



City of Coral Gables Planning and Zoning Staff Report

Applicant:	City of Coral Gables
Application:	<u>Home Office Zoning Code Text Amendment</u>
Public Hearing:	Planning and Zoning Board
Date & Time:	October 13, 2021; 6:00 – 9:00 p.m.
Location:	City Commission Chambers, City Hall, 405 Biltmore Way, Coral Gables, Florida 33134

1. APPLICATION REQUEST

The City of Coral Gables has initiated a request for a Zoning Code Text Amendment as follows:

An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 3, "Uses," Section 3-206, "Home Office," to provide additional requirements and allowances for a Home Office consistent with the requirements of Chapter 2021-202, Laws of Florida; providing for severability, repealer codification, and an effective date.

2. APPLICATION SUMMARY

The City is proposing a Zoning Code text amendment to incorporate additional requirements and allowances to a home office. The additional requirements and allowances that are proposed include:

- Maximum of 2 staff members
- Subject to applicable Business Taxes
- Allow office to exceed 25% of the gross floor area of home
- Not restrict the type of business, except short-term rentals, boarding houses, hotels, motels, or bed and breakfasts
- Clarify that commercial signage is not allowed
- Prohibit parking in swales
- Clarify that the Home Office shall not create a nuisance as stated in Article VI or XI in the City Code
- Allow receiving of clients/customers
- Clarify the requirement for a no fee Certificate of Use

BACKGROUND

A home office has been permitted in single-family residences for the past several years under City Attorney opinions CAO 2013-016, CAO 2013-025, and CAO 2016-086.

In 2017, Zoning Code text amendments were adopted related to the conservation of the North Ponce area which included ‘home office’ as a permitted use within the district’s multi-family zoning. The Home Office definition closely resembled the former City Attorney opinions to be consistent with what was currently being allowed in single-family.

During the 3-year Zoning Code Update process, relevant City Attorney opinions were incorporated into the Zoning Code. Therefore, the Home Office regulations were expanded to apply to all residential districts.

However, during the 2021 legislative session, the State Legislature enacted Chapter 2021-202, which imposes certain requirements and allowances on home-based businesses throughout the state. Therefore, Staff is now proposing to amend Section 3-206 “Home Office” of the Zoning Code to comply with the Chapter 2021-202.

3. REVIEW TIMELINE / PUBLIC NOTICE

City Review Timeline

The submitted applications have undergone the following City reviews:

REVIEW COMMITTEES AND BOARDS	DATE
Planning and Zoning Board	10.13.21
City Commission – 1 st Reading	TBD
City Commission – 2 nd Reading	TBD

The following has been completed to solicit input and provide notice of the Application:

PUBLIC NOTICE	DATE
Legal advertisement	10.01.21
Posted agenda and Staff report on City web page/City Hall	10.08.21

4. FINDINGS OF FACT

The request is a Text Amendment to Section 3-206 “Home Office” in Article 3 “Uses.” The amendment will include additional regulations to ensure compatibility within the neighborhood and further protects the residential integrity of the district.

The proposed changes are provided in Attachment A in ~~striketrough~~ / underline format.

Zoning Code Section 14-212.5 provides review standards for Zoning Code text amendments:

Standard	Staff Evaluation
a. Promotes the public health, safety, and welfare.	The intent of the proposed amendment is to promote the compatibility of the limited home-based business as an accessory use to a residential use within a residential neighborhood.

b. Does not permit uses the Comprehensive Plan prohibits in the area affected by the text amendment.	The accessory use that is affected by the proposed text amendment is already permitted within residential land uses.
c. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property.	The proposed text amendment does not affect the densities nor intensities of the residential land uses.
d. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Plan.	The proposed text amendment clarifies the use to be accessory to the residential home and not affect the public infrastructure.
e. Does not directly conflict with any objective or policy of the Comprehensive Plan.	The proposed amendment is to fulfill the objectives and policies of the Comprehensive Plan to protect residential neighborhoods.

Staff comments:

The proposed text amendment to Section 3-206 of the Zoning Code provides for additional limitations and allowances that promote compatibility within a residential neighborhood. Limiting the number of staff members and hours of operation to office hours will reduce the parking impacts. The requirement to renew the Certificate of Use allows routine review for compliance. All proposed additions further protect the integrity of residential neighborhoods, which fulfil many goals, objectives, and policies of the Comprehensive Plan. The standards identified in Section 14-212.5 for the proposed Zoning text amendment are **satisfied**.

5. STAFF RECOMMENDATION

Based upon the complete Findings of Fact contained within this report, staff recommends the following:

An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 3, "Uses," Section 3-206, "Home Office," to provide additional requirements and allowances for a Home Office consistent with the requirements of Chapter 2021-202, Laws of Florida; providing for severability, repealer codification, and an effective date.

Staff recommends **Approval**.

6. ATTACHMENTS

- A. Draft Ordinance.
- B. Chapter Law 2021-202.
- C. Legal advertisement published.

