



THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Ben Gagnon, Planner I

**Meeting Date:** March 27, 2025

**Agenda Item:** **Text Amendment of the Land Development Regulations** – A resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission to amend the Land Development Regulations Chapter 122, Division 5 entitled 'Specific Use Regulation' Subdivision IV entitled 'Home Occupations', Section 122-1306 entitled 'Conditions' and 122-1307 entitled 'Issuance of permit'; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

**Request:** The requested amendment would modify Sections 122-1306 and 122-1307 to reassign the duty to issue home occupation licenses from the Chief Building Official to the Chief Licensing Official.

**Sponsor:** Brian L. Barroso, City Manager

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**Background**

Chapter 122, Division 5, Subdivision IV of the Land Development Regulations regulates permitting for home occupations, i.e. home-based businesses. It currently provides that applications for home occupation permits shall be submitted to and approved by the Chief Building Official. With the exception of building permits, most regulatory licenses and permits at the City of Key West are processed and issued by the Chief Licensing Official. This amendment would modify Sections 122-1306 and 122-1307 to reassign the duty to issue home occupation licenses from the Chief Building Official to the Chief Licensing Official in order to better align with the functions of City departments.



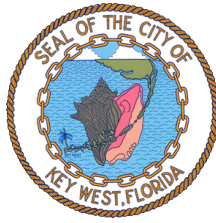
**Request / Proposed Amendment:**

\*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

Subdivision IV. Home Occupations<sup>1</sup>

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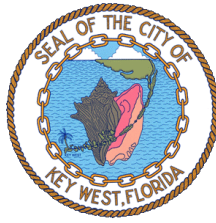
<sup>1</sup>Cross reference(s)—Businesses, ch. 18.



### **Sec. 122-1306. Conditions.**

Home occupations shall only be allowed, provided the following specified conditions are met:

- (1) *Character of use.* In any district where a home occupation is allowed, it shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof or the character of the neighborhood. When permitted to qualify as a home occupation, a use must demonstrate compliance with each and all of the following criteria:
  - a. No person other than the members of the family residing on the premises shall be engaged in such occupation. No persons other than permanent residents of the subject premises shall be engaged in such occupation.
  - b. There shall be no display of goods visible from any street.
  - c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation from any right-of-way, except that a nonilluminated nameplate, not exceeding two square feet in area, may be displayed providing the nameplate is affixed against the exterior surface at a position not more than two feet from the main entrance to the residence.
  - d. No home occupation shall occupy more than 20 percent of the total living area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited for or intended for occupancy as living quarters. No rooms which have been constructed as an addition to the residence, nor any attached garage or porch which has been converted into living quarters, shall be considered as floor area until two years after the date of completion thereof.
  - e. No home occupation shall be conducted in an accessory building; such occupation must be conducted in the principal of the proprietor.
  - f. No motorized power other than electric motors shall be used in conjunction with home occupations. The total horsepower of such motors shall not exceed three horsepower, or one horsepower for any single motor.
  - g. 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 lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit, if conducted in other than a single-family residence. For electrical interference, no equipment or process shall be used which creates a visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
  - h. No occupation shall generate traffic exceeding volumes normally expected in a residential neighborhood. Occupations which rely on client contact at the premises are not permitted.
  - i. No home occupation shall include the following: cosmetology, barbering, or beauty shop; restaurant; retail sales; fortunetelling or clairvoyance; food processing for sale; kennels;



animal grooming; radio or television repair; furniture repair, refinishing or building; cabinet making; boatbuilding; automobile or other vehicle servicing; rebuilding or repair shops; metal fabrication or other similar activity, including use of welding or cutting torches; funeral homes; medical or dental laboratories; showroom or display area; or any activity similar to any of the listed activities.

