

**ORDINANCE NO. 2017-015**

**AN ORDINANCE OF THE CITY COUNCIL OF CASTROVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE BY REPEALING AND REPLACING THE EXISTING ARTICLE I “GENERAL PROVISIONS”, SECTION 7 “SPECIAL DEFINITIONS NOTED AND RELATED TO USE REGULATIONS”, SUBSECTION 14 “HOME OCCUPATION”; AND ADOPTING A NEW ARTICLE IV “SPECIAL USE REGULATIONS”, SECTION 10 “HOME OCCUPATION REGULATIONS”; PROVIDING FOR SEVERABILITY; PROVIDING A CUMULATIVE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Castroville is authorized to regulate zoning pursuant to Texas Local Government Code Chapter 211; and

**WHEREAS**, pursuant to such statutory authority the City Council has adopted the Comprehensive Zoning Ordinance, which is published by the City as a separate document from the Code of Ordinances published by the Municode Corporation, and

**WHEREAS**, City Council deems it appropriate to amend the Comprehensive Zoning Ordinance, by repealing and replacing Article I, *General Provisions*, Section 7, *Special Definitions Noted and Related to Use Regulations*, Subsection 14, Home Occupation, and adopting a new Article IV, *Special Use Regulations*, Section 10, *Home Occupation Regulations*; and

**WHEREAS**, on the 11<sup>th</sup> day of January, 2017, the Planning and Zoning Commission conducted a properly advertised public hearing to receive citizen comments and testimony, and on the 8<sup>th</sup> day of February, 2017, the Planning and Zoning Commission made a recommendation to approve the amendment to the Comprehensive Zoning Ordinance with limited amendments; and

**WHEREAS**, on the 14<sup>th</sup> day of March, 2017, the City Council conducted a properly advertised public hearing to receive citizen comments and testimony regarding the proposed amendment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTROVILLE, TEXAS, THAT:

**Section one.** Recitals adopted. City Council finds the above stated recitals to be true and correct and said recitals are adopted herein for all purposes.

**Section two.** Repeal and Replace. Article I (entitled “*General Provisions*”), Section 7 (entitled “*Special Definitions Noted and Related to Use Regulations*”), Subsection 14 (entitled “*Home Occupation*”) is hereby repealed in its entirety and replaced with a new Article I (entitled “*General Provisions*”), Section 7 (entitled “*Special Definitions Noted and Related to Use Regulations*”), Subsection 14 (entitled “*Home Occupation*”) which is hereby adopted by inclusion of the substantive language as attached in **Exhibit “A”**, hereto, which is incorporated by reference herein for all purposes.

**Section three.** Adoption of new Article IV, Section 10. A new Article IV (entitled “*Special Use Regulations*”), Section 10 (entitled “*Home Occupation Regulations*”) is hereby adopted by inclusion of the substantive language as attached in **Exhibit “B”**, hereto, which is incorporated by reference herein for all purposes.

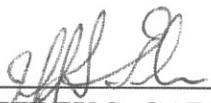
**Section four.** Directive to the City Secretary. The City Secretary is hereby directed and authorized to revise and republish the Comprehensive Zoning Ordinance to include **Exhibit “A” and Exhibit “B”** hereto.

**Section five.** Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Castroville, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

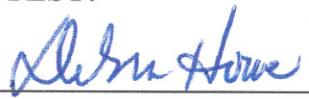
**Section six.** Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section seven.** Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

**PASSED AND APPROVED THIS 14th DAY OF MARCH, 2017.**

  
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**JEFFREY S. GARDNER, MAYOR**

**ATTEST:**

  
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**DEBRA HOWE, CITY SECRETARY**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**DNRBH&Z PC**

## Exhibit A

### Article I, Section 7 – Definitions

(14) HOME OCCUPATIONS – A home occupation is a business activity conducted in the home and further defined and regulated by Article IV, Section 10 “Home Occupation Regulations”.

## Exhibit B

### ARTICLE IV SPECIAL USE REGULATIONS

#### Section 10. Home Occupation Regulations.

##### **A. GENERAL PROVISIONS:**

1. **SCOPE.** These regulations shall apply to one and two family dwellings and multifamily dwellings in all zoning districts in accordance with Article II, Section 1 *Schedule of Uses*. A community home that meets the qualifications imposed by Chapter 123 of the Texas Human Resources Code or Cottage food production operations which falls under the purview of Texas Local Government Code Chapter 211, Subchapter C, shall not be considered a Home Occupation for the purpose of this Article; but shall be authorized to operate within residential districts only to the extent allowed by the aforementioned state statutes expressly pre-empting the application of the City's zoning authority to such uses.
2. **PURPOSE.** The purpose of this section is to insure the continuance of the residential character of City neighborhoods by permitting only low-intensity home occupations that are clearly incidental and secondary to the primary residential use of the property and that are conducted in a limited manner which creates little exterior indication of the activity and which does not create a nuisance or otherwise adversely impact the health, safety or welfare of the neighborhood or interfere with neighbors' the peaceful and quiet enjoyment of their domicile.
3. **DEFINITIONS.** In this Section 10, the words in italics (*italics*) below shall have the meaning that follows:

*Administrator* shall mean the person responsible for administering these regulations, who is the Community Development Director, or his or her designee.

*Home Occupation* shall mean a business activity, resulting in a product or service, which is conducted in whole or in part on a property zoned or occupied as residential.

*Home Occupation registration application, or application,* shall mean a form provided by the Administrator for the registration of a home occupation.

