



To: Hampden Planning Board  
From: Dean Bennett, Director of Community and Economic Development  
Subject: Home Occupations  
Date: November 9, 2015

The Planning Board Ordinance Committee reviewed and discussed proposed changes to the Home Occupation provisions of the Zoning Ordinance at their October 14, 2015 meeting. As a result of these discussions, the Committee requested that staff include provisions which require abutter notification and opportunity to request a public hearing in cases where the Code Enforcement Officer elects to act upon the application rather than forward to the Planning Board.

Those provisions have been drafted and included in the attached draft for Planning Board consideration.

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be enacted.

Additions underlined

Deletions ~~stricken~~

**4.10. Home Occupation Permits** - A home occupation permit shall be granted to a person or corporation and is not granted to run with the land nor is the permit transferable to a subsequent owner or renter. Applicants shall demonstrate that they have adequate right, title and interest in a property in order to apply for a home occupation. Where home occupations are expressly prohibited by deed restriction, lease, subdivision covenant and or subdivision plan condition the Planning Board/Code Enforcement Officer shall find that the applicant lacks adequate right, title or interest to grant a home occupation permit. Application for a home occupation permit shall include a plan in accordance with *Article 4.1.9, Site Sketch*. If new construction is proposed the requirements of *Article 4.1., Site Plan Review* shall be met in addition to the requirements of *Article 4.10 Home Occupation Permits*.

**Upon receipt of a complete application, the Code Enforcement Officer may, at his discretion, act upon the application or forward to the Planning Board for consideration.**

**If the Code Enforcement Officer elects to act upon the application, a decision may not be rendered until such time that the applicant provides evidence of abutter notification. The notification shall include a description of the proposed activity and a “Home Occupation Public Hearing Request Form”, provided by the Code Enforcement Officer, which may be submitted to the Code Enforcement Office within 10 days of receipt by the abutter.**

**If a such a Public Hearing is requested by an abutter, the Code Enforcement Officer will direct the application to the Planning Board for consideration. If a request for Public Hearing is not received within 10 days of receipt by the abutter, the Code Enforcement Officer may render a decision on the application.**

All home occupations shall be planned, operated and maintained according to the following standards: (*Amended: 03-21-05*)

**4.10.1. Employees** - A home occupation shall be conducted by a member or members of the immediate family occupying the dwelling unit. There shall be no more than one person employed who does not reside on the premises.

**4.10.2. Incidental and Subordinate** - To insure that the character of the neighborhood is not transformed from one which is primarily residential, the home occupation shall be clearly

incidental and subordinate to the use of the dwelling place as a place of residence. The home occupation shall be carried on wholly within the principal residential or accessory structure on the premises. If carried on within the principal residential structure, it shall not occupy more than thirty (30%) percent of the floor area. If the home occupation is carried on within an accessory structure the total floor area dedicated to the home occupation use shall not exceed fifty (50%) percent of the total finished floor area of the principal residential structure. Home occupations shall not utilize outdoor storage or display. (*Amended: 02/06/84, 03-21-05*)

**4.10.3. Appearance and Performance Standards** - In no way shall the appearance of the structure or the premises be altered or the occupation within the residence be conducted such that the structure or premises differs from its residential character by use of colors, materials, premises layout, construction or lighting. Temporary garages, instant garages or portable garages constituted of a metal or wooden frame and a tarpaulin-like canvas or vinyl cover do not satisfy the requirements of this section. The proposed home occupation shall not be overtly evident from beyond the property line of the subject premises except for the presence of a sign and customer or client parking. Home occupations shall not cause sound, noise, odors, dust, gas, fumes, smoke, light or other dangerous emissions discernable or detectable from beyond the property line of the subject property. In addition, no home occupation shall be allowed which creates a fire hazard to the premises or neighboring premises or which creates electrical interference such that it causes visual or audible interference in any radio or television receivers off the premises. The applicant shall demonstrate that the proposed home occupation will not interfere with the peaceful use and enjoyment of residential properties located in the area of the proposed use. (*Amended: 03-21-05*)

**4.10.4. Signs and Advertising** - Permitted: one (1) unlighted, unreflective sign no greater than four (4) square feet located on premises only. Off-premises Official Business Directional Signs, as defined in *23M.R.S.A. section 1903*, are prohibited. Newspaper, radio, T.V. or telephone listing advertising may be used to the extent that *Articles 4.10.5 and 4.10.6* are not violated. (*Amended: 11-05-90, 03-21-05*)

**4.10.5. Traffic and Parking** - The proposed site layout shall provide for safe ingress and egress to and from public and private roads by providing adequate sight distances and minimal turning conflicts with roads and driveways. Provision shall be made available for vehicles to turn around on the premises. Off-street parking which includes no more than three (3) spaces located in the front yard shall be provided for all expected customer/clients of the home occupation. No home occupation shall be approved or allowed to operate if it generates more than an average of ten (10) auto trips by customer/clients in any one day. (*Amended: 03-21-05*)

~~**4.10.6. Commercial Vehicles** - No commercial vehicles in excess of three quarter (3/4) ton capacity shall be used by a home occupation for the delivery of materials to and from the premises and no commercial vehicles in excess of three quarter (3/4) ton capacity shall be parked on or about the premises.~~

**4.10.7. Utilities and Public Facilities** - There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes. (*Amended: 03-21-05*)

**4.10.8 Additional Conditions Necessary for Approval of Home Occupations.** If in the judgment of the Planning Board/Code Enforcement Officer additional improvements or safeguards are necessary in order to make a proposed home occupation safe, sanitary or less intrusive in a neighborhood the Board/Officer may place conditions on the approval of the home occupation that further limit the operation of the business, provide for screening or bufferyards or improve traffic safety. *(Amended: 03-21-05)*

**4.10.8. Alterations to Land and Buildings of Previously Approved Home Occupations.** If additions or alterations have been constructed, or are proposed for construction to primary use residences or to accessory use buildings which in the opinion of the Code Enforcement Officer significantly alter a Planning Board/Code Enforcement Officer approved home occupation, the Code Enforcement Officer shall require that the home occupation use seek a revision from the permit issuing authority. In order to determine if the alterations or additions alter the approved Home Occupation the Code Enforcement Officer shall review the municipal documents on file including the minutes of the Board meeting at which the Home Occupation was approved, and/or permit conditions stipulated by the Code Enforcement Officer. The Code Enforcement Officer shall not issue a building permit or certificate of compliance for such additions or alterations that have not received a Home Occupation permit approval unless the applicant surrender the home occupation permit and or conditional use/site plan home occupation use approval in writing. *(Amended: 03-21-05)*

**4.10.9. Discontinuation and Abandonment of a Legacy Home Occupation.** If a home occupation, created under the provisions of the Ordinance prior to January 1, 2005, has been discontinued or abandoned for a period of 12 months the home occupation use may not be re-established without first receiving a Home Occupation Permit under the provisions of *Article 4.10* of this ordinance. The Code Enforcement Officer shall have authority to issue a determination that the use has been discontinued or abandoned for a 12-month period. *(Amended: 03-21-05)*