/HOME-BASED BUSINESSES**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 200, DEFINITIONS; CHAPTER 3, REVIEW AUTHORITY AND PROCEDURES, SECTION 316.12 ALTERATIONS TO APPROVED SPECIAL PERMITS; CHAPTER 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES, SECTION 511.7 HOME OCCUPATIONS; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

P.C.: 01/13/2022

B.O.C.C.: 2/17/2022 (Legislative Day)

ALTERNATIVE MOTION(S):

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be **CONSISTENT** with the Manatee County Comprehensive Plan and in accordance with the criteria for LDC Text Amendments in Section 341 of the Land Development Code, as conditioned herein, I move to recommend **ADOPTION** of Manatee County Ordinance 22-01, LDCT-21-05, amending the Manatee County Land Development Code.

Based upon the staff report, evidence presented, comments made at the Public Hearing, and finding the request to be **INCONSISTENT** with the Manatee County Comprehensive Plan and in accordance with the criteria for LDC Text Amendments in Section 341 of the Land Development Code, as conditioned herein, I move to recommend **DENIAL** of Manatee County Ordinance 22-01, LDCT-21-05, amending the Manatee County Land Development Code.

SUMMARY/BACKGROUND

During the 2021 Legislative Session, Chapter 2021-202, Laws of Florida (Committee Substitute for HB No. 403) was passed, which preempts areas of local government regulation for home-based businesses to the state. The Bill prohibits Manatee County from enacting or enforcing any ordinance, regulation, or otherwise regulating a homebased business, except as otherwise contemplated by the Bill. The terms homebased business and home occupation are synonymous for purposes of the proposed Ordinance and are used interchangeably herein.

The Manatee County Land Development Code (LDC) currently regulates various aspects related to home occupations within the LDC and several sections are inconsistent with the Bill. (See *Request for Legal Services Response CAO Matter No. 2021-0293 attached.*) As such, staff is processing the proposed amendments to the applicable sections of the LDC as they relate to home occupations to ensure consistency with the Bill. The home occupation business use limitations that the County may regulate, according to the Bill are outlined and discussed in the attached memorandum response (CAO Matter No. 2021-0293) and below.

PROPOSED CHANGES

The proposed amendments are enumerated in ~~strike-thru~~/underline format in attached Exhibit A to proposed Ordinance 22-01.

In summary, the changes include the following:

- Chapter 2, Definitions, Home Occupation
 - The amendment will make the definition of home occupations/home-based businesses consistent with the Bill.
- Chapter 3, Review Authority and Procedures, Section 324.2, Approval Authority, and Section 316.2, Alterations to Approved Special Permits.
 - The amendment included in this section is a clean-up to remove the requirement for “Special Approval” as that requirement and definition were removed from both the Comprehensive Plan and Land Development Code in 2019.
 - The amendment to Section 324.2, Approval Authority, removed home occupations from the list of uses requiring administrative approval, as the proposed modifications regarding home occupations do not require site plan approval (i.e., either administrative or otherwise).
- Chapter 5, Standards for Accessory and Specific Uses and Structures, Section 511.7 Home Occupations.
 - The amendments to Section 511.7 will make the specific standards for home occupations/home-based businesses consistent with the Bill.

As it relates to LDC Sections 511.7.A and B, the sections currently limit the types of home occupations the County is allowing within residentially zoned areas, and these limitations are inconsistent with the Bill. The Bill provides that home occupations “[m]ay operate in an area zoned for residential use” and “[m]ay not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, **except as otherwise provided in this section.**” **Emphasis added.** The emphasized text in the preceding sentence relates to use limitations that Manatee County may still regulate and are discussed below.

Therefore, LDC Sections 511.7.A and B are proposed to be deleted and amended, consistent with the Bill, as well as the definition of home occupation in Section 200 of the LDC.

