

ORDINANCE NO. # 2006-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, ENTITLED "HOME BASED BUSINESS OR HOME OCCUPATION ;" PROVIDING FOR ISSUANCE OF A HOME BASED BUSINESS LICENSE; PROVIDING FOR RESTRICTIONS TO A HOME BASE BUSINESS; PROVIDING FOR DENIAL OF APPLICATION; PROVIDING FOR A LICENSING FEE; PROVIDING FOR THE ABILITY OF INSPECTION OF THE PROPERTY; PROVIDING FOR PROCEDURE FOR SUSPENSION AND/ OR REVOCATION A OF LICENSE; PROVIDING FOR PARKING REQUIRMENTS; PROVIDING FOR NON-ISSUANANCE OF LICEENSE WHICH IS IN CONFLICT WITH RESTRICTIVE COVENANTS, ASSOCIATION DOCUMENTS OR OTHER RESTRICTIONS;PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the substantial growth in the number of home based business' within the City of Doral has produced a growing concern of the impact of businesses on surrounding residential family neighborhoods with respect to noise, equipment and over all adverse impacts resulting in a nuisance to a residential communities; and

WHEREAS, the City of Doral recognizes the growing trends and the need for home based business in a thriving community and the necessity to regulate the home based business; and

WHEREAS, the City Council of the City of Doral has sought to enhance the aesthetics of the City of Doral community and residential neighborhoods; and

WHEREAS, the City Council through the adoption of this ordinance seeks to continue to maintain the sanctity and quiet peaceful enjoyment of a residential district;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DORAL.

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. That new ordinance of the City of Doral, entitled, "Graffiti," shall be and it is hereby created to read as follows:

Chapter 1. HOME BASED BUSINESS OFFICE

Sec. 1-1. Home based business office.

(a) Notwithstanding any provision to the contrary herein contained, offices for certain businesses, professions or occupations may be maintained within residentially zoned areas as provided herein. Any person engaged in a business, profession or occupation who chooses to conduct said business, profession or occupation from his or her permanent, primary residence shall, prior to conducting such business, profession or occupation, apply for and receive an occupational license for a home occupation/home based business office. The license fee shall be in accordance with the City of Doral "fee schedule". Said applicant shall list his or her home address as a place of business and must, at all times, comply with the following criteria:

(1) Home occupation/home based business office activities shall be accessory and clearly incidental to the primary single family residence or apartment unit and shall not use more than 20 % of the overall living space of the property.

(2) Home occupation/home based business office activities shall occur entirely within the residential dwelling.

(3) Employees, in addition to the person engaged in the business, profession or occupation of the home occupation/home based business office as provided above, shall reside at the subject residential dwelling; for purposes of this section, a "permanent resident" shall mean a person residing in a residential dwelling for no less than six calendar months.

(4) No goods or services shall be dispensed, sold, distributed or provided directly from the residential dwelling, except for those transmitted by telephone, computer modem, facsimile or other similar electronic means.

(5) The aggregate of deliveries of any kind required by, received or sent by, or made in connection with a home occupation/home based business office at a residential dwelling shall not exceed two business delivery by courier per day in addition to regular U.S. Postal Service.

(6) No inventory or storage of materials, goods, products or supplies shall be permitted at the residential dwelling, except those minor supplies necessary for the operation of the home occupation/home based business office.

(7) No materials, goods, products or supplies shall be displayed for sale or kept as samples at the residential dwelling, except those which can be readily transported in a hand carried sample case.

(8) No goods or service of any kind shall be sold or transferred to a customer, consumer or client on the premises of a home occupation, excluding facsimile machine, telephone and/or regular U.S. postal service.

(9) The exterior of the residential dwelling or apartment unit shall not be altered in any manner to attract attention to the home occupation/home based business office or the residence as a place of business.

(10) No signs indicating the presence of the home occupation/home based business office shall be located on or about the residential dwelling.

(11) No noise, odor, smoke, hazard or other nuisance of any type shall arise from the conduct of the home occupation/home based business office.

(12) The operation of a home occupation/home based business office shall not cause any increase in parking at the residential dwelling or vehicular traffic to and from the residential dwelling.

(13) No vehicle with the name of a home occupation/home based business shall be parked or stored on the site, except in a closed garage.

(14) The conduct of a home occupation/home based business office shall not result in an increase in demand on city services as compared to the average typical residence of the same size.

(15) Home occupation/home based business office activities may be advertised or publicized provided that the address of the residential dwelling shall not be referenced, and further provided that any advertisement or publication shall not in any manner invite, attract or draw persons to the single family residence or apartment unit in which the home based business office is located.

(b) A home occupation/home based business office which does not satisfy all of the above standards at all times during operation shall be prohibited and no license shall be issued to an applicant whose business operation would violate said standards.

(c) All home occupation/home based business offices shall be required to obtain and maintain an occupational license from the City, at an annual fee in accordance with the fee schedule.

(d) The City, upon probable cause to believe that there is a violation of one or more of the provisions of this section, may seek permission from the code compliance special magistrate to inspect a property in order to assist in making a finding as to whether or not there is a violation; the City shall not inspect a property without the aforescribed permission.

(e) If the City Manager or his designee believes that a licensee has engaged in conduct warranting the suspension or revocation of a license, he shall serve the licensee, by certified mail or by hand delivery, a written administrative complaint which affords reasonable notice to the licensee of facts or conduct that warranted the intended action. The complaint shall state what is required to be done to eliminate the violation, if any. The licensee shall be given adequate opportunity to request a prior administrative hearing unless the City Manager finds that an emergency condition exists involving serious danger to public health, safety or welfare, in which case advance notice and hearing shall not be required. In case of emergency suspension or

revocation, the licensee shall immediately be advised of the City Manager's action and afforded a prompt post-suspension or revocation hearing before the special magistrate.

(f) A home occupation/home based business office shall have no parking requirement in addition to the requirement for the single family residence or apartment unit.

(g) Nothing contained herein shall be deemed to authorize, legalize, or otherwise permit a home occupation/home based business office that is otherwise prohibited by a legally enforceable restrictive covenant, association document or other instrument or restriction on such use.

Section 3. Severability. That if any section, subsection, sentence, clause,

Phrase, work or amount of this ordinance shall be declared unconstitutional or invalid by competent authority, then the remainder of the ordinance shall not be affected thereby, and shall remain in full force and effect.

Section 4. Repeal of Conflicting Provisions. That all ordinances or parts of ordinances or resolutions of the County Code made inconsistent or in conflict herewith shall be and they are hereby repealed in their entirety as there is conflict or inconsistency.

Section 5. Inclusion in Code. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Doral Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section " or other appropriate word.

Section 6. Effective Date. This Ordinance shall become upon adoption on second reading.

The foregoing Ordinance was offered by Vice Mayor Cabrera who moved its adoption. The motion was seconded by Councilman DiPietro and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Peter Cabrera	Yes
Councilmember Michael DiPietro	Yes
Councilwoman Sandra Ruiz	No
Councilmember Robert Van Name	Yes

PASSED AND ADOPTED upon first reading the 12th day of April, 2006.

PASSED AND ADOPTED upon second reading the 10th day of May, 2006.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA-HILL, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JOHN J. HEARN, CITY ATTORNEY
Jacob G. Horowitz