Please visit the City’s webpage at www.coralgables.com to view all Application plans and materials, notices, applicable public comments, minutes, etc. The complete Application and all background information also is on file and available for examination during business hours at the Planning and Zoning Division, 427 Biltmore Way, Suite 201, Coral Gables, Florida 33134.

Respectfully submitted,



Ramon Trias, Ph.D., AIA, AICP, LEED AP
Assistant Director of Development Services
for Planning & Zoning
City of Coral Gables, Florida

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA PROVIDING FOR A TEXT AMENDMENT TO THE CITY OF CORAL GABLES OFFICIAL ZONING CODE BY AMENDING ARTICLE 3, "USES," SECTION 3-206, "HOME OFFICE," TO PROVIDE ADDITIONAL REQUIREMENTS AND ALLOWANCES FOR A HOME OFFICE CONSISTENT WITH THE REQUIREMENTS OF CHAPTER 2021-202, LAWS OF FLORIDA; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, during the 2021 legislative session, the State Legislature enacted Chapter 2021-202, Laws of Florida ("Chapter 2021-202"), which imposes certain requirements and allowances on home-based businesses throughout the state; and

WHEREAS, it is necessary to amend Article III, Section 3-206 "Home Office" of the Zoning Code to comply with Chapter 2021-202; and

WHEREAS, a home office, as are all uses in the Zoning Code, is subject to the noise and nuisance provisions of Article VI and Article XI of the City Code; and

WHEREAS, after notice was duly published, a public hearing was held before the Planning and Zoning Board on ____, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the Board was presented with the text amendment to the Official Zoning Code, and after due consideration and discussion, recommended (approval/ denial) (vote: __-__);

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

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

SECTION 2. The Official Zoning Code of the City of Coral Gables is hereby amended as follows¹:

¹ Deletions are indicated by ~~strike through~~. Insertions are indicated by underline.

ARTICLE 3 – USES

Section 3-206. Home Office.

A. Home office use may be permitted subject to the following restrictions:

1. A Home Office shall be defined as a space and activity within a dwelling unit devoted to a ~~non-retail~~ business activity carried on by a permanent domiciliary resident thereof, which use is secondary to the use of the dwelling for dwelling purposes as customarily found in the home, that does not alter the exterior of the property or affect the residential character of the neighborhood, and that meets all legal requirements of the business.
2. ~~Home Office shall not include personal services, medical uses, retail uses, repair or service, or manufacturing uses.~~ A Home Office shall be subject to applicable Business Taxes and must obtain a no-fee Certificate of Use. The Home Office must comply with all applicable local, state, and federal laws.
3. ~~The Home Office shall not exceed twenty five percent of the gross floor area of the dwelling unit.~~ Parking related to the Home Office must comply with the City Code and Zoning Code and must meet the following additional criteria: the Home Office may not generate a greater demand for parking than a residential dwelling that is not used as a Home Office; vehicles used in connection with the Home Office must be parked in the driveway of a single-family or duplex residence, or in a legal parking space for a multi-family residence; parking on the City's Rights of Way including swales is prohibited.
4. ~~No additional on-site parking shall be permitted for the Home Office.~~ The business owner and employees must reside in the dwelling except that up to two employees or independent contractors who do not reside in the dwelling may work on premises.
5. ~~The resident shall not receive clients/customers at the residence in order to conduct business.~~ A Home Office may not display commercial signage of any kind.
6. ~~The resident is not advertising the residence as the place of business.~~ This section shall not apply to short term rentals, boarding houses, hotels, motels, or bed and breakfasts.
7. ~~The resident is not receiving material amounts of business-related deliveries at the residence.~~ Use of the Home Office shall not create a nuisance as set forth in Article VI or Article XI of the City Code.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of

this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the “Zoning Code” of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 6. If the Official Zoning Code of the City of Coral Gables Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective _____, 2021.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2021.

APPROVED:

VINCE LAGO
MAYOR

ATTEST:

BILLY URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS
CITY ATTORNEY

CHAPTER 2021-202

Committee Substitute for House Bill No. 403

An act relating to home-based businesses; creating s. 559.955, F.S.; prohibiting local governments from taking certain actions relating to the licensure and regulation of home-based businesses; specifying conditions under which a business is considered a home-based business; defining the term “heavy equipment”; authorizing home-based businesses to operate in areas zoned for residential use; specifying that home-based businesses are subject to certain business taxes; authorizing adversely affected current or prospective home-based business owners to challenge certain local government actions; authorizing the prevailing party in such challenge to recover specified attorney fees and costs; providing that certain existing and future residential association declarations and documents are not superseded by the act; providing that certain local laws, ordinances, or regulations are not superseded; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 559.955, Florida Statutes, is created to read:

559.955 Home-based businesses; local government restrictions.—

(1) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of this section.

(2) A home-based business that operates from a residential property as provided in subsection (3):

(a) May operate in an area zoned for residential use.

(b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, except as otherwise provided in this section.

(c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.

(3) For purposes of this section, a business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:

(a) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

(b) Parking related to the business activities of the home-based business complies with local zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this paragraph, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery.

