AGENDA ITEM NO. I-6

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2829

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, AMENDING CHAPTER 16 (ZONING) OF THE CITY CODE TO ADDRESS HOME OCCUPATION PERMITS AND ZONE CLEARANCE PERMITS (PZ 10-580-03).

WHEREAS, the City Council seeks to clarify the existing process to obtain a Home Occupation Permit; and

WHEREAS, the City Council seeks to codify an existing administrative process to obtain a Zone Clearance Permit; and

WHEREAS, the City Council has determined that zone text amendment PZ 10-580-03 qualifies as a Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations) of the California Environmental Quality Act (CEQA) Guidelines.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Part 1. Division 6 of Article V of Chapter 16 of the City Code is hereby amended to read as follows:

DIVISION 6. HOME OCCUPATIONS

SEC. 16-400. PURPOSE AND INTENT

The purpose of this division is to provide for and regulate the conduct of home occupations in dwelling units.

SEC. 16-400.1 APPLICABILITY

A home occupation permit is required to conduct a home occupation from a dwelling unit under limited conditions as described in this division.

SEC. 16-401. PERMIT AND LICENSE REQUIRED

A home occupation permit shall be issued by the director, who may impose reasonable conditions on the permit to mitigate potential adverse impacts. An application for a home occupation permit shall be made on a form provided by and filed with the director. A City business license shall be obtained in accordance with chapter 11 of the code prior to or concurrently with an application for a home occupation permit. The applicant is responsible for complying with all city, county, State and federal

requirements including business license requirements and local zoning laws. Payment of the business license tax is not an endorsement of the business or verification of competency or reliability.

SEC. 16-402. PERMIT INITIATION AND EXPIRATION

(A) The use authorized by a home occupation permit shall be initiated within 30 days of final approval. If not initiated within 30 days, the home occupation permit shall automatically be null and void.

(B) A home occupation permit shall become null and void when the use for which the permit was granted ceases or is suspended for more than 30 days, or if a valid business license is not maintained for the home occupation.

SEC. 16-403. OPERATING STANDARDS

(A) Home occupations shall operate according to the following standards:

(1) No permit shall be issued for a home occupation that violates any provision of the city code.

(2) The operation of a home occupation shall not alter the appearance of the dwelling unit by the use of colors, materials, lighting, signs, or exterior alterations not compatible with the surrounding area. No structural alterations shall be permitted within the dwelling to separate any area used for a home occupation from the principal dwelling space.

(3) A Home occupation permit shall only be approved for a resident of the subject property. No area used for a home occupation shall be subleased or rented to another party.

(4) The home occupation shall not include direct sales of goods or displays of goods on the premises.

(5) There shall be no on- or offsite advertising that identifies the home occupation by street address, except as may be required by State law or by city business licensing requirements.

(6) The home occupation shall be conducted indoors and confined completely within a dwelling or accessory building. The area used for a home occupation shall not exceed 25 percent of the gross area of one floor of the dwelling or accessory building.

(7) Use of a garage for home occupation purposes shall not interfere with the permanent use of off-street parking spaces, including required garage spaces.

(8) A single vehicle no larger than a two axle vehicle and weighing no more than 10,000 pounds used in connection with a home occupation may be parked at the dwelling. Parking for any vehicle used in connection with the home occupation shall be provided off-street.

(9) The home occupation shall not encroach into any required parking, setback, or open space area.

(10) Activities conducted by and equipment or material used in the home occupation shall not change the fire safety or occupancy classifications of the dwelling or accessory building, or use utility or solid waste services in amounts greater than normally provided for the residential use.

(11) No employees other than residents of the dwelling shall be allowed in connection with a home occupation, except that babysitters or domestic staff shall not be considered employees of a home occupation.

(12) Customers or clients of the home occupation shall not call upon the premises arriving either by vehicle or as pedestrians, with the exception of individual tutorial instruction including music or academic lessons limited to no more than one person at any time subject to the other provisions of this section.

(13) The applicant for a permit for a home occupation that is to be conducted on rental property shall submit the property owner's written authorization for the proposed use prior to the issuance of a home occupation permit.

(14) If the person conducting the home occupation serves as an agent or intermediary between outside suppliers and outside customers, all articles, except for samples, shall be sold or shipped directly to customers located at an off-premises location.

(15) The home occupation shall not involve the interior or exterior use or storage of material or mechanical equipment which is not part of a normal household or hobby use.

(16) Home occupations shall be conducted only between the hours of 7:00 a.m. and 9:00 p.m.

(17) The home occupation shall not create more noise, light, vibration, smoke, odor, humidity, heat, cold, glare, dust or dirt, electrical interference, pedestrian activity, vehicular traffic, or television or radio interference, than is customary in the residential area in which the home occupation is located.

(18) Deliveries to a home occupation shall not involve types of vehicles or more frequent deliveries than are customary for a residential area.