- (2) *Application.* Any person desiring to conduct a home occupation in a district where such use is permitted shall first apply to the building licensing department for a home occupation. Such application shall be on a form prepared by the building licensing department and shall include but not be limited to the following data:
- Name of the applicant and an affidavit from the owner of the premises expressing that the owner is aware of the applicant's request for a home occupation and has no objection to the home occupation being sought. Each applicant shall submit to the city building licensing department a sworn application on a standard form and a recent photo of the residence showing the entire front yard and all driveways and carports, if any.
  - Location of residence wherein the home occupation, if approved, will be conducted.
  - Total floor area of the residence.
  - Area of the room to be utilized for the conduct of the home occupation.
  - A sketch showing the floor plan and the area thereof to be utilized for the conduct of the home occupation.
  - The nature and character of the home occupation sought to be approved and equipment to be used in operations associated with the occupation.
- (3) *Standards.* Each home occupation will be evaluated on the basis of its meeting the criteria, and once approved must adhere to the following standards:
- A home occupation shall be subject to all applicable city business tax receipts and other business taxes.
  - If any home occupation requires a license or permit from the state or any agency thereof, the applicant for a home occupation permit shall provide the building licensing official with a current, valid copy of any such permit or license before any such occupation shall be conducted. Any such license or permit from the state or any agency thereof shall be kept active and current.
  - Failure to continuously comply with this division and all other sections of the land development regulations applicable to conditional uses generally and all conditions of any permit or license issued by the state or any agency thereof shall be grounds for revocation of the home occupation permit by the building licensing official after due notice and a public hearing.
  - The city may attach reasonable conditions to a permit granting approval of a home occupation permit in order to protect the public health, safety, and welfare and to preserve the stability and tranquility of residential areas. Such conditions may include but are not limited to placing limits on the hours of operation. Such permit shall be renewable annually.



- e. A permit for a home occupation shall be granted to the occupant of the premises and shall not run with the land and shall not be transferable. If the applicant granted a home occupation vacates the premises, the home occupation permit shall automatically expire.

(Ord. No. 97-10, § 1(2-7.20), 7-3-1997; Res. No. 06-292, § 1, 9-6-2006)

#### **Sec. 122-1307. Issuance of permit.**

Upon compliance with the procedure described in section 122-1306, the ~~building licensing~~ official shall issue a home occupation permit. Any such permit may be revoked by the ~~building inspector licensing official~~ at any time when it has been determined that the home occupation has become a public nuisance.

(Ord. No. 97-10, § 1(2-7.20), 7-3-1997)

#### **Secs. 122-1308—122-1335. Reserved.**

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## **Analysis**

Pursuant to Sec. 90-516, the purpose of amendments to the Land Development Regulations is “not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.”

Pursuant to Sec. 90-521, in evaluating proposed changes to the Land Development Regulations, the city shall consider the criteria below.

(7).Consistency.with.plan; **Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

- The proposal is consistent with the Comprehensive Plan.

(2) Conformance.with.requirements; **Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

- The proposal complies with all applicable requirements of the Code of Ordinances.

(3) Changed.conditions; **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.**



- While the home occupation regulations are contained within in the Land Development Regulations, this request relates to assignment of administrative tasks within the City, rather than the substance of land use and development within the City.

**(4) Land.use.compatibility; Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

- The proposed amendment result in any change to land use within the City.

**(5) Adequate.public.facilities; Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to [chapter 94](#).**

- The proposal would not impact demand on public facilities and services.

**(6) Natural.environment; Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

- The proposal would not impact the natural environment.

**(7) Economic.effects; Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

- The proposal would not adversely affect property values or the general welfare.

**(8) Orderly.development; Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.**

- The proposal would not impact land use patterns.

**(9) Public.interest.enabling.act; Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the land development regulations in this subpart B and the enabling legislation.**

- The proposal would not be in conflict with the public interest and is in harmony with the purpose and intent of the LDRs and the enabling legislation.



**(10) Other matters. Other matters which the planning board and the city commission may deem appropriate.**

- N/A

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the proposed Ordinance be recommended for **APPROVAL** to the City Commission. Respectfully submitted to the Board for use in making its determination.