

**TOWN OF HICKORY CREEK
ORDINANCE NO. 2019-07-826**

**AN ORDINANCE OF THE TOWN OF HICKORY CREEK, TEXAS
AMENDING THE TOWN'S CODE OF ORDINANCES, CHAPTER
14: ZONING; AMENDING ARTICLE III: DEFINITIONS;
CREATING ARTICLE XXXVIII: HOME OCCUPATION
REGULATIONS; PROVIDING FOR INCORPORATION OF
PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR
AMENDMENTS TO THE CODE OF ORDINANCES; PROVIDING
A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR
SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR
ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the Town of Hickory Creek is a Type A General Law Municipality located in Denton County, Texas created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, Title 7, Chapter 211.003 of the Texas Local Government Code empowers a municipality to, among other things, establish and amend zoning districts, classifications of land use, adopt a comprehensive plan to regulate the use of land and open spaces, adopt and amend zoning regulations, regulate population density, and regulate the use and location of buildings; and

WHEREAS, the Town Planning and Zoning Commission and Town Council have held the requisite public hearing(s); and

WHEREAS, the Town Council, in its legislative discretion has concluded that the revisions to the zoning ordinance as indicated herein should be adopted.

**NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF
THE TOWN OF HICKORY CREEK, TEXAS:**

**SECTION 1
INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2 **FINDINGS**

After due deliberations the Town Council has concluded that the adoption of this Ordinance is in the best interest of the Town of Hickory Creek, Texas, and of the public health, safety and welfare.

SECTION 3 **AMENDMENTS**

3.1 That Chapter 14: Zoning, Article III: Definitions, Section 1(42): Home Occupation, is hereby amended to read:

“(42) [Reserved].”

3.2 That Chapter 14: Zoning, Article XXXVIII: Home Occupation Regulations, is hereby created and shall read:

“Article XXXVIII Home Occupation Regulations

Section 1: Purpose

Standards for controlling 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 their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

Section 2: Special provisions for home occupations

- (a) Home occupations shall be permitted as accessory uses in single-family residential zoning districts provided that they comply with all restrictions herein.
- (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, and shall not utilize floor area exceeding 20% of the combined gross floor area of dwelling unit that is used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed 500 square feet, including the garage).
- (d) The activity shall be conducted wholly within the main building and not in any accessory building.

- (e) The home occupation shall not have a separate entrance.
- (f) Only residents of the location of the home occupation shall be employed on site.
- (g) No more than two vehicles, equipment, or towable trailers belonging to customers of a home occupation shall be present within 200 feet of a property used as a home occupation.
- (h) There shall be no activity that regularly attracts persons other than the residents to the location of the home occupation, except those related to instructional activities. Instructional activities shall be limited to a maximum of six students at any time.
- (i) Child care in a registered family home will be allowed and shall be limited to the number of children allowed under applicable state law or town regulation.
- (j) The operation of such an occupation shall be between the hours of 8:00 a.m. and 10:00 p.m. for indoor activities. This limitation on hours of operation shall not apply to allowed childcare home occupations. Outdoor activities shall be limited to instructional activities conducted in the back yard and screened from the neighboring property.
- (k) One commercial vehicle, capacity of one ton or less, according to the manufacturer's classification, may be used in connection with the home occupation. This commercial vehicle must be parked off the street at all times.
- (l) The occupation activity shall not require deliveries by large delivery trucks or vehicles with a rated capacity in excess of one and one-half tons more often than once per seven days, according to the manufacturer's classification.
- (m) The home occupation use/activity shall have no outside storage of materials, goods, equipment or supplies, including trailers, or outside display related to the home occupation use.
- (n) No mechanical or electrical equipment shall be installed or used on the premises other than that which is customarily found in a home environment, and that which is customarily associated with a hobby or a vocation which is conducted solely for pleasure and not for profit or financial gain.
- (o) The home occupation shall not generate noise, vibration, glare, fumes or odors, heat or electrical interference beyond what normally occurs within a residential district.
- (p) The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood.
- (q) The home occupation shall not involve the use of advertising signs, or window displays, or any other device that calls attention to the business use of the premises through audio or visual means.

(r) The address of the home occupation shall not be included in any classified advertisement, which will result in an increased amount of vehicular traffic to the home.

(s) The occupation shall not offer a ready inventory of any good for sale on the premises unless made or assembled on-site, including arts and crafts items, and handmade clothing. Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made by telephone or at a sales party may be filled on the premises.