The home occupation business use limitations that the County may regulate, according to the Bill are as follows:

- ***As viewed from the street***, the residential property must be consistent with the uses of the residential areas surrounding the property. Any external modifications to 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; however, incidental business uses and activities may be conducted at the residential property. The County is limited to regulating for exterior alterations to a home occupation residence that does not conform to the residential character and architectural aesthetics of the neighborhood, and such alteration must be visible from the street. Additionally, the Bill allows for incidental business uses and activities to be conducted at the residential property; it does not allow for a regulation limiting all aspects of the home business to “completely within the dwelling . . . or in an accessory building”
- The business employees who work at the residential dwelling must also reside in the residential dwelling, except that up to two employees or independent contractors who do not reside at the residential dwelling may work at the business.
- The activities of the home-based business must be secondary to the property's use as a residential dwelling.
- Parking related to the business activities of the home-based business must comply with local zoning requirements. The business may not generate a need for parking greater in volume than a similar residence where no business is conducted. The Bill only speaks to parking regulation, not traffic generated by a home business.
- The County 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. Additionally, the Bill indicates that home occupation vehicles and trailers used in connection with such business ***must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence***. Enforcement of the “parking of commercial vehicles . . . subject to the provisions of the Code Ordinances,” would have to be no more stringent than the enforcement for the same at residences lacking a home occupation. Otherwise, such enhanced enforcement would be inconsistent with the Bill.
- The County may regulate the parking or storage of heavy equipment at the business, ***which is visible from the street or neighboring property***. For purposes of the Bill, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery. This LDC section is amended to limit regulation only to that which is visible from the street or neighboring properties, so that regulation is consistent with this part of the Bill.

- All home occupation activities must comply with any relevant local or state regulations concerning signage. Therefore, reference to Chapter 6, Signs, is proposed to be included in this LDC section.
- All home occupation activities must comply with any relevant local or state regulations concerning equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, noxious odors, and regulations concerning the use, storage, or disposal of hazardous materials. Such regulations on a business may not be more stringent than those that apply to a residence where no business is conducted. Therefore, reference to Chapter 5, Part V, Adverse Impact Performance Standards, is included in this LDC section.

The proposed language found in Exhibit A is consistent with Florida Statute, Section 559.955.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The Land Development Code is enacted pursuant to Section 163.3202 of the Florida Statutes and its purpose is to implement the Comprehensive Plan of the County by establishing regulations, procedures, and standards for review and approval of all development and use of land in the unincorporated portions of the County. It is stated in Chapter 1 of the LDC that “*the Code is adopted in order to foster and preserve public health, safety, comfort, and welfare in the unincorporated areas of the County.*”

Further, that it is the intent of the Code that the development process in Manatee County be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and the consideration of the interests of the citizens of the County.

ATTACHMENTS

1. Newspaper Advertising
2. CAO Memorandum Responding to Matter No. 2021-0293
3. Florida Statute 559.955
4. Ordinance No. 22-01 with Exhibit A– strike-thru/underline



OFFICE OF THE COUNTY ATTORNEY

WILLIAM E. CLAGUE, COUNTY ATTORNEY
Sarah A. Schenk, Chief Assistant County Attorney*
Christopher M. De Carlo, Chief Litigator
Pamela J. D'Agostino, Assistant County Attorney
Alexandria C. Nicodemi, Assistant County Attorney
Douglas E. Polk, Assistant County Attorney
Sarah E. Warren, Assistant County Attorney*
Camilo A. Soto, Assistant County Attorney
Whittni Hodges, Assistant County Attorney

MEMORANDUM

DATE: September 20, 2021

TO: Lisa Wenzel, Planning Section Manager, Building and Development Services Department

THROUGH: William E. Clague, County Attorney Approved by *W. Clague 9/20/2021*

FROM: Camilo A. Soto, Assistant County Attorney Approved by *C. Soto*

RE: **Home Occupations HB 403 (Chapter 2021-202, Laws of Florida);
CAO Matter No. 2021-0293**

Issue(s) Presented:

In this Request for Legal Services (RLS), you have asked the County Attorney's Office (CAO) to determine whether the Manatee County Land Development Code ("the LDC") needs to be amended, with respect to Home Occupations, after the adoption of Chapter 2021-202, Laws of Florida (Committee Substitute for House Bill No. 403).

Brief Answer(s):

Yes, Chapter 2021-202, Laws of Florida (Committee Substitute for HB No. 403) preempts areas of local government regulation for home-based businesses to the state.

Factual Background:

Sec. 511.7.A provides a listing of permitted home occupations, and Section 511.7.B provides a listing of home occupations requiring special permit. Section 511.7.C provides use limitations related to home occupations.