(c) As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.

(d) The activities of the home-based business are secondary to the property’s use as a residential dwelling.

(e) The business activities comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted.

(f) All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

(4) Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

(5) The application of this section does not supersede:

(a) Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720.

(b) Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

Section 2. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE:**

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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PLANNING AGENCY / PLANNING AND ZONING BOARD - OCT.
13, 2021

in the XXXX Court,
was published in said newspaper in the issues of

10/01/2021


Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Guillermo Garcia

Sworn to and subscribed before me this
1 day of OCTOBER, A.D. 2021

Christina Lynn Ravix

(SEAL)
GUILLERMO GARCIA personally known to me

**CITY OF CORAL GABLES, FLORIDA
NOTICE OF PUBLIC HEARING
HYBRID MEETING ON ZOOM PLATFORM**

City Public Hearing	Local Planning Agency / Planning and Zoning Board
Dates/Times	Wednesday, October 13, 2021, 6:00 p.m.
Location	City Commission Chamber, City Hall 405 Biltmore Way, Coral Gables, FL 33134

PUBLIC NOTICE is hereby given that the City of Coral Gables, Florida, Local Planning Agency (LPA)/ Planning and Zoning Board (PZB) will conduct Public Hearing on the following:

1. An Ordinance of the City Commission of Coral Gables, Florida granting approval of a Planned Area Development (PAD) pursuant to Zoning Code Article 14, "Process," Section 14-206, "General Procedures for Planned Area Development" for a proposed multi-family project referred to as "Gables Village" on the property legally described as Lots 1 through 22, Block 28, "Coral Gables Biltmore Section" (504, 516, 522, 530, and 536 Malaga; 503, 511, 515, 535, 529, 525, and 521 Santander; and 3109 Segovia), Coral Gables, Florida; including required conditions; providing for a repealer provision, severability clause, and providing for an effective date.
2. A Resolution of the City Commission of Coral Gables, Florida approving the Tentative Plat entitled "Gables Village" pursuant to Zoning Code Article 14, Section 14-210, "Platting/Subdivision," being a re-plat of 113,310 square feet (2.6 acres) into two (2) tracts of land on the property legally described as Lots 1 through 22, Block 28, "Coral Gables Biltmore Section" (504, 516, 522, 530, and 536 Malaga; 503, 511, 515, 535, 529, 525, and 521 Santander; and 3109 Segovia), Coral Gables, Florida; including required conditions; providing for a repealer provision, severability clause, and providing for an effective date.
3. An Ordinance of the City of Coral Gables, Florida, providing for text amendments to the City of Coral Gables Official Zoning Code, Article 5, "Architecture," Section 5-200, "Mediterranean Standards" and providing for severability, repealer, codification, and for an effective date.
4. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 3, "Uses," Section 3-206, "Home Office," to provide additional requirements and allowances for a Home Office consistent with the requirements of Chapter 2021-202, Laws of Florida; providing for severability, repealer, codification, and an effective date.

Local Planning Agency / Planning And Zoning Board

5. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 10, "Parking," Section 10-110, "Amount of required parking" and Article 16, "Definitions," to clarify parking requirements related to single-family building alterations and update the definition for a single-family residence regarding the use of covered open air walkways, and location of porte-coches and carports; providing for severability, repealer codification, and an effective date.
6. An Ordinance of the City Commission of Coral Gables, Florida providing for a text amendment to the City of Coral Gables Official Zoning Code by amending Article 1, "General Provisions," Section 1-109, "Construction Rules," to clearly state that where the provisions of this Zoning Code vary from the applicable requirements of any law, statute, rule, regulation, ordinance, or code, the most restrictive or that imposing the higher standard shall govern, including within the Miami-Dade County Rapid Transit Zone; providing for severability, repealer codification, and an effective date.

The Planning and Zoning Board will be holding its regular board meeting on Wednesday, October 13, 2021, commencing at 6:00 p.m. Pursuant to Resolution No. 2021-118, the City of Coral Gables has returned to traditional in-person meetings. Accordingly, any individual wishing to provide sworn testimony shall be present physically in the City Commission Chambers. However, the City Commission has established the ability for the public to provide comments (non-sworn and without evidentiary value) virtually. Accordingly, only individuals who wishes to provide public comment in this format, may appear and provide those comments via Zoom.

Members of the public may join the meeting via Zoom at (<https://zoom.us/j/83788709513>). In addition, a dedicated phone line will be available so that any individual who does not wish (or is unable) to use Zoom may listen to and participate in the meeting by dialing: (305) 461-6769 Meeting ID: 837 8870 9513. The public may comment on an item on the agenda by sending an email to planning@coralgables.com prior to the meeting.

The meeting will also be broadcasted live for members of the public to view on the City's website (www.coralgables.com/cgtv) as well as Channel 77 on Comcast.

Sincerely,
City of Coral Gables, Florida
Ramon Trias
Assistant Director of Planning Division
City of Coral Gables, Florida
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