

1 **ORDINANCE NO. 2023 - 009**

2  
3 **AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES,**  
4 **FLORIDA; AMENDING THE TOWN OF SOUTHWEST RANCHES**  
5 **UNIFIED LAND DEVELOPMENT CODE ("ULDC"), SECTION 010-**  
6 **030, "TERMS DEFINED," SECTION 035-030, "HOME OFFICES,"**  
7 **SECTION 045-050, "PERMITTED AND PROHIBITED USES," AND**  
8 **SECTION 070-120, "PROMOTIONAL SIGNS," PERTAINING TO**  
9 **HOME-BASED BUSINESSES; PROVIDING FOR CODIFICATION;**  
10 **PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY;**  
11 **AND, PROVIDING FOR AN EFFECTIVE DATE.**

12 **WHEREAS,** Section 559.955, Florida Statutes restricts local government  
13 regulation of home-based businesses; and

14 **WHEREAS,** this Ordinance amends the ULDC’s home-based businesses provisions  
15 to comply with Section 559.955 Florida Statutes.

16 **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**  
17 **TOWN OF SOUTHWEST RANCHES, FLORIDA:**

18 **Section 1. Ratification.** The foregoing "WHEREAS" clauses are hereby ratified  
19 and confirmed as being true and correct, and are hereby incorporated herein and made  
20 a part hereof.

21 **Section 2. Amendment.** Article 10, "Definition of Terms," Section 010-  
22 030, "Terms defined" is hereby amended as follows:

23 \* \* \*

24 *Contiguous.* The term "contiguous" means directly adjoining; immediately  
25 adjacent; contiguous plots have at least one (1) side of each plot which touches  
26 one (1) side of the other plot with no separator between the plots including, but  
27 not limited to, a public right-of-way, private street, or canal.

28 \* \* \*  
29

30 *Home-based business.* A business that operates in whole or in part from a  
31 residential plot as a secondary, incidental and accessory use to the residential  
32 use of the property, which meets the strict criteria contained in Section 559.955  
33 Florida Statutes, as may be amended from time to time.

Ordinance No. 2023-009  
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**Section 3. Amendment to Article 35, "Conditional Uses."** Section 035-030, "Home offices" is hereby amended as follows:

**Sec. 035-030. – Home-based businesses.**

Home-based businesses as defined in Article 10, "Definition of Terms," shall be permitted in all residential zoning districts subject to the following limitations:

- (A) Only residents of the single-family dwelling and up to two (2) additional people who do not reside at the dwelling may be engaged in the business at the dwelling. The business may have additional, remote employees that do not work at the dwelling, provided they do not park or store their vehicles on the plot, nor on any public or private right-of-way.
- (B) Any parking or storing of commercial, construction, agricultural or recreational vehicles, equipment and machinery at the home-based business in all residential districts shall be subject to section 045-030(C) "Parking and storage."
- (C) The need for parking generated by the home-based business shall not be greater in volume than would normally be expected at a similar residence where no business is conducted. Vehicles and trailers used in connection with the business shall not be parked within any public or private right-of-way.
- (D) No sign for the home-based business shall be visible from the exterior of the dwelling.
- (E) As viewed from the street, the plot must appear to be consistent with that of the surrounding rural residential areas within the Town, and shall not have the appearance of a business as indicated by physical improvements, equipment, vehicle parking, activity, or other perceivable characteristic. Any external modifications made to a dwelling to accommodate a home-based business must conform to the rural residential character and architectural aesthetics of the neighborhood.

Ordinance No. 2023-009  
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1 (F) The home-based business shall not conduct retail transactions at a structure  
2 on the plot other than the dwelling; however, incidental business uses and  
3 activities may be conducted on the plot containing the home-based business.

4 (G) The home-based business shall not create noise, vibration, heat, smoke,  
5 dust, glare, fumes, or noxious odors of an intensity, frequency or duration  
6 that is not customary for a single-family residential property where no  
7 business is conducted.

8 (H) The home-based business shall not use, store or dispose of any corrosive,  
9 combustible, or other hazardous or flammable materials or liquids of a type,  
10 quantity or manner that are not customary for a single-family residential  
11 property where no business is conducted.

12 (I) A certificate of use from the town and business tax receipt from the  
13 county shall be obtained for any home-based business.

14 **Section 4. Amendment to Article 45, "Agricultural and Rural**  
15 **Districts."** Section 045-050, "Permitted and prohibited uses" is hereby amended  
16 as follows:

17 **Sec. 045-050. Permitted and prohibited uses.**

18 Plots in rural and agricultural districts may be used for one (1) or more of  
19 the uses that are specified below as being permitted or conditionally permitted  
20 uses:

Key to abbreviations:		
P=Permitted use	NP=Not permitted	C=Conditional use

21 \* \* \*

	A-1	A-2	RE	RR
<i>Permitted accessory uses to a single-family dwelling</i>				
* * *				
Home-based businesses (subject to section 035-030 pertaining to conditional uses)	C	C	C	C
* * *				

22 **Section 5. Amendment to Article 70, "Sign Regulations."** Section  
23 070-120, "Promotional signs" is hereby amended as follows:

24 (A) Any nonresidential use or commercial enterprise, other than a home-based  
25 business, which has been issued a certificate of use, may make application  
26 for a temporary sign permit for any of the following purposes:

Ordinance No. 2023-009

New text is underlined and deleted text is ~~stricken~~

\* \* \*

**Section 6. Codification.** The Town Clerk shall cause this ordinance to be codified as a part of the ULDC during the next codification update cycle.

**Section 7. Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 8. Severability.** If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**Section 9. Effective Date.** This Ordinance shall take effect immediately upon passage and adoption.

**PASSED ON FIRST READING** this 24<sup>th</sup> day of August, 2023 on a motion made by Council Member Jablonski and seconded by Council Member Kuczenski.

**PASSED AND ADOPTED ON SECOND READING** this 14<sup>th</sup> day of September, 2023, on a motion made by Vice Mayor Allbritton and seconded by Council Member Kuczenski.

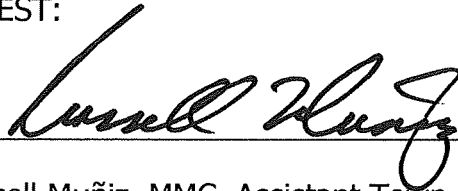
**[Signatures are on the Following Page]**

1 Breitkreuz Yes  
2 Allbritton Yes  
3 Hartmann Yes  
4 Jablonski Yes  
5 Kuczenski Yes  
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Ayes 5  
Nays 0  
Absent 0  
Abstaining 0

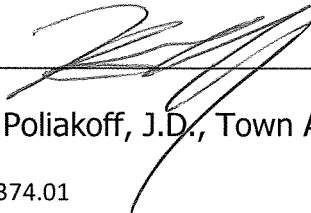
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Steve Breitkreuz, Mayor

9 ATTEST:

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11 \_\_\_\_\_

12 Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

13  
14 Approved as to Form and Correctness:

15  
16   
17 \_\_\_\_\_  
Keith Poliakoff, J.D., Town Attorney

18 1001.2374.01

**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.