

**ORDINANCE NO. 2023-02**

**AN ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING THE LAND USE AND DEVELOPMENT CODE, ARTICLE 3 USE REGULATIONS, SECTION 3.23 HOME OCCUPATIONS TO COMPLY WITH FLORIDA LAW; PROVIDING DEFINITIONS AND STANDARDS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in 2021 the State of Florida adopted House Bill 403, codified as Section 559.955, Florida Statutes related to home-based businesses; and

**WHEREAS**, F.S. § 559.955 prohibits local governments, including the Town of Ponce Inlet (Town), from regulating home-based businesses in any manner inconsistent with the terms of the Florida law; and

**WHEREAS**, the Town must now amend its existing regulations on home-based businesses under Article 3 Use Regulations, Section 3.23. Home Occupations of the Town's Land Use and Development Code (LUDC) to comply with Florida Statute 559.955.; and

**WHEREAS**, the Planning Board, in its capacity as the Local Planning Agency, has determined that this Ordinance is consistent with the Comprehensive Plan and has recommended approval of this Ordinance to the Town Council; and

**WHEREAS**, the Town Council affirms that this Ordinance is consistent with the Comprehensive Plan and is in the best interest of the public welfare of the Town; and

**WHEREAS**, the Town has complied with all requirements and procedures of the LUDC and Florida law in processing, noticing, and advertising this Ordinance; and

**WHEREAS**, this ordinance is enacted under the general home rule and police powers of the Town of Ponce Inlet.

**NOTE:** Underlined words constitute additions to the Town of Ponce Inlet Land Use Development Code (LUDC) as amended by Ordinance 2023-02, ~~strike through~~ constitutes deletions, and asterisks (\*\*\*) indicate an omission from the existing text of said LUDC as amended which is intended to remain unchanged.

**NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF PONCE INLET, FLORIDA:**

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

**SECTION 2. Incorporation of Amendments.** The proposed amendments to **Article 3, Section 3.23** of the Land Use and Development Code are attached to this Ordinance as Exhibit "A" and are hereby incorporated into the text of this Ordinance as though fully set forth herein verbatim as amendments to the Land Use and Development Code.

**SECTION 3. Codification.** It is the intent of the Town Council of the Town of Ponce Inlet that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, word, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 5. Conflicts.** In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this Town, this Ordinance shall prevail.

**SECTION 6. Effective date.** This Ordinance shall become effective immediately upon adoption by the Town Council of the Town of Ponce Inlet, Florida.

It was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that said Ordinance be passed on first reading. A roll call vote of the Town Council on said motion resulted as follows:

Mayor Paritsky, Seat #1	_____
Councilmember Milano, Seat #2	_____
Councilmember Caswell, Seat #3	_____
Councilmember Villanella, Seat #4	_____
Vice-Mayor Smith, Seat #5	_____

Approved on first reading this \_\_\_\_ day of \_\_\_\_\_ 2023.

It was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that said Ordinance be passed on second reading. A roll call vote of the Town Council on said motion resulted as follows:

Mayor Paritsky, Seat #1	_____
Councilmember Milano, Seat #2	_____
Councilmember Caswell, Seat #3	_____
Councilmember Villanella, Seat #4	_____
Vice-Mayor Smith, Seat #5	_____

Approved and adopted on second reading this \_\_\_\_ day of \_\_\_\_\_ 2023.

Town of Ponce Inlet, Florida:

\_\_\_\_\_  
Lois A. Paritsky, Mayor

ATTEST:

\_\_\_\_\_  
Kim Cherbano, CMC  
Town Clerk

EXHIBIT A

ARTICLE 3 – USE REGULATIONS  
SECTION 3.23 HOME OCCUPATIONS  
SUMMARY OF AMENDMENTS

SECTION 3.23. HOME ~~BASED BUSINESSES~~ OCCUPATIONS

**A. Applicability/Definition.**

**1. Definition.**

Home-based business. A business operation, conducted as an accessory use within a residential dwelling unit.

**2. How Permitted.**

A home-based business shall be accessory to a residential use consistent with F.S. 559.955 and the standards below. The home-based business shall occupy less than 50% of the gross floor area of the principal structure.

