

## Part 14 Home Occupations [Added 5-18-1998 by Ord. No. 98-16]

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### ARTICLE L General Provisions

#### § 126-368. Purposes.

The purposes of this Part 14 are to:

- A. General purpose. Permit certain home occupations as described herein which are incidental to the residential use of the premises, are compatible with residential uses, are limited in extent, degree and time, and do not detract from the residential character and quality of the neighborhood, with the foregoing to be considered and defined in the context of an evaluation of the tangible impact of such occupations outside the confines of the residential dwelling itself.
- B. Incubator activities. Permit incubator or start-up business activities within the context of a home occupation, as defined herein, for later removal to an appropriate zone as the business grows and succeeds beyond the limitations and restrictions appropriate for a residential zone.
- C. Residential zones. Protect residential areas from any adverse impacts associated with home occupations and protect residential property values.
- D. Neighbors. Ensure that the health, safety and welfare of neighbors and residents are protected and that their rights are not compromised in any manner whatsoever by the operation of the particular home occupation.
- E. Criteria. Establish performance criteria and standards for home occupations that will provide fair and equitable administration and enforcement of this article.

#### § 126-369. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**HOME OCCUPATION** — Any activity conducted or engaged in by a person within the residential dwelling occupied as his or her permanent residence as a business, profession or service, for financial gain or as a nonprofit service to the community. A home occupation is an accessory use to the primary use of the property, which is residential. Home occupations include home businesses, offices which do not fit the definition for home offices contained herein and cottage industries. Home occupations do not include:

- A. Garage sales, yard sales or home parties for the purpose of the sale or distribution of goods or services, provided that the collective total of all such sales and/or parties does not exceed a total of four in any calendar year.
- B. Organized meetings of social, charitable, religious, civic, political, community service or fraternal clubs or organizations.
- C. Care for infants or children on the premises.

**HOME OFFICE** — The use of a defined portion of a residential dwelling as an office area by one or more members of the household residing on the premises, for family, personal or other related activities such as the following:

- A. Office activities such as are only incidental to a business conducted at a separate location and such as telecommuting performed as an employee, agent or contractor for an employer or principal conducting business at a separate location if such activities do not involve visitation by clients or

customers and if there is no assertion or representation that the residence address is a business address.

- B. Office activities as a volunteer in support of a nonprofit community service, political or charitable organization if such activities do not involve visitation by clients or customers and if there is no assertion or representation that the residence address is an address for such organization.

#### **§ 126-370. Applicability.**

- A. Home office. Home offices which conform to the above definition shall be allowed as an accessory use in residential dwellings by right in all residential zones. Home offices whose use, design, layout, size, furnishings and equipment do not meet said definition shall be considered home occupations and shall be subject to all of the requirements contained in §§ 126-369 to 126-374, inclusive of this Part 14. Home office uses must not negatively impact the prevailing character of the residential neighborhood and, therefore, are subject to the standards set forth in this section.
- B. Home occupation. Home occupations are permitted as accessory uses in all residential zones, provided that the gross floor area (GFA) of the residential dwelling is 1,200 square feet or greater, where outbuildings such as garages, and nonhabitable basement and attic space are not included in the GFA calculation. Home occupations are subject to the standards and criteria set forth in this Part 14.
- C. Condominiums. The provisions of this article shall not be construed as permitting in any privately owned residential area subject to the rules of a condominium, residents association or other private ownership organization, any right or privilege for a usage or activity within a residence or for parking in such residential area greater than that permitted by either the rules of the organization or by ordinances applicable to such residential area.
- D. Permit limitation. Neither the issuance of a home occupation permit nor the usage of any part of a residential premises for a home occupation or a home office shall be construed as permitting a change in the predominantly residential character of the premises.

