

CITY OF MARCO ISLAND

ORDINANCE NO. 99- 17

AN ORDINANCE RELATING TO THE REGULATION OF HOME OCCUPATIONS; ESTABLISHING INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR PERMITTED ACCESSORY USE, PROHIBITIONS AND EXEMPTIONS; PROVIDING CONDITIONS; PROVIDING FOR DISCONTINUANCE UPON NOTICE; PROVIDING FOR ADDITIONAL LICENSES AND LETTER OF ZONING COMPLIANCE; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; PROVIDING PENALTIES FOR VIOLATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 1.01 of the Marco Island City Charter empowers the city to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the good governing of the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MARCO ISLAND, FLORIDA:

SECTION ONE: INTENT AND PURPOSE.

It is the intent and purpose of this Ordinance to protect and promote the health, safety and welfare of the citizens of Marco Island, and to minimize or negate adverse impacts of commercial activities in residential neighborhoods, by providing reasonable standards and conditions for the permitting and operation of home occupations. Further it is the intent of this ordinance that in all zoning districts that allow residential dwelling as a permitted use, home occupations (as defined below) shall be allowed provided there is no apparent commercial use of the residentially zoned property, and all the conditions contained in this Ordinance are met. It is further intended that this Ordinance shall be liberally construed to effect such intent and purpose.

SECTION TWO: DEFINITIONS.

Home Occupation – An accessory use of a dwelling unit for employment with no apparent commercial use which: a) is clearly compatible and subordinate to the use of the dwelling unit as a residence; b) does not alter the exterior of the dwelling unit or adversely affect the residential character of the neighborhood; and c) is created and operated for the economic benefit of the resident(s) of the dwelling unit.

Apparent Commercial Use – A commercial use which can be detected by a reasonable person through the sight, sound, vibration, glare, fumes, odor, dust, smoke or electromagnetic disturbances of such commercial use at any property line of such use.

Permanent Resident – A person who has established a particular place where that person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning.

Family – The term family shall have the same definition as provided in Division 6.3 of ordinance number 91-102, the Collier County Land Development Code (LDC) in effect on August 28, 1997, which is the Land Development Code for the City of Marco Island.

SECTION THREE: PERMITTED ACCESSORY USE; PROHIBITIONS; EXEMPTIONS.

- A. A home occupation shall be permitted as an accessory use in all residential zoning districts provided, however, the following uses are expressly prohibited as home occupations:
1. Personal Service Salon: barber, beautician, manicurist, pedicurist.
 2. Engine (gasoline or diesel) repair shop, regardless of horsepower of engine.
 3. Charter boats, excursion boats
 4. Motor vehicle and marine towing operations.
 5. Clinic: medical, dental, veterinary, therapy.
- B. Any use and/or occupation for which an exemption from local regulation exists by either state or federal law shall be exempt for the provisions of this Ordinance.
- C. A person providing consulting or clerical support who is not a permanent resident of the dwelling unit may be employed at the home occupation.

SECTION FOUR: CONDITIONS.

A home occupation shall be permitted and allowed to operate subject to adherence with the following conditions:

- A. Other than the business owner and his or her family, there shall be no person working at the residence of the home occupation that is not a permanent resident of the dwelling unit in which the home occupation is located. (See consultant/clerical support exception).
- B. Written consent of the property owner or the property owner's authorized agent.
- C. There shall be no advertising signage on-site or on areas contiguous to the property. Any print advertising or lawful off-site signage shall not reference the street address of the home occupation.

- D. Occasional (not to exceed 10 trips per week) travel to and from the residence by customers or clients of the home occupation is permitted; continuous, regular or daily travel is prohibited. Vehicles owned by customers or clients of the home occupation may be parked on a limited basis provided that the vehicle(s) are properly parked on an improved parking surface (e.g., driveway). Parking of vehicles in the public right-of-way (swales) is prohibited. Further, utilization of the residence as a place where employees or customers of the home occupation meet regularly or daily for travel to some other destination, and any parking of vehicles associated with this activity, is prohibited.
- E. The occasional (not to exceed two deliveries per week) receiving of goods or materials related to the service provided by the home occupation other than normal delivery by the U.S. Postal Service or similar carrier (e.g., UPS, Federal Express) is permitted.
- F. The parking or storage of commercial vehicles as prohibited by section 2.6.7.3. of the Collier County Land Development Code. Additionally, the parking or storage of vehicles or vessels for hire, or vehicles used exclusively for storage, is prohibited.
- G. The home occupation shall not create noise, vibration, glare, fumes, odor, dust, smoke or electromagnetic disturbances discernable by a reasonable person situated at the property line of the subject property. No equipment or processes shall be used which create visual or audible interference in any radio or television receiver. No chemicals or chemical equipment shall be used except those that are used for domestic or household purposes.
- H. There shall be no retail sale resulting in the exchange of materials, goods or products between owners and customers from the premises.
- I. There shall be no outside storage or display of goods, equipment or products.
- J. All home occupations shall be conducted entirely within the principal residential dwelling unit/structure. No home occupation shall be conducted in any accessory building or structure not attached to or a part of the principal residential structure, or any part of the principal structure that is not fully enclosed (e.g., screened porch, open garage, carport).

SECTION FIVE: DISCONTINUANCE UPON NOTICE

A home occupation that is found to have violated any provision of this section shall be discontinued upon receipt of notice by the owner, owner's authorized agent, or occupant from the community development director or designee. Failure to comply with said notice shall constitute a violation of this Ordinance, and each day the use continues shall be considered a separate offense.

SECTION SIX: ADDITIONAL LICENSES, LETTER OF ZONING COMPLIANCE

All home occupations shall be subject to all applicable occupational licenses and other business taxes. Further, all home occupations must obtain a letter of zoning compliance annually from the City of Marco Island.

SECTION SEVEN: INCORPORATION, CONFLICT AND SEVERABILITY

- [A] It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.
- [B] All sections or parts of sections of the Code of Laws and Ordinances of Collier County, Florida, all Collier County ordinances or parts of ordinances, and all Collier County resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- [C] If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION EIGHT: PENALTIES FOR VIOLATION

[1] Pursuant to Section 162.22, Florida Statutes, a person found to be in violation of this Ordinance may be charged with a fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment, not to exceed 60 days. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

[2] Violation of this Ordinance may also be prosecuted before the Marco Island Code Enforcement Board.

SECTION NINE: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after adoption by the Marco Island City Council.

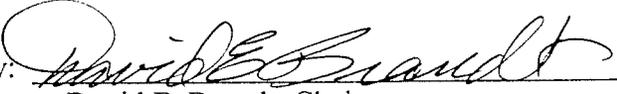
Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 16th day of August, 1999.

Attest:

CITY OF MARCO ISLAND, FLORIDA

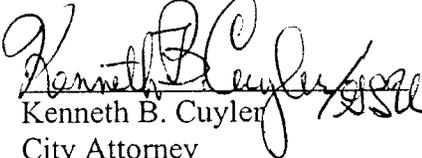


A. William Moss
City Manager/City Clerk

By: 

David E. Brandt, Chairman

Approved as to form and
Legal sufficiency:



Kenneth B. Cuyler
City Attorney