* Board Certified in City County & Local Government Law

Discussion:

CS/HB 403 (“the Bill”) preempts areas of local regulation of home occupations to the state. It prohibits Manatee County (“the County”) from enacting or enforcing any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of the Bill.

The LDC regulates various aspects related to home occupations in several sections, such as Chapter 2, Section 200; Chapter 5, Part V; and Chapter 6. The CAO urges BADS staff to review any LDC sections related to home occupations, for consistency with the Bill. As it relates to Sections 511.7.A and B of the LDC, these appear to limit the types of home occupations the County is allowing in residentially zoned areas and these limitations are inconsistent with the Bill. The Bill provides that home occupations “[m]ay operate in an area zoned for residential use” and “[m]ay not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, ***except as otherwise provided in this section.***” ***Emphasis added.*** The emphasized text in the preceding sentence relates to use limitations that Manatee County may still regulate and are discussed below. The CAO recommends deleting LDC Sections 511.7.A and B and amend, consistent with the Bill, relevant definitions in Section 200.

The home occupation business use limitations that the County may regulate, according to the Bill are as follows:

- ***As viewed from the street***, the residential property must be consistent with the uses of the residential areas surrounding the property. Any external modifications to 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; however, incidental business uses and activities may be conducted at the residential property. LDC Sections 511.7.C.1 and C.2 appear to be overbroad when compared to the Bill. The County is limited to regulating for exterior alterations to a home occupation residence that does not conform to the residential character and architectural aesthetics of the neighborhood, and such alteration must be visible from the street. Additionally, please note the Bill allows for incidental business uses and activities to be conducted at the residential property; it does not allow for a regulation limiting all aspects of the home business to “completely within the dwelling . . . or in an accessory building”
- The business employees who work at the residential dwelling must also reside in the residential dwelling, except that up to two employees or independent contractors who do not reside at the residential dwelling may work at the business. LDC Section 511.7.C.4 appears consistent with this part of the Bill.
- The activities of the home-based business must be secondary to the property's use as a residential dwelling. LDC Section 511.7.C.5 appears consistent with this

part of the Bill.

- Parking related to the business activities of the home-based business must comply with local zoning requirements. The business may not generate a need for parking greater in volume than a similar residence where no business is conducted. The Bill only speaks to parking regulation, not traffic generated by a home business. LDC Section 511.7.C.7 would need to be amended to solely encompass regulation of parking, consistent with the Bill.
- The County 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. Additionally, the Bill indicates that home occupation vehicles and trailers used in connection with such business ***must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence***. Enforcement of the “[p]arking of commercial vehicles . . . subject to the provisions of the Code Ordinances,” as detailed in LDC Section 511.7.C.7, would have to be no more stringent than the enforcement for the same at residences lacking a home occupation. Otherwise, such enhanced enforcement would be inconsistent with the Bill. If you have not done so, please consult with County Code Enforcement to ensure that it is enforcing parking regulations consistent with the Bill.
- The County may regulate the parking or storage of heavy equipment at the business, ***which is visible from the street or neighboring property***. For purposes of the Bill, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery. LDC Section 511.7.C.8 appears overbroad, and staff should limit regulation only to that which is visible from the street or neighboring properties, so that regulation is consistent with this part of the Bill.
- All home occupation activities must comply with any relevant local or state regulations concerning signage. The CAO recommends that BADS review Chapter 6, Signs, of the LDC to determine consistency with the Bill.
- All home occupation activities must comply with any relevant local or state regulations concerning equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Such regulations on a business may not be more stringent than those that apply to a residence where no business is conducted. Enforcement of LDC Section 511.7.C.8.b would have to be no more stringent than the enforcement for the same at residences lacking a home occupation. Additionally, the CAO recommends that BADS review Chapter 5, Part V, Adverse Impact Performance Standards of the LDC to determine consistency with the Bill. If you have not done so, please consult with County Code

Enforcement to ensure that it is enforcing this regulation consistent with the Bill.

- All home occupation activities must comply with any relevant local, state, and federal regulations concerning the use, storage, or disposal of hazardous materials. However, such regulations on a business may not be more stringent than those that apply to a residence where no business is conducted. The CAO did not see regulation in this regard in LDC Section 511.7.C. The Bill would allow for the regulation regarding hazardous materials.