#### **§ 126-371. Standards and criteria.**

- A. Area. The area which is used primarily or exclusively for either a home office or a home occupation shall not consist of more than 750 square feet or 15% of the gross floor area (GFA) of the residence, whichever is less, excluding outbuildings and nonhabitable areas within the residence, such as garages and unfinished attics and basements, from the calculations of the GFA.
- B. Prohibited use. No use is permitted if it shall constitute a threat to public health, safety, welfare or morals, such as the following.
  - (1) No illegal or illicit uses shall be allowed under any circumstances.
  - (2) Uses which produce fluctuations in utility service, disruptions in communications systems, radio, television and other communications transmissions of other persons are not permitted.
  - (3) There shall be no uses which result in or cause interference with the delivery of utilities or other services to the area.
  - (4) Home accessory uses shall comply with all local, state and federal laws and regulations pertinent to the activities involved.
  - (5) Home accessory uses shall not be of a character or substance which will adversely impact property values in the area.
- C. Home office requirements. The home office shall:
  - (1) Comprise an existing room or area within the home which is integrated within the overall floor

plan of the dwelling, and there shall not be a separate entrance to the outside nor separate kitchen or bath facilities associated with said office.

- (2) Have only typical office equipment limited to computers, telefax machines, telephones and copying machines and only typical office supplies and furnishings.
- (3) Not be evident from outside of the home.
- (4) Not be used or visited by customers or clients and persons other than those making deliveries or service calls as otherwise might occur on the property regarding the residential dwelling.

D. Home occupation usage limitations. Except as permitted in this article, a home occupation shall be conducted in a manner which does not give an outward appearance of nor manifest any external tangible characteristics of a business which would infringe upon or in any way interfere with the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent, character and/or ambiance of the residential zone. Home occupations shall be clearly incidental and secondary to the use of a dwelling for residential purposes. As such, the following standards and criteria must be met:

- (1) The home occupation is to be conducted only by family members residing in the dwelling, plus no more than two nonresident associates, including partners, employees and other assistants. Additional persons may be employed, however, provided that their work is conducted entirely off-premises. Proprietors/owners must be permanent residents of the dwelling in which the business in question is being conducted.
- (2) The parking of commercial vehicles associated with the home occupation on-street is prohibited. Commercial vehicles associated with and operated as part of the home occupation may be parked on site no closer to the street than the building line, within a garage or in accord with the rules of a residents' association, such as a condominium development.
- (3) The appearance of the home shall not be altered nor shall the activity or business conducted within the residence take place in such a manner which would cause the premises to differ or deviate from its essential residential character in any manner.
- (4) There shall be no storage of equipment, supplies or products associated with the home occupation outside the dwelling. No machinery, equipment or materials of any kind other than that which is typically associated with residential uses, home offices or personal hobbies are permitted to be physically located on the premises.
- (5) There shall be no outside storage or window display and similar conditions.
- (6) Noise, dust, odors, smoke, fumes, vibrations and artificial lighting emanating from the premises shall not exceed that which is normally produced by a residential dwelling.

E. Home occupation activities. The home occupation shall not generate significantly greater traffic volume than would normally be expected in the particular residential zone in which the home occupation is conducted.

- (1) Delivery and shipments of materials or commodities to and from the premises by commercial vehicles shall be confined to normal business hours of 8:00 a.m. to 6:00 p.m. Deliveries, except by United States Post Office and similar delivery services normally provided to a residence, shall not exceed two per week. Delivery services which restrict traffic circulation are prohibited.
- (2) The scheduling of appointments shall provide that no more than two clients or customers are received at one time. When instruction is involved, a maximum of four pupils can be present at one time. If any of the regulated activities are covered by state law and/or regulation, then the state regulations will supersede.
- (3) The parking of customer or client vehicles shall not create safety hazards or congestion. On-site parking space shall be required for all employees, clients, customers, students and others present on the premises in connection with the home occupation, except for those temporarily on the premises for the purposes of delivery or pickup or the installation, service or repair of

equipment.

- (4) Wholesale or retail sales are prohibited unless conducted via mail or telecommunications and do not involve the sale, shipment or delivery of merchandise to and from the premises. The sale of seasonal items such as produce, flowers, Christmas trees or other items which are produced at the premises is permitted, provided that no vehicular safety hazards or congestion are created, and provided, further, that any activities associated therewith are conducted in accordance with the terms, conditions, standards and provisions of this Part 14.

