

ORDINANCE NO. 19-08

AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS AMENDING ORDINANCE 13-12; REVISING SECTION 22-18, HOME OCCUPATIONS, OF CHAPTER 22, ZONING, OF THE BRECKENRIDGE CODE OF ORDINANCES; ALLOWING HOME SCHOOLING AS A PERMISSIBLE HOME OCCUPATION IN ALL RESIDENTIAL DISTRICTS; PROHIBITING HOME-BASED DAY CARES AS HOME OCCUPATIONS IN DISTRICTS WHERE SUCH USE IS NOT ALLOWED; ALLOWING FOR ESTABLISHED HOME-BASED DAY CARES TO CONTINUE OPERATION UNDER CERTAIN CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to state law, the City Commission of the City of Breckenridge, Texas (the "City Commission") adopted a zoning ordinance and appointed a Planning & Zoning Commission to recommend amendment of that ordinance, from time to time;

WHEREAS, the Planning & Zoning Commission has considered the amendments contained herein, has made a preliminary report, and has submitted its final report to the City Commission;

WHEREAS, the Planning & Zoning Commission and the City Commission have held public hearings regarding the amendments contained herein, according to the procedures imposed by state law; and

WHEREAS, the City Commission finds that the amendments contained herein are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City, and are made in accordance with the City's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BRECKENRIDGE, TEXAS THAT:

I. Amendment. Chapter 22, Zoning, of the Breckenridge Code of Ordinances is hereby amended as follows.

Section 22-18 (Home Occupations) is hereby amended as follows:

18-100 *Purpose*

Standards for regulating home occupations are set forth to minimize 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 the property's owner and by occupants of neighboring residential buildings, while providing opportunities for the pursuit of home-based businesses.

18-101 *Special Provisions for Home Occupations*

- (a) Home occupations shall be permitted as accessory uses in all residential districts as identified in Section 22-6;
- (b) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;
- (c) Such use shall be incidental and secondary to the use of the premises for residential purposes;
- (d) The occupation shall not employ more than one (1) person who is not a member of the household in which the home occupation occurs;
- (e) The operation of such an occupation shall be between the hours of 7:00 a.m. and 10:00 p.m.;
- (f) No more than one (1) commercial vehicle, capacity of one (1) ton or less (according to the manufacturer's classification) may be used or parked behind the front building line on the property in connection with the home occupation, but said vehicle may not be parked in the street or within the front yard setback;
- (g) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district and shall not require more than one (1) delivery per week by large delivery trucks or vehicles with a rated capacity in excess of one and one-half (1 ½) tons, according to the manufacturer's classification;
- (h) There shall be no outside storage, including trailers, or outside display relating to the home occupation use;
- (i) No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment and that which is customarily associated with a hobby or avocation that is conducted solely for pleasure and not for profit or financial gain;
- (j) The home occupation shall not generate noise, vibration, glare, fumes/odors, heat, or electrical interference beyond what normally occurs within a residential use;
- (k) The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood;
- (l) The home occupation shall not use advertising signs or window displays or any other device that calls attention to the business use of the premises through audio and/or visual means, except that one (1) sign not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building being used shall be permitted;
- (m) The occupation shall not offer a ready inventory of any commodity for sale on the premises unless the commodity is made/assembled on-site (e.g., arts and crafts items, handmade clothing); and

(n) The occupation shall not be harmful or detrimental to the health, welfare, and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property, and recreation by residents of the zoning district in which the home occupation is located.

18-102 *Applicability of Other Regulations*

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

18-103 *Uses Allowed as Home Occupations*

Subject to the provisions of this Section, home occupations may include the following uses:

- (a) Office facility of an accountant, architect, landscape architect, doctor, dentist, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;
- (b) Author, artist, or sculptor;
- (c) Dressmaker, seamstress, or tailor;
- (d) Music/dance teacher or similar type of instruction, provided that instruction shall be limited to no more than one (1) pupil at a time;
- (e) Individual tutoring;
- (f) Millinery;
- (g) Office facility of a member of the clergy;
- (h) Home crafts, such as rug weaving or model making;
- (i) Office facility of a salesperson, sales, or manufacturer's representative, provided that no retail or wholesale transactions or provision of services are physically made on the premises;
- (j) Repair shop for small electrical appliances, cameras, watches/clocks, and other small items, provided that the items can be carried by one (1) person without using special equipment, and provided that the items are not equipped with an internal combustion engine;
- (k) Swimming lessons and water safety instruction, provided that such instruction involves no more than six (6) pupils at any time;
- (l) Home baking or food preparation; and
- (n) Home-schooling instruction provided by a resident of the home to children who also reside in the home.

