



Town of Hampden  
Planning Board Ordinance Committee  
Tuesday January 17, 2017, 6:30 pm  
Municipal Building Conference Room  
**Agenda**

1. Zoning Ordinance Amendment – Home Occupations
2. Status of other amendments
3. Adjournment

Proposed Home Occupation language:

- 4.10 Use of Residence for Business Purposes. There are three categories of businesses (including professions and trades) that may be conducted in or at a residence (dwelling) as an accessory use: a home business, a customary home occupation, and a home based contractor.
- 4.10.1 Home Business — A business, profession, or trade which is conducted by a resident of the premises entirely within the residence or an accessory building, and does not involve more than occasional business vehicular traffic to the property. Examples include but are not limited to artists, desktop publishers, software developers, craftsmen, contractors who only operate an office at the home, and people who work at home and conduct business by mail or electronic communication (including employees who telecommute). Home businesses are subject to the provisions of §4.10.4 and §4.10.5 below.
- 4.10.2 Customary Home Occupation — A business, profession, or trade which is conducted by a resident of the premises entirely within the residence or an accessory building, and involves an increase in traffic for clients, customers, patients, associates, or employees. Examples include but are not limited to lawyers, accountants, beauticians, professional consultants (such as mental health, design, and real estate), and small retail businesses not exceeding 300 square feet GFA. Customary Home Occupations are subject to the provisions of sections 4.10.4 and 4.10.6 below.
- 4.10.3 Home Based Contractor — A business which is conducted by a resident of the premises accessory to a residential use, but not entirely enclosed within the residence or one or more accessory buildings. Examples include but are not limited to building, plumbing, electrical, cabinetry, landscaping, and other similar contractors who perform their work off-site but use the residence as a base of operations including an office and small scale storage of equipment and materials. This category is meant to serve the needs of small businesses with limited space needs, with the expectation that once the business has grown to a larger size it will be moved to a more appropriate location in a commercial or industrial district. Home Based Contractors are subject to the provisions of sections 4.10.4 and 4.10.7 below.
- 4.10.4 General Requirements.
- 4.10.4.1 The activity must be operated by residents of the dwelling unit.
- 4.10.4.2 The activity must be clearly incidental and secondary to the primary use of the premises as a residence.
- 4.10.4.3 There shall be no window displays or other features not normally associated with residential use.
- 4.10.4.4 If carried on within the principal residential structure, the activity shall not occupy more than thirty (30%) percent of the floor area. If carried on within an accessory structure the total floor area dedicated to the business use shall not exceed fifty (50%) percent of the total finished floor area of the principal residential structure.

- 4.10.4.5 The activity 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, beyond that which is normally associated with residential use. In addition, no business activity 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 business activity will not interfere with the peaceful use and enjoyment of residential properties located in the area of the proposed use.
- 4.10.4.6 No commercial vehicles in excess of 34,000 pounds gross vehicle weight (GVW) shall be used for the delivery of products, foods, or materials to and from the premises.
- 4.10.4.7 A permit shall be granted to the property (i.e. it shall “run with the land”); however the permit granting authority shall have the option to set a condition restricting the permit to the applicant or landowner in certain cases when appropriate.
- 4.10.4.8 Approved permits shall be recorded at the Penobscot County Registry of Deeds within 30 days of issuance or prior to any related building permit being issued.
- 4.10.5 Home businesses are permitted in all zoning districts without need for a special permit, but must conform to the following provisions in addition to those listed in section 4.10.4 above:
  - 4.10.5.1 The business must be conducted entirely within the residence or an accessory building.
  - 4.10.5.2 The activity must not change the character of the premises or surrounding neighborhood.
  - 4.10.5.3 No non-resident employees are permitted on site.
  - 4.10.5.4 There shall be no exterior display of products, no exterior storage of materials or equipment used solely for the business, no exterior parking of business vehicles or equipment, and no other variation from the residential character of the premises other than a sign in conformance with §4.8, Signs. This section shall not prohibit the exterior parking of personal vehicles or equipment (not used for the business).
  - 4.10.5.5 The business shall not generate traffic that is inconsistent with the traffic associated with a residential use, either in quantity or type.
- 4.10.6 Customary Home Occupations are permitted in all zoning districts by conditional use permit, if in compliance with the following provisions in addition to those listed in section 4.10.4 above:
  - 4.10.6.1 The business must be conducted entirely within the residence or an accessory building.
  - 4.10.6.2 Not more than two non-resident people shall be employed in the business at the site.