#### **§ 126-372. Prohibited uses.**

Those uses, such as the following, which by the nature of the investment or operation have a pronounced tendency once commenced, to rapidly increase and escalate beyond the limits permitted and beyond the impacts to be reasonably anticipated from home occupations and thereby impair the use and value of a residentially zoned area for residential purposes and are more suited to professional, business or agricultural districts, therefore, are prohibited: retail merchandising, other than for seasonal items as provided in the preceding section; boarding and breeding kennels for dogs and cats; the raising of livestock for market; medical or dental records; funeral homes; auto repair for other than a resident; the painting of vehicles, trailers and boats of and for a person other than the resident; private schools with organized classes for more than four students; carpentry, welding or machine shops; equipment rental; massage parlors.

#### **§ 126-373. Special permits for home occupations.**

- A. Permit requirement. A special permit is required for the commencement and conduct of all home occupations and for all changes, expansion and extension of such uses as provided in this section and subject to all of the provisions relating to home occupations as provided by this article.
- B. Issuance; limits. Not more than one special permit for home occupations may be issued for any one residential site. All special permits for a home occupation are nontransferable and are issued to a specific applicant for a specific home occupation as to a specific residential site. All such special permits for home occupations shall be deemed to terminate immediately when the holder thereof moves or relocates from such premises, or discontinues the activity and/or operation of the business which is the subject of such permit.
- C. Term. Each special permit for home occupation, if not previously terminated, shall terminate at the end of one calendar year following the date of issuance but may be renewed. The renewal process shall follow the same procedures as for an original special permit application.

#### **§ 126-374. Administration and enforcement.**

- A. Zoning Officer. The responsibility for the administration and enforcement of the provisions of this article are assigned to the Zoning Officer.
- B. Application form. An application for a home occupation permit, amendment, renewal or extension thereof shall be upon a form prescribed by the Zoning Officer and accompanied by a fee of \$25 per annum. If the Zoning Officer shall find the application in order and the home occupation and premises to be in conformity with the provisions of this article, the Zoning Officer shall forthwith issue a special permit therefor.
- C. Inspections. The Zoning Officer, in the exercise of reasonable discretion may inspect the premises if such Officer deems it necessary in light of the documentation submitted or other information received but is not required to inspect the premises for every application. If the Zoning Officer should determine that such application is questionable or that it should be denied because the requirements of this article have not been met, such Officer shall deny the application and provide the applicant with a

statement of reasons for such denial.

- D. Interpretation. The issuance of a permit under the provisions of this article shall not constitute a commitment or assurance that the permit will be renewed or extended or that any renewal or extension will be on the same terms and conditions as the original permit.
- E. Construction. The issuance of a special permit for home occupations as provided herein shall not be construed as permitting or authorizing any construction or site plan revision.
- F. Violations. When the Zoning Officer has reasonable cause to believe that any holder of a special permit for home occupations may be in violation of the terms of the provisions of this article or of the terms of such special permit for home occupations, the Zoning Officer shall conduct such investigation as may be warranted by the circumstances, including an inspection of the premises and, upon finding of a violation, may direct that the violations be corrected within a period of 30 days. If such violations remain uncorrected upon the expiration of that 30 days, the Zoning Officer may revoke any such permit.
- G. Appeals. Within 30 days of the denial of a permit or of the revocation of a permit, the applicant may appeal the Zoning Officer's decision to the Board of Adjustment, which may conduct such hearing as it may deem appropriate and affirm or reverse the decision of the Zoning Officer.
- H. Prosecution. Upon reasonable cause to believe that any person is in violation of the terms of this article by conducting a home occupation without a valid permit, the Zoning Officer shall issue a warning citation to the person and, if such violations shall be uncorrected for a period of thirty days thereafter, shall file a complaint to be prosecuted by the Municipal Prosecutor in the Municipal Court.
- I. Reports. The Zoning Officer and the Board of Adjustment shall annually report to the Township Council on all activities within the scope of this article and shall, from time to time as necessary, recommend any changes that may be appropriate to this article to accomplish its purposes.
- J. Board of Adjustment review. Any person aggrieved by the issuance of a home occupation permit or by the operation of a home occupation may apply for a hearing and review before the Board of Adjustment.

#### **§ 126-375. Violations and penalties.**

Any person, firm or corporation who shall knowingly violate any provision of this Part 14 shall, upon conviction, be subject to a fine of not more than \$500 or imprisonment for not more than 90 days, or to both such fine and imprisonment in the discretion of the court. Each day that a violation exists shall constitute a separate and distinct offense.