18-104 *Uses Prohibited as Home Occupations*

Home occupations shall not, in any event, be deemed to include the following uses:

- (a) Animal hospitals or clinics, commercial stables, or kennels;
- (b) Any schooling or instruction with more than one (1) pupil at a time that is not expressly listed as an allowable home occupation under subsection 18-103 above;
- (c) Home-based day cares;
- (d) Restaurants or on-premises food or beverage (including private clubs) consumption of any kind, except for limited food/meal consumption associated with a permitted bed and breakfast facility;
- (e) Automobile, boat, or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;
- (f) Office facility for a veterinarian;
- (g) On-premises retail or wholesale sales of any kind, except for items that are produced entirely on the premises in conformance with this chapter, and except for occasional garage sales;
- (h) Commercial clothing laundering or cleaning;
- (i) Mortuaries or funeral homes;
- (j) Trailer, vehicle, tool, or equipment rentals;
- (k) Repair shops or services, except as provided by subsection 18-103(j) above;
- (l) Drapery or furniture upholstery shops;
- (m) Antique, gift, or specialty shops;
- (n) Repair shops for items having internal combustion engines; and
- (o) Any use that would be defined by the Building Code as an assembly, factory/industrial, hazardous, institutional, or mercantile occupancy.

18-105 Home Occupation Uses Not Classified

Any use that is not either expressly allowed by subsection 18-103 or expressly prohibited by subsection 18-104 is prohibited, unless and until such use is classified by amendment to this chapter by the Breckenridge City Commission, subsequent to consideration and recommendation by the Planning and Zoning Commission.

18-106 Effect Upon Existing Occupations

(a) Any home occupation that was legally in existence as of the effective date of this chapter and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use and is subject to the provisions of Section 22-12, provided that the owner/proprietor of such home occupation registers his or her business with the city within ninety (90) days from the effective date of this chapter, and provided that the home occupation use was not in violation of any other local, state, or federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of this chapter is the responsibility of the applicant and is required upon registration.

(b) Any home occupation that was legally in existence as the effective date of this chapter and that conforms with (i.e., is not in violation of) the provisions herein shall be hereby authorized to continue, provided that the home occupation use is registered with the city as described in subsection 18-106(a) above.

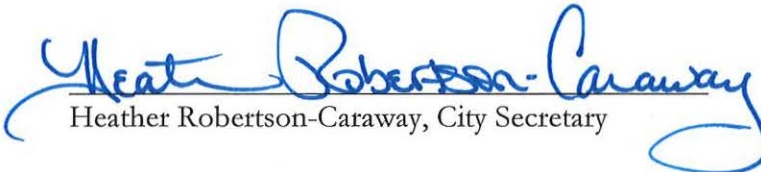
(c) Any home-based day care that has been in existence for at least one (1) year at the same location as of June 4, 2019 shall be allowed to continue operation, provided that the home-based day care is properly listed, registered, or licensed by the State and provided that the owner/proprietor of such home-based day care registers with the city as required by subsection 18-106(a), above. Such home-based day care shall be allowed to continue operation until such operation changes location or is no longer listed, registered, or licensed with the state. Upon relocation or revocation or expiration of state credentials, the home-based day care will no longer be considered to be a legal non-conforming use under this section and may only be located in zones where such activity is permitted.

II. Effective Date. This ordinance shall take effect immediately upon its adoption by the City Commission.

The above and foregoing ordinance was duly proposed, read in full and adopted on the 4th day of June 2019, at a regular meeting of the City Commission.


Bob Sims, Mayor

ATTEST:


Heather Robertson-Caraway, City Secretary