**B. Standards.**

**1. Business Tax Receipt.**

Home-based businesses are subject to applicable business taxes and are required to obtain an annual Business Tax Receipt, subject to the following:

a. May only operate in an area zoned for residential use.

b. Activities of the home-based business are secondary to the property's principal use as a residential dwelling.

**2. Residential Character.**

As viewed from the street, the use of the residential property with a home-based business shall remain consistent with uses of the residential area that surrounds the property, such that:

a. 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.

b. 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.

**3. Employees.**

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.

**4. Parking.**

Parking and storage must comply with all requirements of Section 4.7.11. for a residential property and with all applicable Town zoning requirements. The need for parking generated by the business shall not be greater in volume than would normally be expected at a similar residence where no business is conducted.

**5. Signage.**

Signage for all business activities must comply with Section 3.30 and all applicable Town zoning regulations. No outside advertising is permitted on the premises or elsewhere when it can be reasonably construed that such advertising is designed to attract customers to the premises.

**6. Nuisance.**

All business activities shall comply with all relevant town, county or state regulations with respect to equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors.

**7. Safety.**

All business activities shall comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, biohazardous, or other hazardous or flammable materials or liquids.

**8. Exception.**

This section does not supersede, amend, or modify regulations of this code related to Bed and Breakfast Homestays (Section 3.5) and Dwelling Rentals (Section 3.18), nor regulations, restrictions, or prohibitions not otherwise preempted under Chapter 509, F.S., related to:

a. Transient public lodging establishments such as hotels/motels, bed and breakfasts, and short-term rentals.

b. Any current or future declaration or declaration of condominium, cooperative document, or homeowners' association declaration or declaration of covenant.

~~3.23.1 – Applicability/definition.~~

~~A. Definition. A limited business operation, conducted as an accessory use within a residential~~

**Notes:**

Underlined indicates **new** text.

~~Stricken~~ indicates text to be **deleted**. ~~Stricken and italicized~~ means text to be totally or partially relocated. If being relocated destination is noted in bolded brackets **[Relocated to: ]**.

*Italicized* indicates text to be relocated. Source is noted in bolded brackets **[Relocated from: ]**.

.... A series of four bolded ellipses indicates language omitted to save space.

# EXHIBIT A

## ARTICLE 3 – USE REGULATIONS SECTION 3.23 HOME OCCUPATIONS SUMMARY OF AMENDMENTS

- 1 dwelling unit.
- 2 ~~B. *How permitted.* A home occupation shall be accessory to a residential use.~~
- 3 ~~3.23.2 Home occupation standards.~~
- 4 Home occupations shall comply with the following requirements:
- 5 A. ~~Visitation at the home occupation site is limited to two customers, clients, patients, or students at~~
- 6 ~~any one time, and only between the hours of 8:00 a.m. and 10:00 p.m.~~
- 7 B. ~~The following activities are prohibited:~~
- 8 1. ~~Manufacturing, processing or fabrication activities that result in audible noise at the property~~
- 9 ~~line;~~
- 10 2. ~~Dust, smoke or vapors that are observable at the property line;~~
- 11 3. ~~Fumes or noxious odors that are observable at the property line;~~
- 12 4. ~~Electromagnetic interference detected outside the structure in which the home occupation is~~
- 13 ~~located; or~~
- 14 5. ~~Cannabis farms, medical marijuana dispensaries, or non-medical marijuana sales.~~
- 15 C. ~~No employees shall be engaged in the home occupation except members of the household~~
- 16 ~~residing in the dwelling unit in which the home occupation is conducted.~~
- 17 D. ~~All business activity shall be conducted entirely within the dwelling unit, including instructing,~~
- 18 ~~consulting, sales, storage, servicing, assembling, manufacturing, and fabricating.~~
- 19 E. ~~No change in the outward appearance of the premises on which the home occupation is located is~~
- 20 ~~permitted that would indicate the premises is anything but a residence.~~
- 21 F. ~~Home occupation signs are permitted in accordance with subsection 3.30.6.B. No outside~~
- 22 ~~advertising is permitted on the premises or elsewhere when it can be reasonably construed that~~
- 23 ~~such advertising is designed to attract customers to the premises.~~
- 24 (Ord. No. 2014-05, § 4, 7-17-2014)
- 25
- 26

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