

ORDINANCE NO. 2019-27

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, AMENDING SECTIONS 5 AND 65 OF THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY CONCERNING HOME OCCUPATIONS, HOME OFFICES, HOME BASED BUSINESSES, AND ACCESSORY STRUCTURES; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR CONFLICTS IN TERMS; AND PROVIDING A SAVINGS CLAUSE, A SEVERANCE CLAUSE, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

**SECTION 1.**

The City Council of the City of Iowa Colony, Texas ("the City") makes the following findings of fact and conclusions of law:

a. After giving due regard to the nature and consideration of uses, structures, and the nature and condition of the City as a whole, and after considering all proper factors under applicable law, the City Council is of the opinion that this ordinance conforms to the requirements and intent of the City and the Comprehensive Plan of the City, and that this amendment will not constitute a nuisance or be detrimental to the public health, safety, morals, or welfare of the community.

b. The health, safety, morals, and general welfare of the people of the City of Iowa Colony will best be served by the adoption of this ordinance.

c. The City Council held a public hearing on this ordinance, and at least sixteen (16) days prior to the date of such hearing, public notice of such hearing was published once in the Alvin Sun, a newspaper of general circulation in and the official newspaper of the City, stating the date, time, place, and subject of such hearing.

d. Notice of that public hearing and of the meeting at which this ordinance was passed was given in compliance with the Texas Open Meetings Act and all applicable law.

e. All requirements of law have been satisfied concerning the passage and adoption of this ordinance.

## **SECTION 2.**

The City Council hereby ratifies and confirms any and all actions taken by the Mayor, Mayor Pro-Tem, City Manager, City Attorney, City Secretary, or any other personnel or representatives of the City in connection with this ordinance, any public hearing hereon, the notice of any public hearing or meeting concerning this ordinance, and any procedures concerning this Ordinance.

## **SECTION 3.**

The definition of “accessory structure” in Subsection 5(b) of the Iowa Colony Zoning Ordinance, Ordinance No. 2000-08, as previously amended (“the Zoning Ordinance”) is hereby amended to read as follows:

“1. “Accessory structure” shall mean a detached structure which is: (a) incidental, auxiliary, and subordinate to the principal building; (b) subordinate in area, extent, or purpose to the principal building; (c) reasonably useful (regardless whether actually so used) for the comfort, convenience and necessity of occupants of the principal building; and (d) located on the same lot as the principal building.”

## **SECTION 4.**

a. The definitions of “home-based business” and “home office” are hereby enacted and added to Subsection 5(b) of the Iowa Colony Zoning Ordinance, Ordinance No. 2000-08, as previously amended (“the Zoning Ordinance”), to read as follows:

“46. “Home-based business” shall mean any business conducted through the sale of goods on-line which are then shipped from the residence. Goods may be crafted on site for sale. Such on-line sales are permissible provided it does not require the delivery or shipment of merchandise, goods, or equipment to or from the residence by means other than passenger motor vehicles, three-quarter ton step-up vans, or similar sized trucks. Sales tax for on-lines sales is required. A home-based business also includes a professional service business, occupation, or

activity undertaken for gain where the resident provides a skilled service for or to a customer or client at the residence. Sales tax for professional service may apply. On-line sales or a professional service may occur within a primary residential structure if they are incidental and secondary to the use of that structure as a dwelling unit or within a permitted residential accessory structure.”

“47. Home office” shall mean an accessory use, including telecommuting, within a primary residential structure in which work for compensation is undertaken, including, but not limited to, receiving or initiating correspondence, such as phone calls, mail, faxes, or e-mail; preparing or maintaining business records; words and data processing; and telephone, mail order, and off-premises sales. No tangible product is produced or sold. No customers or clients visit the residence for the purpose of conducting business. This does not preclude management from visiting the residence on a limited basis for evaluation or oversight.”

b. The definitions in this section are hereby inserted in alphabetical order in said Subsection 5(b) of the Zoning Ordinance.

c. The paragraphs of Subsection 5(b) of the Zoning Ordinance are hereby renumbered in sequential order.

## **SECTION 5.**

Section 65 of the Iowa Colony Zoning Ordinance, Ordinance No. 2000-08, as previously amended (“the Zoning Ordinance”) is hereby amended to read as follows:

### **“Sec. 65 Home office and home-based business**

#### **(a) General**

(1) **Intent/Purpose.** The City of Iowa Colony recognizes the desire and/or need of some citizens to use a portion of their residence for business activities in order to reduce trip generation and to provide another economic development tool, but it also recognizes the need to protect the surrounding areas from adverse impacts generated by these business activities.

(2) **Aggregate Totals of Multiple Home-Based Businesses.** The quantitative limits and all other requirements in this section apply to the aggregate total from all home-based businesses located partly or wholly on the premises. For example, there may be multiple home-based businesses on the premises, but they must

share the total, aggregate limit of 25% of the area of all permitted structures, as more specifically stated in **subsection (d)**, and the total, aggregate limit of two additional vehicles and 22 additional vehicle trips per day (**subsection (g)(2)**).

**(b) Administration.**

- (1) **Registration.** Type A home office and Type B home-based business use shall not require registration. All Type C home-based businesses with one or more customers or prospective customers coming or invited to the premises shall require registration with the City of Iowa Colony by using a Home-Based Business Registration Form provided by the City.
- (2) **Permit.** Type A home office and Type B home-based business use shall not require a business permit. All Type C home-based businesses with one or more customers or prospective customers coming or invited to the premises shall require a business permit with the City of Iowa Colony by using a Home-Based Business Permit Form provided by the City. Permits shall be valid for two (2) years.
- (3) **Permit renewal.** Required permits for Type C home-based business shall be renewed prior to the expiration of a then valid permit so that a valid permit shall be in effect at all times while the Type C home-based business is in operation. Permit renewals shall be valid for two (2) years.
- (4) **Inspections.** Type C home-based business permit holders shall grant the City of Iowa Colony the right to inspect the home-based business residence for compliance with home-based business regulations.

**(c) Enforcement.** Home-based businesses shall be divided into types as follows:

- (1) **Type A – Telecommuters and home-office use.** No business permit is required.
- (2) **Type B – On-line sales.** No business permit is required.
- (3) **Type C – Professional services.** No Type C home-based business with one or more customers or prospective customers coming or invited to the premises shall be

conducted until a Home-based Business Permit application has been approved by the City of Iowa Colony. The application shall include the following:

- a. The address of the property;
- b. The resident's name;
- c. The owner's name (if different than resident);
- d. The type of business and business activities;
- e. The number of employees;
- f. The location and area of the home-based business within the premises;
- g. The vehicles used in the home-based business;
- h. The number of expected customer visits per day;
- i. The home-based business tax ID or EIN number.

The Building Official or his/her designee shall issue the Type C Home-Based Business Permit for the following Type C home-business uses permitted herein or provide the applicant reasons for denial in the event that the application is not approved, within three (3) business days. The applicant may appeal the Building Official's or his/her designee's decision to deny a Type C Home-Based Business Permit to the Zoning Board of Adjustment.

The Type C Home-Based Business Permit is valid for a two (2) year period and must be renewed if the residence continues to be used for business activities. The Building Official has the right to inspect the Type C home-based business and premises to check for compliance with the Type C home-based business regulations.

The Zoning Board of Adjustment shall conduct a Public Hearing for any Type C home-based business use that is not included in the herein listed Type C permitted home-based business uses. The applicant shall post a sign on the property at least ten (10) days prior to the Public Hearing in a format stated by the City. The City shall notify all

property owners within two hundred (200) feet of the applicant's property regarding the purpose, date, time, and place of the Public Hearing.

Fees for Type C home-based business permits shall be specified in the City Schedule of Fees and Charges.

**(d) Use of the residence.**

The home-based business must be conducted: (1) within, and any associated storage must be contained within, the principal residential structure and/or one permitted accessory structure that is also reasonably useful for a common residential purpose, regardless whether actually so used; and (2) and shall not use more than twenty-five (25) percent of the total gross floor area of all the permitted structures.

**(e) Permitted home-based businesses**

- (1) Type A – Telecommuters and home-office use
- (2) Type B – On-line sales
- (3) Type C – Professional Services

- a. Offices for such professionals such as, but not limited to, architects, brokers, counselors, clergy, dentists, doctors, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons and manufacturer's representatives, and travel agents;
- b. Personal services, including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, catering and chauffeuring services;
- c. Instructional services, including music, dance, art and craft classes, and tutoring;
- d. Babysitting services and home day care ;
- e. Studios for artists, sculptors, musicians, photographers, and authors;

- f. Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and woodworking;
- g. Repair services, including watches and clocks, small appliances, computers, and electronic devices; and
- h. Agricultural sales of products grown or produced on site is a permitted Type C home-based business, and such sales do not require registration and do not require a Type C home-business permit;

It is recognized that this list may not be totally inclusive. The Building Official shall make the determination of whether an unlisted business is similar to a listed permitted use and issue or deny a Type C Home-based Business Permit. The Building Official or his/her designee shall issue the Type C Home-Based Business Permit for the Type C home-business occupations permitted herein or determined to be similar or provide the applicant reasons for denial in the event that the application is not approved, within three (3) business days. The applicant may appeal the Building Official's or his/her designee's decision to deny a Type C Home-Based Business Permit to the Zoning Board of Adjustment.