The Bill does not contemplate regulations prohibiting outdoor storage in the broad manner detailed by LDC Section 511.7.C.3, nor does it contemplate limiting home occupation business to a percentage of dwelling area, as detailed by LDC Section 511.7.C.6. The CAO recommends deleting these use limitations in those sections and Chapter 2, Section 200, LDC.

There is also a companion bill in CS/HB 663 that allows individual cottage food operations to sell, offer for sale, and accept payment for cottage food products as a business entity. The bill also allows cottage food products to be sold, offered for sale, and paid for by mail order, and permits cottage food products to be delivered by mail. This companion bill also preempts the regulation of cottage food operations to the state. Cottage food home operations, however, must also comply with the use limitations detailed above.

The Bill also allows any adversely affected current or prospective home-based business owner to recover reasonable attorney fees and costs incurred instituting or defending a legal action concerning the validity of a local government's home-based business regulations.

Conclusion:

LDC sections that endeavor regulation of home occupations, including home-based cottage food operations, beyond what is detailed above are not consistent with the Bill. If enforcement or regulation of home occupations beyond what is detailed in the above bullet points is currently taking place, such action should cease, and enforcement or regulation made consistent with the Bill. As it relates to LDC Section 511, Subsection C should be amended to only regulate the use limitations as detailed herein for home occupations. If staff finds other sections of the LDC that regulate home occupations are inconsistent with the Bill, such sections should also be amended or deleted to achieve consistency with the Bill. Please contact me if you have any questions, or if I can be of further assistance.

Copies to: Dr. Scott Hopes, County Administrator
Robert Reinshuttle, Deputy County Administrator
Jan Brewer, Deputy County Administrator/Chief Financial Officer
Charles Bishop, Deputy County Administrator/Acting Director of
Code Enforcement, Building and Development Services Department

Jacob Saur, Director of Public Safety, Public Safety Department
Brad Szink, Interim Chief Code Enforcement Officer, Building and
Development Services Department
Robert Wenzel, Planning Section Manager, Building and Development
Services Department
Jeff Bowman, Chief Code Enforcement Officer, Building and Development
Services Department
Bobbi Roy, Agenda Coordinator, Building and Development Services
Department
Lacy Prichard, Business System Support Analyst I, Building and
Development Services Department

Select Year: 2021 ▼

Go

The 2021 Florida Statutes

Title XXXIII

REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

Chapter 559

REGULATION OF TRADE, COMMERCE, AND INVESTMENTS, GENERALLY

[View Entire Chapter](#)

559.955 Home-based businesses; local government restrictions.—

- (1) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of this section.
- (2) A home-based business that operates from a residential property as provided in subsection (3):
- (a) May operate in an area zoned for residential use.
 - (b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government's jurisdiction, except as otherwise provided in this section.
 - (c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.
- (3) For purposes of this section, a business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:
- (a) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.
 - (b) Parking related to the business activities of the home-based business complies with local zoning requirements and 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. 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. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. 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.
 - (c) 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; however, incidental business uses and activities may be conducted at the residential property.
 - (d) The activities of the home-based business are secondary to the property's use as a residential dwelling.

(e) The business activities comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted.

(f) All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

(4) Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

(5) The application of this section does not supersede:

(a) Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720.

(b) Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

History.—s. 1, ch. 2021-202.

EXHIBIT "A"

Chapter 2 - DEFINITIONS Section 200 Definitions.

Section 200 Definitions.

Home Occupation(s) or Home-based business(es) shall mean any use of a residential property ~~of a dwelling unit, in whole or in part,~~ for an occupation subordinate to the residential dwelling unit ~~and only conducted by the resident thereof, entirely within the dwelling unit,~~ and which is clearly incidental to the use of the structure for residential purposes, ~~does not change the character thereof, and which shall not occupy more than twenty-five (25) percent of the gross floor area or two hundred (200) square feet, whichever is less.~~

316.12. Alterations to Approved Special Permits.

Non-substantial amendments to an approved Special Permit may be approved by the Department Director. Any substantial amendment or modification shall require the issuance of a subsequent development order by a Hearing Officer. Substantial amendments include the following:

- A. Any modification to the conditions of approval;
- B. A major shift in the location of a building or structure;
- C. Changes that would affect the project's Certificate of Level of Service;
- D. Changes that will conflict with the applicable zoning district requirements or other requirements of this Code;
- E. An increase or decrease of more than ten (10) percent of the number of parking spaces approved;
- F. Structural alterations affecting the basic size, construction and form of the building(s) as shown on the approved plan. Changes in form will only be considered substantial if they occur within fifty (50) feet of the boundaries of the lot or within fifty (50) feet of any part of the structure subject to the Special Permit which has been constructed or sold to any owner or owners different from the applicant requesting the change;
- G. A reduction in the total amount of open space of more than five (5) percent or any minor change in the location or characteristics of open space;
- H. Major change in the location or type of pedestrian or vehicular access points or circulation.
- I. An increase in intensity or density within five hundred (500) feet of the use subject to the Special Permit boundaries or within two hundred (200) feet of any part of a structure subject to the Special Permit which has been constructed or is now under different ownership;
- J. An increase in number of stories. An increase in structure height of less than eight (8) feet, not resulting in additional stories may be approved administratively;
- K. An increase in height of a telecommunication tower of forty (40) feet or more;
- L. The relocation of a telecommunication tower beyond fifty (50) feet of its original location;
- M. A decrease in the number of pedestrian access points;
- N. A change in the phasing schedule which affects timing or the amount of improvements or the satisfaction of specific conditions;
- O. A reduction of the approved yards setbacks of more than ten (10) percent, and any yard change which would encroach upon or affect any utility or drainage easement;
- P. A change in intensity of use by increasing usable floor area by more than one thousand (1,000) square feet, by increasing the number of dwelling units by more than five (5) percent, or by increasing the area devoted to outdoor sales, displays and demonstrations by more than five (5) percent;
- Q. An increase in traffic generation by more than ten (10) percent;
- R. An increase in the area allocated to any land use type by more than ten (10) percent;

Chapter 3 - REVIEW AUTHORITY AND PROCEDURES

PART III. - SPECIAL PERMIT APPROVAL.

Section 316. - Special Permits

316.12. Alterations to Approved Special Permits.

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- S. A change in use, except that the addition of any of the following permitted and accessory uses, ~~if no specific approval is required,~~ shall be deemed non-substantial: family care homes, ~~permitted home occupations,~~ bed and breakfast facilities, utility uses, and waterfront structures (residential); provided that any applicable use standards in Chapter 5 shall be met.

324.2. Approval Authority

Changes to Preliminary and Final Site Plans that were originally approved by the Department Director may be approved by the Department Director. Changes to site plans previously approved by the Board as part of a Planned Development (GDP and PSP), require administrative or Board approval as follows. For modifications that exceed code requirements, see Section 365.

A. **Administrative Approval.** The following changes to approved site plans may be approved by the Department Director:

1. Any change in the required number of parking areas resulting in an increase of less than ten (10) percent in the number of spaces approved;
2. Structural alterations not significantly affecting the basic size and form of the building(s) as shown on the approved plan. Changes in form will only be considered substantial if they occur within fifty (50) feet of the boundaries of the site (or district in the case of a PD) or within fifty (50) feet of any part of any of the structures which have been constructed or sold to any owner or owners different from the applicant requesting the change;
3. Any reduction in the amount of open space of less than five (5) percent or any non-substantial change in the location or characteristics of open space;
4. Non-substantial changes in location or type of pedestrian or vehicular accesses or circulation, as long as those non-substantial changes comply with applicable land development regulations;
5. Any increase in density or intensity for a portion of the project beyond five hundred (500) feet of the site boundaries or beyond two hundred (200) feet from any part of the site which has been constructed or sold to an owner or owners different from the applicant requesting the change. For Planned Development GDPs, it shall be one hundred (100) feet from the district boundaries and beyond fifty (50) feet from any part of the site which has been constructed or sold to an owner or owners different from the applicant requesting the change. (This does not authorize an increase in overall density or intensity;)
6. A fifteen (15) percent increase in the approved height or a structure height increase of less than eight (8) feet, whichever is less, provided there is no increase in number of stories;
7. Any increase in the number of pedestrian access points;
8. Any changes in the phasing schedule which do not impact timing, amount, or completion of improvements; or the satisfaction of specific conditions;
9. Any change in required yard setbacks of less than ten (10) percent, except any yard change which would encroach upon or affect any utility or drainage easement;
10. Any increase in gross floor area of less than or equal to five (5) percent of the gross floor area for the project;
11. The addition of any of the following uses, if no Special Permit approval is required: family day care homes, ~~home-occupations~~, bed and breakfast facilities, utility uses, and waterfront structure (residential); provided that any applicable use criteria in Chapter 5, Part IV shall be met; and
12. A change from multi-family to single family, if it does not increase external impacts such as, but not limited to transportation, schools, parks or utilities; and is consistent in lot size, coverage and yards with other single family portions of the development. If the zoning district does not specify dimensional

