

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 1022, AMENDING CHAPTER 26. ZONING. AT SEC. 26-22. DEFINITIONS. AND SEC. 26-58. HOME OCCUPATIONS. TO ENSURE ALL APPLICABLE VILLAGE DEFINITIONS AND REGULATIONS FOR HOME OCCUPATIONS CONFORM WITH RECENT CHANGES IN STATE LAW; ALSO AMENDING CHAPTER 23. TRAFFIC AND VEHICLES. AT SEC. 23-18. PARKING OR STORAGE OF VEHICLES, RECREATIONAL VEHICLES, BOATS AND COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS. TO PROVIDE CONSISTENCY BETWEEN PARKING AND HOME OCCUPATION REGULATIONS WITHIN THE VILLAGE. BY VILLAGE ATTORNEY KEITH W. DAVIS, ESQ.

Issue:

The Florida Legislature recently passed House Bill 403 which became effective on July 1, 2021. The bill created Sec. 599.955, F.S. which preempts the Village from prohibiting, restricting, or otherwise regulating home-based businesses in a manner different from other businesses within the Village's jurisdiction, except as otherwise provided by law. Section 599.955, F.S. authorizes the Village to regulate the secondary effects of home-based businesses within its jurisdiction, including effects related to parking and traffic, signage, residence aesthetics, nuisance factors such as noise, vibration, heat, and smoke, and environmental factors such as corrosive, hazardous, and flammable materials, so long as such regulations are not more stringent than those applicable to Village residences where no home-based business is conducted.

Village Staff is proposing to amend Chapter 26. Zoning. and Chapter 23. Traffic and Vehicles. at:

- Sec. 26-22. Definitions. in order to revise the definition of "Home occupation" to ensure conformance with newly enacted state law;
- Sec. 26-58. Home occupations. in order to revise applicable home occupation regulations to remove regulations which have now been preempted by state law and include new regulations as allows under the new law regarding employees, signage, parking and exterior character and appearance; and
- Sec. 23-18 in order to revise applicable parking regulations to ensure consistency with the newly enacted state law.

Initiator:	Village Manager	Agenda Date	Village Council
Village Attorney	Approval	2-17-2022	Action

Recommended Action:

Staff recommends Approval of Ordinance No. 1022 on Second Reading.

Initiator: Village Attorney	Village Manager Approval	Agenda Date 2-17-2022	Village Council Action
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ORDINANCE NO. 1022

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 26. ZONING. AT SEC. 26-22. DEFINITIONS. AND SEC. 26-58. HOME OCCUPATIONS. TO ENSURE ALL APPLICABLE VILLAGE DEFINITIONS AND REGULATIONS FOR HOME OCCUPATIONS CONFORM WITH RECENT CHANGES IN STATE LAW; ALSO AMENDING CHAPTER 23. TRAFFIC AND VEHICLES. AT SEC. 23-18. PARKING OR STORAGE OF VEHICLES, RECREATIONAL VEHICLES, BOATS AND COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS. TO PROVIDE CONSISTENCY BETWEEN PARKING AND HOME OCCUPATION REGULATIONS WITHIN THE VILLAGE; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 26. ZONING. AND CHAPTER 23. TRAFFIC AND VEHICLES. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Florida Legislature recently passed House Bill 403, which became effective on July 1, 2021 and which creates Section 599.955, *Florida Statutes* to prohibit the Village from taking certain actions relating to the licensure and regulation of home-based businesses; and

WHEREAS, the newly-created Section 599.955, *Florida Statutes* preempts the Village from prohibiting, restricting, or otherwise regulating those home-based businesses in a manner different from other businesses within the Village's jurisdiction, except as otherwise provided; and

WHEREAS, notwithstanding the above preemption, Section 599.955, *Florida Statutes* authorizes the Village to regulate secondary effects of home-based businesses within its jurisdiction, including effects related to parking and traffic, signage, residence aesthetics, nuisance factors such as noise, vibration, heat, and smoke, and environmental factors such as corrosive, hazardous, and flammable materials, so long as such regulations are not more stringent than those applicable to Village residences where no home-based business is conducted; and