SEC. 16-404. PROHIBITED HOME OCCUPATIONS

Sale of alcohol, explosives, hazardous materials, or firearms which involve the storage of such items within a structure are prohibited as home occupations.

SEC. 16-405. REVOCATION

(A) The director shall notify a permittee in writing of a home occupation permit revocation if the director finds that one or more of the following conditions exist:

(1) The operation or nature of the business has been altered contrary to the original approval;

(2)The use is not consistent with an associated permit or specific plan;

(3)The use has become detrimental to the public health or safety or constitutes a nuisance;

(4)The permit was obtained in a fraudulent manner;

(5)The condition of the premises where the home occupation is located or has been altered contrary to the original approval, including expansion of use;

(6) The condition of the site where the use is located has changed so that the use is no longer justified under the meaning and intent of this chapter.

(B) The director shall mail such written notice to the permittee, stating the basis on which the director intends to revoke the home occupation permit, and informing the permittee that the director shall revoke the permit within 15 calendar days of the notice mailing date, unless the condition found to be in violation of this chapter is abated within the time specified. The notice shall also inform the permittee of the appeal procedures set forth in section 16-406.

SEC. 16-406. APPEAL

Any person may appeal to a hearing officer a decision of the director approving or denying an application for a home occupation permit or revoking a home occupation permit. The appeal shall be in writing, shall state the grounds for appeal, and shall be filed with the city clerk within 15 calendar days of the date of the mailing of the director's decision, together with the appeal fee adopted by resolution of the city council. The decision of the hearing officer shall be final.

Part 2. Division 1 of Article VII of Chapter 16 of the City Code is amended to read as follows:

DIVISION 1. ZONE CLEARANCE PERMIT

SEC. 16-520. PURPOSE AND INTENT

The purpose of this division is to provide minimum procedures for a zone clearance permit to ensure non-home occupation land uses are conducted in accordance with the city code.

SEC. 16-520.1 APPLICABILITY

A zone clearance permit as approved by the director is required in order to conduct any business from a non-residential location as described in this division.

SEC. 16-520.2 PERMIT AND LICENSE REQUIRED

The zone clearance permit shall be issued by the director. A city business license shall be obtained prior to or concurrently with an application for a zone clearance permit. The applicant is responsible for complying with city, county, State and federal requirements, including business license requirements and local zoning laws.

SEC. 16-520.3 APPROVAL

The director may approve or deny an application for a zone clearance permit if the director finds that the use is not detrimental to the public health, safety or welfare; and that the proposed land use is consistent with all land use regulations applicable to the subject property, including but not limited to any discretionary permit or specific plan.

SEC. 16-520.4 PERMIT INITIATION AND EXPIRATION

(A) The use authorized pursuant to a zone clearance permit shall be initiated within 90 days of final approval. If the intended use is not initiated, i.e., conducting business in accordance with all applicable city, county, State and federal laws and regulations, within 90 days the zone clearance permit shall be automatically null and void.

(B) A zone clearance permit shall immediately become null and void when the use for which the permit was granted ceases or is suspended for more than 30 days, or if a valid business license is not maintained for the subject use.

SEC. 16-520.5 REVOCATION

(A) The director shall notify a permittee in writing of a zone clearance permit revocation, if the director finds that one or more of the following conditions exist:

(1) The operation or nature of the business has been altered contrary to the original approval;

(2) The use is not consistent with an associated permit or specific plan;

(3) The use has become detrimental to the public health or safety or constitutes a nuisance;

(4) The permit was obtained in a fraudulent manner;

(5) The condition of the premises or the operation of the use has been altered contrary to the original approval, including expansion of use;

(6) The condition of the area where the use is located has changed so that the use is no longer justified under the meaning and intent of this chapter."

(B) The director shall mail such written notice to the permittee, stating the basis on which the director intends to revoke the zone clearance permit, and informing the permittee that the director shall revoke the permit within 15 calendar days of the notice mailing date, unless the condition found to be in violation of this chapter is abated within the time specified. The notice shall also inform the permittee of the appeal procedures set forth in section 16-520.6.

SEC. 16-520.6 APPEAL

Any person may appeal to a hearing officer a decision of the director approving or denying an application for a zone clearance permit or revoking a zone clearance permit. The appeal shall be in writing, shall state the grounds for appeal, and shall be filed with the city clerk within 15 calendar days of the date of the mailing of the director's decision, together with the appeal fee adopted by resolution of the city council. The decision of the hearing officer shall be final.

Part 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Part 4. Pursuant to Government Code Section 36933(c)(1), the City Clerk was designated to prepare and has published a summary of this ordinance, and a certified copy of it was posted in the Office of the City Clerk a minimum of five days before the City Council's public hearing to consider adoption of the ordinance.

Part 5. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on _____, 2010, and finally adopted on _____, 2010, to become effective thirty days thereafter.

AYES:

NOES:

ABSTAIN:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney