

**ORDINANCE NO. 2015-**

**AN ORDINANCE REPEALING AND READOPTING SECTION 17.52.230 OF THE CASTLE ROCK MUNICIPAL CODE CONCERNING HOME OCCUPATIONS**

**WHEREAS**, the Town of Castle Rock is a home rule municipal corporation and the Town Council is empowered to adopt such ordinances as are necessary to protect the health, safety and welfare of the community;

**WHEREAS**, the Castle Rock Municipal Code imposes comprehensive regulatory framework that governs criteria and standards for permitted uses and development in all zoning districts;

**WHEREAS**, it is necessary and advisable to update certain zoning district requirements in Chapter 17 of the Castle Rock Municipal Code in light of current standards for home occupations; and

**WHEREAS**, public hearings have been held on this Ordinance before the Planning Commission and Town Council as required by the Town regulations.

**NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:**

**Section 1. Legislative Findings.** The Town Council makes the following findings:

A. Home occupations are allowed as an accessory use within all residential zone districts, however residential Planned Development Zoning Districts are inconsistent. There are a number of Planned Development Zoning Districts where home occupations are allowed as a use by special review, as well as a number of Planned Developments that are silent with regard to home occupations.

B. Home businesses are consistent with the Town's vision to promote long term economic stability by allowing a wide range of local employment opportunities. Insofar as some of the Planned Developments that require use by special review were approved as far back as 1985, they do not reflect current municipal objectives. The concept of residents living where home occupations are restricted to Council approval as a use by special review is contrary to Town values for the local economy.

C. Creating a home occupation exception, as a use by right, within all Planned Development Zoning Districts, represents an accommodation between the values fostered by zoning restrictions and the values served by permitting persons the liberty to conduct economic activity in their home.

D. Small businesses contribute to the local economy by bringing growth and innovation to the community in which the business is established and with the increase in use of computer technologies, allowing for both better connections for teleworkers, and entrepreneurial opportunities via platforms such as eBay and Etsy, as well as changes in the workforce with increased numbers of people working out of their homes, home occupations will most likely trend upward.

E. The benefits of home occupations include not only economic development, but also

benefits to the individual and the community related to providing people additional time to be at home with their family, reducing travel/traffic, and providing low overhead costs.

F. Permitting the use by right, within all Planned Development Zoning Districts for home occupations, is a positive step toward reducing daily commuter traffic, energy consumption, and air pollution and can provide useful services and encourage business growth.

G. Home occupations are desirable as a primary means of income and as a supplement to a primary occupation because the home may be the most practical place in which to operate a business for some residents. Allowing home-based businesses in all residential zones, including Planned Developments, captures the community's core values and encourages the Town's vision of the future. People have long used their residences as a place in which to work as well as live, and zoning ordinances recognize this by permitting home occupations, subject to certain restrictions, to ensure the home occupation remains unobtrusive and that it does not detract from an otherwise residential neighborhood.

H. Ordinances such as this, that restrict home occupations, represent a compromise between ensuring there are not incompatible commercial uses in residential neighborhoods and recognizing the growing social necessity of permitting some home occupations.

I. Permitting home occupations as a use by right, within all Planned Development Zoning Districts, may also help to enable people who might be unable to work outside the home (including single parents, the elderly, and the disabled) an opportunity to earn a living.

J. Enacting an ordinance that permits home occupations in Planned Development Zoning Districts, subject to certain limitations, serves to balance governmental interests and represents a reasonable compromise between the public health, safety and welfare in residential districts and the pressures necessitating the accommodation of appropriate home occupations.

K. Maintaining the residential character of the neighborhood by ensuring that the homes, and not the occupations, remain the integral characteristic of the community and that home occupations do not adversely affect the uses permitted in the residential district, of which it is a part, remains the Town's goal.

L. This Ordinance recognizes that covenants, conditions, and restrictions may be more restrictive than Town Code for home occupations.

M. Adoption of this Ordinance will permit home occupations as a use by right, subject to certain requirements, where current Planned Developments either require use by special review or are silent, and it will treat Planned Developments in a similar fashion, related to home occupations, from a zoning perspective.

**Section 2. Repeal and Readoption.** Section 17.52.230 of the Castle Rock Municipal Code is repealed and readopted to read as follows:

### **17.52.230 Accessory uses; home occupation**

A. A home occupation is a business, profession, occupation or trade conducted entirely within a residential principal or accessory building, which use is accessory, incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building or the neighborhood and is compatible with other permitted uses.

B. A home occupation is a permitted accessory use in any R1, R-1A, R-2, R-3, MH or residential uses within Planned Developments (PD) Zoning Districts, subject to the following regulations:

1. Such use is conducted entirely within a principal or accessory building;

2. Such use shall be conducted only by the occupants thereof plus not more than one (1) nonresident employee;

3. Such use shall be clearly incidental and secondary to the use of the residence as a dwelling and shall not change the residential character thereof;

4. The total area used for such purpose does not exceed the limitations of subsection 17.52.210.C, except that this requirement shall not apply to those home occupations that meet the definition of "Daycare, in-home small;"

5. There shall be no change in the outside appearance of the dwelling unit or lot indicating the conduct of such home occupation including, without limitation, advertising signs or displays;

6. The operation of any wholesale or retail business is prohibited unless it is conducted entirely by mail (U.S. Postal Service, United Parcel Service and the like) or such wholesale or retail sales on the premises is not substantial. However, one on site retail sales event may occur once per calendar week (e.g., Tupperware party). Incidental sales of products shall be permitted (e.g., instructional books sold in conjunction with music lessons);

7. There shall be no outside storage on the premises of materials or equipment used in connection with the home occupation;

8. There shall be no excessive or offensive noise, vibration, smoke, dust, odors, heat, glare or light noticeable or extending beyond the lot;

9. Traffic shall not be generated which significantly affects the residential character of an area or in a volume that would create a need for parking greater than that which can be accommodated on the site or which is inconsistent with the normal parking usage of the Zoning District; and

10. Such use shall comply with an applicable development guide, building code, fire code, health regulation or any other local, state or federal regulation. The permission granted or implied by this section shall not be construed as an exemption from such regulation.

C. The following uses are not considered home occupations:

1. Motor vehicle repair and motor vehicle body shops;
2. Medical or dental clinics, hospitals;
3. Personal services such as beauty and barber shops, tattoo, and massage services;
4. Bed and breakfast establishments;
5. Animal clinics, hospitals, or grooming establishments; or
6. Retail businesses or any similar uses generating more than occasional or minimal vehicular traffic.

D. In the event of a conflict between the provisions of this Chapter 17.52 and the covenants, conditions and restrictions of record applicable to the subject property, the more restrictive provision(s) shall govern and control.

E. In the event that any of the regulations in this section conflict with the Planned Development zoning regulations, these regulations shall supersede and govern.

F. All home occupations shall apply for and obtain a Business and Tax License from the Town of Castle Rock before commencing operation.

**Section 3. Severability.** If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 4. Safety Clause.** The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational

relation to the legislative object sought to be obtained.

**APPROVED ON FIRST READING** this \_\_\_\_ day of \_\_\_\_\_, 2015 by a vote of \_\_\_\_ for and \_\_\_\_ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

**PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING** this \_\_\_\_ of \_\_\_\_\_, 2015 by the Town Council of the Town of Castle Rock, Colorado, by a vote of \_\_\_\_ for and \_\_\_\_ against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

\_\_\_\_\_  
Sally Misare, Town Clerk

\_\_\_\_\_  
Paul Donahue, Mayor

**Approved as to form:**

**Approved as to content:**

\_\_\_\_\_  
Robert J. Slentz, Town Attorney

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Bill Detweiler, Director of Development Services