requirements for single family units, or no single family units were included in the original PD approval, the minimum requirements of the RMF-9 district shall be met.

- B. **Board Approval.** All other changes shall require approval by the Board at a noticed public hearing, except for those noted below as requiring a new application.
- C. **Changes Requiring a New Application.** The following types of changes shall require the submittal of a new application for GDP, PSP or FSP approval:
1. An increase in intensity of use of more than five (5) percent of the usable floor area, or an increase of more than three (3) percent of the number of dwelling units, or an increase of more than five (5) percent of the amount of outside land area devoted to sales, displays or demonstrations. In no case shall the intensity or density be increased over the maximum permitted by the zoning district or the Comprehensive Plan.
 2. Any change in use from the approved use, except as noted in subsection A, above.
 3. Any increase in traffic generation by more than ten (10) percent.
 4. Any increase in the area allocated to any land use type by more than ten (10) percent.
 5. Any change in structure height greater than fifteen (15) feet.
 6. Any combination of changes which cumulatively are deemed by the Department Director to be of such significance that a new application is required.
 7. Any new airport runway or expansion to an existing airport runway.
 8. Any change of a similar nature to the foregoing.

(Ord. No. 19-03 , § 3(Exh. A-3), 3-21-19)

511.7. Home Occupations/~~Home-Based Businesses.~~

Home occupations or home-based businesses are permitted in any dwelling unit or from any residential property, and may not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses except as otherwise provided and subject to the following provisions: subject to the provisions in this subsection:

1. The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.
2. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.
3. The parking or storage of heavy equipment (i.e., commercial, industrial, or agriculture vehicles, equipment, or machinery) shall not be visible from the street or neighboring property.
4. As viewed from the street, the use of the residential property shall be 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.
5. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.
6. The activities of the home-based business shall be secondary to the property's use as a residential dwelling.
7. The business activities of the home-based business shall comply the applicable LDC sections:
 - a. Chapter 6, Signs.
 - b. Chapter 5, Standards for Accessory and Specific Uses and Structures, Part V. Adverse Impact Performance Standards.
 - c. Such regulations in 7.a. and 7.b above shall not be more stringent than those that apply to a residence where no business is conducted.

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~~A. Permitted Home Occupations. The following home occupations are permitted uses, subject to the requirements of this section:~~

- ~~1. Artists and sculptors.~~
- ~~2. Authors and composers.~~
- ~~3. Dressmakers, seamstresses and tailors.~~
- ~~4. Daycare homes.~~
- ~~5. Home crafts, such as model making, rug weaving, lapidary work, and ceramics.~~
- ~~6. Office facility for a minister, rabbi, priest or other similar person associated with a religious organization.~~

Chapter 5 - STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES
PART II. - STANDARDS FOR ACCESSORY USES AND STRUCTURES.
Section 511. - Specific Accessory Uses and Structures Allowed.
511.7. Home Occupations.

- ~~7. Office facility for a salesman, sales representative, or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises.~~
- ~~8. Telephone answering services.~~
- ~~9. The renting of not more than one room for rooming or boarding for not more than one (1) person (who is not transient).~~
- ~~10. School of special education for groups not exceeding four (4) pupils at any given time.~~
- ~~11. Professional architect, engineer, planner, attorney or other professional's office.~~
- ~~12. Similar uses which do not involve:~~
 - ~~a. Retail or wholesale sales transactions on the premises,~~
 - ~~b. Any assembly, processing, or fabrication operations,~~
 - ~~c. Any services performed for more than two (2) persons on the premises at any one time unless specified different elsewhere,~~
 - ~~d. Activities elsewhere prohibited in this Code, or~~
 - ~~e. Home occupations that require Special Permit as provided below.~~

~~B. Home Occupations Requiring Special Permit.~~ The following home occupations require Special permit approval:

- ~~1. Barber or beauty shops, two (2) chairs maximum.~~
- ~~2. Dance or music instruction by the occupant of the premises.~~
- ~~3. Fortune telling, palm reading and similar uses.~~
- ~~4. Group instruction for no more than ten (10) persons at any one time.~~
- ~~5. Photographic studios.~~
- ~~6. Repair service establishments.~~
- ~~7. Riding or boarding stables, or kennels.~~
- ~~8. Veterinary clinics.~~
- ~~9. Small animal specialty farms.~~

~~C. Use Limitations.~~ In addition to the regulations applicable in the zoning district in which it is located, all home occupations shall be subject to the following limitations and requirements:

- ~~1. Location of Premises.~~ A home occupation shall be conducted completely within the dwelling that is the bona fide residence of the principal practitioner or in an accessory building normally associated with a residential use.
- ~~2. Exterior Alterations.~~ No alterations to the exterior appearance of the principal residential building or premises shall be made which changes the character of the premises as a residence.
- ~~3. Outdoor Display or Storage.~~ No outside display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.

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Chapter 5 - STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES

PART II. - STANDARDS FOR ACCESSORY USES AND STRUCTURES.

Section 511. - Specific Accessory Uses and Structures Allowed.

511.7. Home Occupations.

-
- ~~4. *Employees.* The employment of more than two (2) persons who are not residents of the dwelling, who work at or out of the dwelling, shall be prohibited. This restriction shall not apply to employees who normally do not report to the premises.~~
 - ~~5. *Level of Activity.* The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.~~
 - ~~6. *Area.* No home occupation shall occupy more than twenty-five (25) percent or no more than two hundred (200) square feet of the first floor area of the residence, or two hundred (200) square feet, whichever is less, exclusive of the area of any open porch or attached garage or similar accessory uses.~~
 - ~~7. *Traffic, Parking.* No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be provided on-site. Parking of commercial vehicles is subject to the provisions of the Code Ordinances.~~
 - ~~8. *Equipment.*~~
 - ~~a. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or vocation not conducted for gain or profit, or machinery or equipment which is essential in the conduct of the home occupation.~~
 - ~~b. 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 premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.~~

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PROOF OF PUBLICATION

Manatee Co. Planning Dept/Lg *
Manatee Co. Planning Dept/Lg *
1112 Manatee AVE W
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STATE OF FLORIDA, COUNTY OF Sarasota

The Herald-Tribune, a newspaper printed and published in the city of Sarasota, and of general circulation in the Counties of Sarasota, Manatee, and Charlotte, State of Florida and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue dated:

12/29/2021

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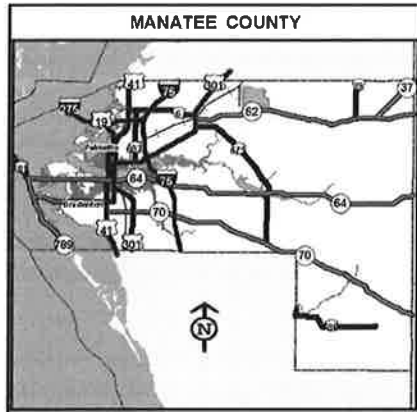
NOTICE OF PUBLIC HEARING NOTICE OF LAND DEVELOPMENT CODE CHANGES IN UNINCORPORATED MANATEE COUNTY

The Manatee County Planning Commission will hold a public hearing to consider amendments to certain provisions of the Manatee County Land Development Code (Ordinance 15-17, as amended) and make a recommendation to the Board of County Commissioners as to the consistency of the proposed Ordinance with the Comprehensive Plan and as to whether the proposed ordinance should be adopted, adopted with modifications, or denied.

Date: January 13, 2022
Time: 9:00 AM or soon thereafter as same may be heard
Place: Manatee County Government Administrative Center
1st Floor Honorable Patricia M. Glass Chambers
1112 Manatee Avenue West

LDCT-21-05/ORDINANCE 22-01 - LAND DEVELOPMENT CODE TEXT AMENDMENT / HOME OCCUPATIONS/HOME-BASED BUSINESSES PLN2109-0197

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 200, DEFINITIONS; CHAPTER 3, REVIEW AUTHORITY AND PROCEDURES, SECTION 316.12 ALTERATIONS TO APPROVED SPECIAL PERMITS; CHAPTER 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES, SECTION 511.7 HOME OCCUPATIONS; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.



All interested parties may appear and be heard at the meeting with respect to the proposed Ordinance, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Planning Commission.

It is important that all parties present their concerns to the Planning Commission in as much detail as possible. The issues identified at the Planning Commission hearing will be the primary basis for the final decision by the Board of County Commissioners. Interested parties may examine the Official Zoning Atlas, Ordinances, the applications, related documents, and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 4th Floor, Bradenton, Florida, telephone number (941) 748-4501x6878; e-mail to planning_agenda@mymanatee.org.

The hearing may be continued from time to time to a date and time

certain or to no date certain and re-advertised. The public may also provide written comments for the Planning Commission to consider.

Rules of procedure for this public hearing are in effect pursuant to Resolution 13-189(PC). A copy of this Resolution is available for review or purchase from the Building and Development Services Department (see address below).

Please send comments to: Manatee County Building and Development Services Department

Attn: Planning Coordinator
1112 Manatee Ave. West 4th Floor
Bradenton, FL 34205
941-748-4501 ext. 6878

Planning.agenda@mymanatee.org

Interested parties may appear and be heard at the meeting with respect to the proposed ordinances.

Interested parties may examine the proposed Ordinances and related documents and may obtain assistance regarding these matters from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 4th Floor, Bradenton, Florida; telephone number (941) 748-4501 EXT. 6878; e-mail to: planning_agenda@mymanatee.org

Americans With Disabilities: The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Carmine DeMilio 941-792-8784 ext. 8303 or carmine.demilio@mymanatee.org.

According to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made with respect to any matters considered at such meetings or hearings, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

SAID HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY PLANNING COMMISSION

Manatee County Building and Development Services Department
Manatee County, Florida

County Initiated Land Development Code Text Amendment: Home Occupations/Home-Based Businesses



Lisa Wenzel
Planning Section Manager
Building & Development Services Department
Planning Commission – January 13, 2022

Summary/Background

- 2021 Legislative Session – HB 403 passed
 - preempts areas of local government regulation of homebased businesses to the state.
- Prohibits Manatee County from enacting or enforcing any ordinance, regulation, policy or taking any action to license or otherwise regulate a homebased business in violation of the bill.
- Manatee County's LDC currently regulates homebased businesses or home occupations, of which several sections are inconsistent with the bill.
- The proposed amendments are to ensure consistency with the bill.

HB 403

- Cannot limit the types of home occupations.

They “may operate in an area zoned for residential use and may not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, ***except as otherwise provided in this section***” (of state statute).



Use limitations that Manatee County may regulate:

- As viewed from the street:
 - Residential property must be consistent with the uses of the residential areas surrounding the property.
 - External modifications must conform to the residential character and architectural aesthetics of the neighborhood.
 - May not conduct retail transactions at a structure other than the residential dwelling; however, incidental business use and activities may be conducted at the residential property.
- Business employees who work at the residential dwelling must also reside in the dwelling, except up to 2 employees or independent contractors who do not reside there may work at the business.
- Activities of the business must be secondary to the property's use as a residential dwelling.

Use limitations that Manatee County may regulate:

- Parking:
 - Must comply with local zoning requirements.
 - May not generate a need for parking greater in volume than a similar residence where no business is conducted.
 - Can regulate parking, but not traffic generated.
- 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.
 - Must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.
- Parking or storage of heavy equipment at the business, which is visible from the street or neighboring property.
 - Heavy equipment means commercial, industrial, or agricultural vehicles, equipment, or machinery.

Use limitations that Manatee County may regulate:

- The use must comply with any relevant local or state regulations concerning:
 - Signage;
 - Equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, noxious odors; and,
 - Regulations concerning the use, storage, or disposal of hazardous materials.
 - Such regulations may not be more stringent than those that apply to a residence where no business is conducted.

Conclusion

- The amendments are consistent with 2021 Florida Statute, 559.995 for Home-Based Businesses.
- Questions?