WHEREAS, general state law still authorizes the Village is to regulate the stopping, standing, and parking of vehicles within its jurisdiction as provided by Section 316.008, *Florida Statutes*; and

WHEREAS, general state law still authorizes the Village to regulate signage and to ensure safe and convenient onsite traffic flow within its jurisdiction as provided by Section 163.3202, *Florida Statutes*; and

WHEREAS, the Florida Municipal Home Rule Powers Act authorizes the Village to exercise “home rule” powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter, as provided by Section 166.031, *Florida Statutes*; and

WHEREAS, the Village has substantial governmental interests in complying with state law, safeguarding the visual and aesthetic quality of residential properties, minimizing incompatible property uses, and ensuring safety for parking and traffic flow within its jurisdiction; and

WHEREAS, the Village has determined that this Ordinance complies with the newly-created Section 599.955, *Florida Statutes*; and

WHEREAS, the Village has determined that this Ordinance promotes the safety, health, convenience, and general welfare of the residents of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, THAT:

Section 1: The facts and recitations contained in the preamble of this ordinance are adopted and incorporated by reference as if set forth in this section.

Section 2: Chapter 26. Zoning. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Construction of Language and Definitions. at Sec. 26-22. Definitions. in order to revise the definition of “Home occupation” in accordance with changes in state law; providing that the aforesaid definition at Sec. 26-22 shall hereafter read as follows:

Sec. 26-22. - Definitions.

[When used in this chapter, the following terms or conjugations and variations thereof shall have the meanings herein described to them.]

Home occupation. An accessory use of a dwelling unit for gainful employment: a) which is clearly incidental and subordinate to the use of the dwelling unit as a residence; b) which is carried on solely within the main dwelling (except for incidental business activities which may occur at the property); c) which ~~and~~ does not alter or change the exterior character or appearances of the dwelling in any manner which is inconsistent with the residential character and architectural aesthetics of the neighborhood; ~~e) for which no signs are allowed~~; d) which

generates no traffic greater than allowed for similarly-zoned residential dwellings; and e) ~~where there is kept no equipment other than ordinary household or office equipment and where no stock in trade nor commodity is sold~~ outside the residential dwelling, on the premises.

[All other definitions shall remain the same as previously adopted.]

Section 3: Chapter 26. Zoning. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Supplemental Regulations. at Sec. 26-58. Home occupations. in order to revise applicable home occupation regulations in accordance with changes in state law; providing that Sec. 26-58 shall hereafter read as follows:

Sec. 26-58. Home occupations.

- (a) *Scope.* This section addresses home occupations and sets forth the ~~limited~~ conditions under which they are allowed.
- (b) *Permitted home occupations.* Only home occupations which meet the standards and criteria as set forth in the definitions section herein shall be allowed. (See section 26-22 for definitions.)
- (c) *Rules and regulations for home occupations.*
 - (1) The use must be conducted by a person member of the immediate family residing on the premises, ~~entirely within the building.~~ In addition, a total of up to two employees or independent contractors not residing on the premises may also work at the home occupation.
 - (2) Any use of ~~No~~ chemical, electrical or mechanical equipment shall comply with all use performance standards set within section 26-101, village code. ~~is to be used except that which is normally used for purely domestic or household purposes.~~
 - (3) No commodity (inventory) shall be stockpiled or sold outside the residential dwelling on the premises nor shall a display of and no products shall be visibly displayed or visible from the street.
 - (4) No external evidence or sign that the dwelling is being used for the home occupation shall be allowed other than those signs permitted for residentially zoned properties in section 20-56, village code.

- (5) No change to the exterior character or appearance of the dwelling shall occur without the requisite approval from the village planning and zoning commission as provided within chapter 2, article IV, division 6, village code.
- (6) ~~(5)~~ The activities of the home-based business must be secondary to the property's use as a residential dwelling. ~~The area devoted to the home occupation shall not be the dominant use of the dwelling and in no case shall the area exceed ten (10) percent of the total square footage of building area.~~
- (7) Parking related to the home occupation shall comply with all applicable off-street and on-street parking regulations for the dwelling's residential district as provided within chapter 23, village code.