**(f) Prohibited Home-Based Businesses**

**(1) Prohibited home-based businesses include:**

- a. Boarding kennels and veterinarian clinics or hospitals;
- b. Medical and dental clinics, and hospitals;
- c. Restaurants, clubs, and drinking establishments;
- d. Motor vehicle/small engine repair;
- e. Undertaker and funeral parlors;
- f. Retail sales of goods not made on the premises; and
- g. Sexually-oriented businesses.

**(g) Operational Standards**

The following operational standards apply to all home-based businesses, including Type A, Type B, and Type C, unless noted otherwise.

- (1) Authorization. Home-based businesses shall be permitted on property used for residential purposes, regardless how zoned, provided such home occupation is incidental and subordinate to the use of the premises for residential purposes and in compliance with all the provisions herein;
- (2) No home-based business shall result in the increase by more than two (2) additional vehicles at any time in the number of motor vehicles parked on-site or result in the increase of the number of vehicles traveling to and from the applicable dwelling over twenty-two (22) vehicle trips per day (twenty-four (24) hour period) (a trip to and a trip from the site is considered two (2) vehicle trips).
- (3) The home-based business shall be conducted in such a way that it does not create parking or traffic congestion or otherwise place an undue burden on the abutting or adjoining property or streets in the immediate neighborhood. In no case shall the customers or clients of the home-based business be allowed to park on any public street or right-of-way.
- (4) No stock in trade shall be stored, displayed or sold outdoors on the premises except for agricultural goods produced on the premises.
- (5) Only members of the family residing on the premises shall be employed in the home-based business.
- (6) No noxious or offensive noise, fumes, smoke, electrical or magnetic interference, vibration, heat, glare or other nuisance shall be emitted onto any other property. This and all other requirements for any type of home based business are in addition to those performance standards indicated elsewhere in the City of Iowa Colony Zoning Ordinance.
- (7) The home-based business shall be conducted entirely within the main dwelling unit and/or within one (1) permitted accessory structure.
- (8) The conduct of the home-based business shall not be easily visible from any street or adjacent property, public or private.
- (9) No external alterations, special construction, or other similar feature shall be added to the exterior of the main dwelling unit or accessory structure thereto to facilitate the home-based business.



- (10) No sign relating to the home-based business of any type shall be permitted on the premises except as allowed in the Sign Ordinance;
- (11) No repair or servicing of vehicles, internal combustion engines, large equipment or large appliances shall be allowed.
- (12) No permitted accessory building used for a permitted home-based business may be located within two hundred (200) feet of any other off-site residence.
- (13) No separate vehicular entrance or driveway may be constructed to facilitate the home-based business.
- (14) The hours of operation open to nonemployees for Type C home-based business shall be limited to no earlier than 8:00 AM and no later than 9:00 PM, but the hours of operation for a babysitting service or home day care shall be as provided by law.
- (15) The Type C home-based business use and permit is designated for the home-based business permit applicant only. A home-based business permit cannot be owned, given, sold, or granted to any person other than the original home-based business permit applicant. Any transfer or change in ownership or use immediately invalidates the home-based business permit.”

#### **SECTION 6.**

The Table of Contents of the Iowa Colony Zoning Ordinance, Ordinance No. 2000-08, as previously amended (“the Zoning Ordinance”) is hereby amended to reflect the new heading or caption of Section 65 and to correct the page numbers that change as a result of this amendment.

#### **SECTION 7.**

Subject to the amendments herein stated, the Comprehensive Zoning Ordinance, Ordinance No. 2000-08, and all prior amendments thereto shall remain in full force and effect. Subject to the amendments herein stated, this ordinance is cumulative of and in addition to all other ordinances of the City of Iowa Colony on the same subject and all such other ordinances are hereby expressly saved from repeal.

#### **SECTION 8.**

If any clause, phrase, provision, sentence, or part of this Ordinance, of whatever size, or the application of the same to any person or circumstance is ever for any reason adjudged invalid by a court of competent jurisdiction, then such invalidity shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid; and the City Council declares that it would have passed each and every part of this ordinance, notwithstanding the omission of any one or more such part or parts thus declared to be invalid.

**SECTION 9.**

This ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED on July 22, 2019.

CITY OF IOWA COLONY, TEXAS

By:   
Michael Byrum-Bratsen, Mayor

ATTEST:

  
Kayleen Rosser, City Secretary

Iowa/Ordinance/Zoning/Amendment of Zoning Ordinance on Home Occupations (07-22-19)