(t) 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 area.

Section 3: Applicability of other regulations

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

Section 4: Uses allowed as home occupations

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

(1) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;

(2) Author, artist or sculptor;

(3) Dressmaker, seamstress or tailor;

(4) Music or dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than six pupils at a time;

(5) Individual tutoring and home schooling;

(6) Office facility of a minister, rabbi, priest or other clergyman;

(7) Home crafts, such as rug weaving, model making, etc.;

(8) Office facility of a salesman, sales or manufacturer's representative, provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;

(9) Repair shop for small electrical appliances, computers, cameras, watches and clocks, and other small items, provided that the items can be carried by one person

without using special equipment, and provided that the items are not equipped with an internal combustion engine;

(10) Food preparation establishments such as cake making, decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all state and local health regulations;

(11) Registered family homes, in compliance with applicable state laws, which are incorporated herein by reference, with no more than six children or adults;

(12) Barbershop or beauty salon or manicure studio, provided that no more than one customer is served at a time;

(13) Swimming lessons and water safety instruction, provided that such instruction involves no more than six pupils at any one time; and

(14) Antique firearm restoration (gunsmithing).

(A) All firearms stored or kept at the residence as a part of the home occupation shall fall within the definition of “antique” as defined by the U.S. Code, title 18, part 1, chapter 44, section 921(16).

(B) No ammunition as defined by U.S. Code, title 18, part 1, chapter 44, section 921(17) and for use with a firearm as defined above, shall be traded or sold as part of the home occupation.

Section 5: Uses prohibited as home occupations

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

(1) Animal hospitals or clinics, commercial stables having more than 2 horses per acre or kennels;

(2) Restaurants or on-premises food or beverage, including private clubs, consumption of any kind, except for limited food or meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;

(3) 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;

(4) On-premises retail or wholesale sales of any kind where multiple customers patronize the sales business on-site, except for items that are produced entirely on the premises in conformance with this chapter, and except for occasional garage sales;

- (5) Commercial clothing laundering or cleaning;
- (6) Mortuaries or funeral homes;
- (7) Trailer, vehicle, tool or equipment rentals;
- (8) Repair shops for any items having internal combustion engines; and
- (9) Any use that would be defined by the building code as an assembly, factory or industrial, hazardous, institutional or mercantile occupancy.
- (10) Dispatch centers, or fleet vehicle storage.

Section 6: Home occupation uses not classified herein

Any use that is not either expressly allowed nor expressly prohibited by sections 4 and 5 of this division, respectively, is considered prohibited, unless and until such use is classified by amendment to this chapter by the town council, subsequent to an affirmative recommendation by the commission. An applicant wishing to add or remove an occupation from the permitted or prohibited lists herein shall utilize the Town's existing zoning amendment procedure to do so.

Section 7: Effect of this division upon existing home occupations

Any home occupation that was legally in existence as of the effective date of Ordinance 2019-07-826 [this ordinance no.] 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 article XXIII, 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 Ordinance 2019-07-826 [this ordinance no.] shall be required upon request of the Town in determining legal nonconforming status."

3.3 All other articles, chapters, sections, subsections, paragraphs, sentences, phrases and words, are not amended but are hereby ratified and affirmed.

SECTION 4
CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has

arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5 **SAVINGS**

All rights and remedies of the Town of Hickory Creek, Texas are expressly saved as to any and all violations of the provisions of the Town's Code of Ordinances or of any other ordinance affecting zoning, which have been secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 6 **SEVERABILITY**

The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the Town shall promptly promulgate new revised provisions in compliance with the authority's decision or enactment.

SECTION 7 **ENGROSSMENT AND ENROLLMENT**


The Town Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the Town Council and by filing this Ordinance in the Ordinance records of the Town.

SECTION 8 **EFFECTIVE DATE**

This Ordinance shall become effective from and after its date of passage in accordance with law.


AND IT IS SO ORDAINED.

PASSED AND APPROVED by the Town Council of the Town of Hickory Creek, Texas, this the 30th day of July, 2019.



Lynn C. Clark, Mayor
Town of Hickory Creek, Texas


ATTEST:



Kristi Rogers, Town Secretary
Town of Hickory Creek, Texas



APPROVED AS TO FORM:



Dorwin L. Sargent, III, Town Attorney
Town of Hickory Creek, Texas