Section 4: Chapter 23. Traffic and Vehicles. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Parking., Division 1. Generally. at Sec. 23-18. Parking or storage of vehicles, recreational vehicles, boats and commercial vehicles in residential districts., in order to revise applicable parking regulations in accordance with changes in state law; providing that Sec. 23-18 shall hereafter read as follows:

Sec. 23-18. Parking or storage of vehicles, recreational vehicles, boats and commercial vehicles in residential districts.

- (a) [Shall remain the same as previously adopted.]
- (b) *Location and screening requirements.*
 - (1) – (2) [Shall remain the same as previously adopted.]
 - (3) *Vehicles, not inclusive of boats or covered trailers, which are neither prohibited nor restricted.*
 - a. Vehicles which are neither prohibited nor restricted may be parked in a garage or carport or in only one (1) side yard. When parked on a corner property in the side yard on the street side of the property, a paved parking space shall be provided.
 - b. Vehicles which are neither prohibited nor restricted may be parked in front yards and front setbacks of residential property provided:
 - 1. The vehicles are located on an impervious parking space; and

2. The lesser of one thousand (1,000) square feet or seventy-five (75) percent of the front yard is landscaped; and
 3. Only one (1) recreational vehicle shall be permitted to park on each single-family property. For a recreational vehicle parked solely within the front yard in accordance with this section, or parked partially in the side yard and partially in the front yard in accordance with this section, such recreational vehicle shall be parked a minimum of ten (10) feet back from the edge of the roadway pavement. Nothing herein shall permit any portion of a recreational vehicle to extend over any public sidewalk.
- c. Vehicles which are neither prohibited nor restricted may be parked in the rear yard only if on a paved driveway used for access to a detached or connected rear garage.
 - d. Vehicles parked in accordance with subsections (3)a., b. and c. above must be owned by the occupants of the residential property with the following exceptions only:
 1. Guests of occupant. Vehicles not prohibited or restricted owned by guests of the occupants of the residential property may be parked on the residential property in accordance with this section for temporary periods not to exceed seven (7) days during any one (1) month. No such vehicle shall be used for overnight lodging nor shall it extend over any public sidewalks.
 2. Home occupation employees. A maximum of two (2) vehicles which are neither prohibited nor restricted and which are owned by employees or independent contractors of a home occupation as provided in section 26-58, village code may be parked on the residential property where the home occupation is operated. No such vehicle shall be used for overnight lodging, nor shall it extend over any public sidewalks. Parking generated by the home occupation shall not be greater in volume than would normally be expected at a similar residence where no business is conducted.
- (4) Vehicles providing a temporary service or delivery: Vehicles providing a temporary service, including the delivery of goods and merchandise, repairs ~~and~~ or maintenance, ~~or~~ and otherwise engaged in work in a residential district not part of a home occupation pursuant to section 26-58, village code, may park along a public right-of-way or on residential property for the duration of the service or work but not to exceed eight (8)

hours in a twenty-four-hour period. Longer periods may be permitted by the applicable village official or designee in the best interests of the occupant of the residential property and of the neighborhood.

(5) *Disabled vehicles.* Any vehicle that is disabled but currently licensed by a motor vehicle department may be parked in a swale area not to exceed a twenty-four-hour period, while disabled.

(6) *Restrictive covenants.* These requirements shall not supersede more stringent restrictions contained in any deed, condominium document or similar private instrument.

(c) [Shall remain the same as previously adopted.]

Section 5: Each and every other Section and Sub-section of Chapter 26. Zoning. and Chapter 23. Traffic and Vehicles. shall remain in full force and effect as previously enacted.

Section 6: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 7: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 8: Specific authority is hereby granted to codify this Ordinance.

FIRST READING this 20th day of January, 2022.

SECOND AND FINAL READING this 17th day of February, 2022.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(Seal)

DIANE DISANTO, VILLAGE CLERK