

**ORDINANCE NO. 2007-4**

**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA AMENDING CHAPTER 16 ENTITLED "PERMITS AND CERTIFICATES" BY CREATING SECTION 16.14 ENTITLED "HOME BASED OCCUPATIONS;" PROVIDING FOR ISSUANCE OF HOME BASED OCCUPATION LICENSES; PROVIDING FOR RESTRICTIONS OF A HOME BASED OCCUPATION; PROVIDING FOR A LICENSING FEE; PROVIDING FOR PROCEDURES FOR SUSPENSION AND REVOCATION OF A LICENSE; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE**

WHEREAS, due to technology, traffic and other developments, there has been a substantial growth in the number of home based occupations throughout the country and within the Village of Biscayne Park, resulting in a growing concern regarding the impact of these businesses on surrounding residential family neighborhoods with respect to noise, equipment and other adverse impacts; and

WHEREAS, the Village of Biscayne Park recognizes the growing trends and the need for home based occupations in a thriving community and the necessity to regulate the home based occupations in order to preserve the character of homes and the residential community as a whole; and

WHEREAS, the Village Commission, through the adoption of this Ordinance, seeks to continue to maintain the sanctity and quiet peaceful enjoyment of its residential community;

**NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

**Section 1.** Each and all the foregoing Whereas clauses are true and correct and are incorporated herein.

**Section 2.** Chapter 16 of the Municipal Code of the Village of Biscayne Park, Florida is hereby amended to create Section 16.14, entitled "Home Based Occupations," to read as follows:

**Sec. 16.14. Home Based Occupations.**

**Sec. 16.14.1.** A home based occupation means an accessory use of a portion of a dwelling unit as a personal office or business by a resident of the dwelling unit only. Home occupations must be secondary to the use of the dwelling for residential purposes and shall not change the character of the dwelling unit thereof. In any instance where a dwelling unit is used to conduct a home based occupation consistent herein, a home occupational license shall be required. This applies even where a regular business license has been issued for the same business and for the same applicant at another location within or outside the boundaries of the City.

**Sec. 16.14.2.** When permitted, a home based occupation shall be conducted in accordance with the following provisions and with any other restrictions that are contained within the individual residential zoning district regulations:

(1) No person other than the individuals residing in the dwelling unit shall be engaged in the home based occupation.

(2) Home based occupations shall be accessory and clearly incidental to the primary residential purpose of the dwelling unit and shall not use more than twenty percent (20%) of the overall living space of the dwelling unit.

(3) Home based occupation activity shall occur entirely within the dwelling unit. No equipment or process shall be used in any home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises.

(4) No home occupation shall generate or attract unsafe, excessive or hazardous vehicular or pedestrian traffic to the dwelling unit.

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

(6) The total number of deliveries of any kind required by, received or sent by or made or connected with a home based occupation at a residential dwelling shall not exceed two (2) business deliveries per day in addition to regular U.S. postal service.

(7) No employees or independent contractors of any kind, excluding service and regular repair visits, shall be permitted at the dwelling unit at any time in connection with the home based occupation.

(8) No signs of any kind indicating the presence of a home based occupation shall be located on or about the residential dwelling or property.

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

(10) A home based occupation office which does not satisfy all of the above standards at all times during its operation shall be prohibited and no license shall be issued to any applicant whose business operation violates said standards.

**Sec. 16.14.3.** All home based occupations shall be required to obtain and maintain an occupational license from the Village and an applicable fee as provided by resolution.

**Sec. 16.14.4.** The Code Enforcement Division may inspect the property to ensure compliance with this Chapter, consistent with Chapter 166 of the Florida Statutes.

**Sec. 16.14.5.** No home based occupation license issued pursuant to this Section shall be transferable, assignable or otherwise alienable.

**Section 3.** **Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

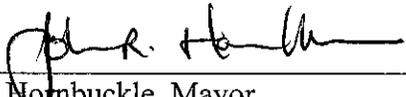
**Section 4.** **Inclusion in Code.** It is the intention of the Village Commission of the Village of Biscayne Park, Florida, that the provisions of this Ordinance shall become and be made a part of the Village of Biscayne Park Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

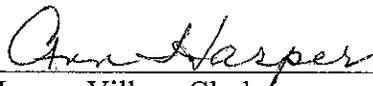
**Section 6. Effective Date.** This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Vice-Mayor Walker, who moved its adoption. The motion was seconded by Commissioner Anderson, and upon being put to a vote, the vote was as follows:

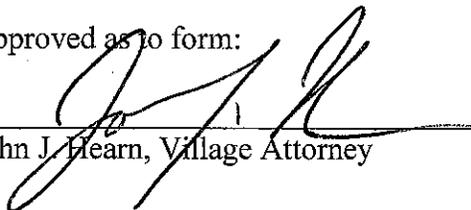
**The foregoing ordinance upon being put to a vote, the vote was as follows:**

  
\_\_\_\_\_  
John Hornbuckle, Mayor

Attest:

  
\_\_\_\_\_  
Ann Harper, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
John J. Hearn, Village Attorney

Mayor Hornbuckle:  yes \_\_\_\_\_  
Vice Mayor Walker:  yes \_\_\_\_\_  
Commissioner Mallette:  no \_\_\_\_\_  
Commissioner Morris:  no \_\_\_\_\_  
Commissioner Anderson:  yes \_\_\_\_\_

1<sup>st</sup> reading – April 3, 2007  
2<sup>nd</sup> reading – May 15, 2007  
(continued from May 8, 2007)