- 4.10.6.3 There shall be no exterior display of products, no exterior storage of materials or equipment used solely for the business, no exterior parking of business vehicles or equipment, and no other variation from the residential character of the premises other than a sign in conformance with §4.8, Signs. This section shall not prohibit the exterior parking of personal vehicles or equipment (not used for the business).
- 4.10.6.4 No home occupation shall be approved or allowed to operate if it generates more than twenty (20) auto trips by customer/clients in any one day.
- 4.10.6.5 The business shall not necessitate more than four parking spaces for clients, customers, patients, non-resident employees, or other business related demands. Required parking must be accommodated off-street, and new parking areas must be screened from the view of abutters and from public ways (streets or pedestrian ways) utilizing vegetation, fencing, and/or topography. To the extent practical, parking areas should be located at the side or rear of the residence or accessory buildings.
- 4.10.6.6 No commercial vehicles in excess of 34,000 pounds gross vehicle weight (GVW) shall be used for the delivery of products, foods, or materials to and from the premises.
- 4.10.7 Home Based Contractors are permitted by conditional use permit, if in compliance with the following provisions in addition to those listed in section 4.10.4 above:
- 4.10.7.1 The parcel on which the business is operated is within the Rural district.
- 4.10.7.2 The parcel must be a minimum of two acres in size.
- 4.10.7.3 Not more than eight vehicles associated with the business (maximum of four construction equipment such as loader/backhoe, skidder, etc.) shall be parked at the site at any given time, including employee vehicles and construction vehicles, but excluding personal vehicles not typically used for the operation of the business.
- 4.10.7.4 The activities related to the business may be conducted in part outdoors, but all such activities, equipment, and storage shall be substantially and permanently screened from the view of abutters and from public ways by buffers such as vegetation, fences, and/or topography.
- 4.10.7.5 No more than 25% of the parcel, exclusive of areas covered by buildings, shall be used for business activities, including outdoor storage or parking.
- 4.10.7.6 The total square footage of buildings used for storage or garaging of vehicles or equipment associated with the business shall be no greater than 2,000 square feet. This shall not be construed to mean that a greater number of vehicles may be parked at the site than is permitted above.
- 4.10.7.7 The Planning Board shall take into consideration the road network serving the proposed business location in regard to safety of the residents of the vicinity and the types of vehicles to be used by the business, including delivery trucks, and the projected number of trips to and from the site each day.

#### 4.10.8 Application Procedure

- 4.10.8.1 Applicants for a Home Business shall submit a request to the Land & Building Services office on the form provided, for review by the Code Enforcement Officer. If the he/she determines that the proposed business meets the criteria of this category, then he/she shall sign the form stating that the proposed home business does not require approval under sections 4.10.6 or 4.10.7 (i.e. a conditional use permit is not required).
- 4.10.8.2 Applicants for a Customary Home Occupation or a Home Based Contractor shall submit an application for a conditional use permit to the Land & Building Services office. A sketch plan as described in section 4.1 shall be submitted along with the application form.
- 4.10.8.3 Applicants shall demonstrate that they have adequate right, title and interest in a property in order to apply for a Home Business, Customary Home Occupation, or Home Based Contractor.
- 4.10.8.4 Conditions Necessary for Approval of Customary Home Occupation or Home Based Contractor. If in the judgment of the Planning Board additional improvements or safeguards are necessary in order to make a proposed business safe, sanitary or less intrusive in a neighborhood the Board may place conditions on the approval that further limit the operation of the business, provide for screening or buffer yards, or improve traffic safety. (Amended: 03-21-05)

#### 4.10.9 Previously Approved Home Occupations

- 4.10.9.1 If additions or alterations have been constructed or are proposed for construction to residences or accessory buildings, which in the opinion of the Code Enforcement Officer significantly alter a Planning Board approved Home Occupation, the Code Enforcement Officer shall require that the owner of the home occupation seek a new permit from the Planning Board. 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. (Amended: 03-21-05)

[end]

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The following changes were made from version 1:

- Moved truck size limitation to just home businesses and customary home occupations (i.e. doesn't apply to home based contractors).
- Increased allowable truck size to 34,000 lbs GVW (two axle weight limit in Maine and on interstate highways).
- Deleted sign provisions as they are in section 4.8 (same as what was in 4.10; don't want to repeat it).
- Changed language on traffic generation to be consistent with residential use (not single family residence).
- Changed language so permit runs with the land but allows permit granting authority (CEO or PB) to include a condition that limits it to the applicant (or property owner).
- Moved language regarding changing character of the neighborhood to home businesses and customary home occupation sections (i.e. doesn't apply to home based contractors).
- Deleted language from §4.10.9.1 (see below) that we couldn't figure out regarding CEO not issuing a building permit for additions when done after a home occupation permit was approved. After discussing with Myles Block, the decision was made to delete it since the CEO cannot refuse to issue a building permit for such additions based on the premise that its for the home occupation since it is to a residential property. The property owner could simply state it is not for the business. The CEO can, however, advise the applicant to seek a modification to the home occupation permit if he's got reasonable evidence that the addition is for the business and not residential use.
  - "The Code Enforcement Officer shall not issue a building permit or certificate of compliance for such additions or alterations that have not received Planning Board Home Occupation permit approval unless the applicant surrender the home occupation permit and or conditional use/site plan home occupation use approval in writing."

The following changes were made from version 2:

- Added §4.10.4.8 to require that permits be recorded at the registry of deeds.
- Deleted §4.10.9.2 regarding discontinuation and abandonment of legacy home occupations.

*Note: a redlined version will be created once the language of the new section is finalized.*