*Regulations* means this Section 10 (entitled "Home Occupation Regulations") or Article V (entitled "Special Use Regulations") of the City's Zoning Ordinance.
4. **REGISTRATION REQUIRED.** Prior to conducting a home occupation, the operator shall register the home occupation by submittal of a completed home occupation registration application form to the Administrator.
  - a. The application may be obtained from the Community Development Department and shall, at a minimum, include the following information:
    - i. The address where the home occupation activity will be conducted.

- ii. The names of the individuals who will be involved in the home occupation activity.
    - iii. a description of the nature and extent of the proposed home occupation activity.
    - iv. The applicant's sworn or affirmed statement that the applicant understands these regulations and that the home occupation activity shall be conducted in compliance with the standards of operation set out in these regulations.
  - b. If the home occupant activity is approved, the form shall clearly state the date of such approval.
5. **EXPIRATION.** Approval of a home occupation shall be limited to one year, from the date of approval. However, such approval shall be automatically renewed annually unless the applicant provides written notice to the Administrator that the home occupation has been discontinued. The Administration may periodically contact a permittee to verify renewal is desired.

## **B. STANDARDS OF OPERATION:**

All home occupations shall comply with the following performance standards and limitations, except as specifically stated.

The standards set forth below are to minimize the annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

All home occupations shall also be subject to any and all provisions of local, state and/or federal regulations and laws that govern such uses.

### **1. EMPLOYEES**

Only an occupant of the residence and a maximum of one additional employee shall be engaged in the home occupation.

### **2. SPACE AND LOCATION**

The maximum area used for the home occupation shall not exceed 25% of the dwelling's gross floor area of the residence, including storage areas.

### **3. STORAGE**

- a. Storage shall be enclosed within the residence, which includes an attached garage.
- b. If, outside storage is required in conjunction with a home occupation, such storage shall not be visible from the public right-of-way.

### **4. ALTERATIONS**

No exterior alterations to the dwelling which change the residential appearance or character shall be permitted, such as the creation of a separate entrance or installation of display windows.

### **5. EQUIPMENT**

The installation, storage or use of any equipment or machinery not normally found in a household or general office shall be prohibited.

#### **6. SALES AND DISPLAY**

Direct, on-premise sales, retail or wholesale, and the display of goods or products on the premises shall be prohibited. If sales are conducted on the internet or off-premise, the pick-up (physical exchange) of items purchased may not take place on the premises of the Home Occupation.

Exception: The sale of goods incidental to a service shall be allowed on-premise.

#### **7. NUISANCES**

The creation of any noise, orders, vibrations, glare, fumes or electrical interference which is detectable outside the structure shall be prohibited.

#### **8. DELIVERIES**

No deliveries related to the home occupation shall be permitted by vehicles of more than 2 axles. Any deliveries shall only be allowed between the hours of 7:00am and 10:00pm.

#### **9. TRAFFIC**

Any home occupations permitted under Subchapter C (below) may allow a maximum of 5 clients per day to visit the premises in the conduct of the home occupation. Visitation hours for the conduct of the home occupation shall only be allowed between the hours of 7:00am and 10:00pm.

#### **10. ADVERTISING / SIGNS**

The home occupation shall not be advertised by any sign on the premises.

### **C. PERMITTED HOME OCCUPATIONS:**

The following uses are permitted and shall require registration as stated above, provided that full compliance with the standards of operation are followed:

1. Home offices conducting traditional office functions as well as professional offices.
2. Individual tutoring, or lessons in art, dance, music or similar activities.
3. Counseling and therapy services.
4. Author, artist, artisan or sculptor studios.
5. Dressmaker, seamstress or tailor services.
6. Repair of small electrical appliances, cameras, watches, clocks and/or other small items that can be carried by one person.
7. Uses involving small scale/item assembling such as arts and craft items.

### **D. USES PROHIBITED AS HOME OCCUPATIONS:**

The following uses are prohibited as home occupations:

1. On-premise retail or wholesale sales of any kind where customers visit the residence.
2. Vehicle repair and service of any type, to include boats and recreational vehicles.
3. Uses involving the grooming, breeding or boarding of animals.

4. Repair services for large appliances, furniture, lawn mowers or similar engine repair.
5. Uses involving manufacturing and/or assembling.
6. Uses involving the sale of fire arms, ammunition or explosives.
7. Other uses not expressly authorized by Subsection C (above).

**E. ADMINISTRATION:**

The Administrator shall make all determinations as to whether any aspect of a proposed home occupation complies with the requirements of these regulations.

**F. EXISTING HOME OCCUPATIONS:**

Any home occupation that was legally in existence, and not operating in violation of any local, state or federal law or regulation, as of the effective date of these regulations; but, that is not in full conformity with these regulations shall be deemed a legal nonconforming use and may continue said use in accordance with Article VI (entitled "Non-conforming uses and structures") of the Zoning Ordinance.

Non-conforming home occupation operators shall be required to prove the continuation of the lawful non-conforming use. Proof may be established by the registration of the non-conforming use by submittal to the Administrator, and approved by the Administrator, of a home occupation registration application within 90 days of the effective date of these regulations. Failure to register a non-conforming use shall cause a presumption that the use is not legally non-conforming and, unless presented sufficient evidence to overcome the presumption, the Administrator may take action to require the discontinue such use.

**G. BOARD OF ADJUSTMENT:**

The decision of the Administrator may be appealed to the Board of Adjustment by an aggrieved party, provided that such appeal complies with the requirements of Texas Local Government Code Chapter 211 and the City's Zoning Ordinance.