

16-6.7 Home Occupations.

- a. *Purpose and Findings.* The following provisions are intended to permit the limited use of single-family residential properties in Montgomery Township as the location for a business conducted in or from a single-family detached dwelling unit and/or its permitted accessory buildings or structures, which business is clearly subordinate and ancillary to the principal single-family residential use of the property in accordance with the requirements specified herein.

The requirements and other provisions contained in this subsection are specifically intended to limit the extent of such home occupations and the potential associated nuisances such as traffic, noise, fumes, dust, glare and odors in order to ensure that the residential character of the residential neighborhood within which the subject property is located is preserved, and that no adverse impact to adjacent and/or nearby residential properties occurs.

In the instance where an existing **home occupation** does not conform to the requirements and other provisions specified herein, the Planning Board, in evaluating a development application for the existing **home occupation**, shall give due consideration as to whether the intent and purpose of this subsection are advanced, even though the precise dimensional or numerical requirements are not met. For example, in the event existing structures violate a setback requirement, it may be appropriate to consider increased buffering or screening. However, no provision of this subsection is intended to afford the Planning Board additional powers not sanctioned by the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.).

- b. *Lot Area, Frontage and Location.*
1. Home occupations, including family day care homes and child care residences, shall be a permitted accessory use to a single-family detached dwelling in the VN, R, R-1, R-2, R-5 and MR Zoning Districts.
 2. The minimum lot size shall be as specified in the Traffic Circulation Plan Element and this chapter for the construction of a single-family detached dwelling in the subject zoning district.
 3. The minimum frontage of the lot shall be as specified in the Traffic Circulation Plan Element and this chapter for the construction of a single-family detached dwelling in the subject zoning district and fronting upon the particular type of collector road.
- c. *Owner and Employees.*
1. An owner of the **home occupation** shall be the owner and resident of the subject property and the single-family detached dwelling situated thereon.
 2. No more than one (1) nonresident employee of the **home occupation** shall come to the site on any given day for any purpose.
 3. Clients, patrons or customers shall be permitted on the property in regards to the **home occupation**, provided that:
 - (a) Such visitation shall occur during daylight hours only;
 - (b) Such visitation shall not create the need to park more than two (2) vehicles at any time in addition to those ordinarily used by the residents of the single-family detached dwelling unit; and

- (c) Such visitation shall not create the need to park anything other than passenger auto-mobiles, and such passenger automobiles shall be able to be parked off-street on the subject property.

None of the above shall be interpreted to prohibit any person from coming onto the property who might otherwise come to the property on similar occasions and for similar reasons in association with the single-family detached dwelling unit.

d. *Use and Type of Buildings.*

- 1. The **home occupation** may utilize a portion of the principal single-family detached dwelling unit and/or one or more secondary buildings or structures which are accessory to the principal single-family detached dwelling unit, provided that all of the following three (3) provisions are met:
 - (a) No more than twenty-five (25%) percent of the net habitable floor area of the single-family detached dwelling or one thousand (1,000) square feet, whichever is less, may be utilized for the **home occupation**;
 - (b) Within the single-family detached dwelling and any accessory building or structure on the property, no more than an aggregate one thousand (1,000) square feet of gross floor area may be utilized for the **home occupation**; and
 - (c) The aggregate gross square footage of all portions of all accessory buildings and structures utilized for the **home occupation** shall not exceed fifty (50%) percent of the gross floor area of the principal single-family detached dwelling.
- 2. Any proposed accessory building or structure to be newly constructed for the use of a **home occupation** shall not exceed one thousand (1,000) square feet of lot coverage nor exceed twenty-five (25) feet in height, and no garage door opening shall exceed twelve (12) feet in height. Moreover, any such newly constructed accessory building or structure shall be of a residential character and shall have a gable, hip, gambrel or mansard roof (or other dual pitched, single ridge roof); no flat or lean-to roof shall be permitted.

e. *Lot Coverage, Setbacks and Buffers.*

- 1. The maximum lot coverage of the property otherwise permitted for single-family detached dwellings in the subject zoning district shall not be exceeded (i.e., twenty-five (25%) percent for the R District; twenty (20%) percent for the VN District; fifteen (15%) percent for the R-1, R-2 and R-5 Districts; and ten (10%) percent for the MR District).
- 2. All setback requirements specified for single-family detached dwellings and their accessory buildings and structures in the subject zoning district shall apply.
- 3. Any parking area associated with the **home occupation**, including the parking area for the aforementioned one (1) nonresident employee and any clients, patrons or customers, shall be appropriately screened from the view of adjacent residential properties and the traveling public along any abutting street. Additionally, any accessory building or structure utilized for the **home occupation** also may be required to be similarly screened, dependent upon the location and appearance of the particular accessory building or structure.

f. *Equipment and Trucks.*

- 1. No equipment shall be used which will cause interference with radio or television reception in neighboring residences.

2. No merchandise, products, waste, equipment or similar material or objects shall be displayed, stored or otherwise located outdoors, except that the presence of children or customary residential recreational facilities shall be permitted in conjunction with a family day care home or child care residence and except where otherwise permitted by this chapter.
3. Vehicles and equipment associated with the **home occupation** permitted on the property shall be limited to:
 - (a) The noncommercially registered passenger vehicles owned and used by the residents of the single-family detached dwelling unit;
 - (b) The noncommercially registered passenger vehicles used by the permitted one (1) nonresident employee who comes to the site; and
 - (c) Commercially licensed vehicles (e.g., cars, trucks, and other types of self-propelled road licensed motorized equipment) and/or other pieces of equipment (nonself-propelled, or self-propelled and not road licensed, but excluding push lawnmowers and other hand held pieces of equipment) shall be permitted as conditional uses under N.J.S.A. 40:55D-67 subject to the following conditions:
 - (1) No more than an aggregate total of two (2) such commercially licensed vehicles and/or pieces of equipment shall be permitted;
 - (2) No commercially licensed vehicle shall exceed a rated capacity of one (1) ton on six (6) wheels with two (2) axles;
 - (3) No piece of equipment shall exceed a gross vehicle weight of four (4) tons; and
 - (4) All pieces of equipment and all commercially licensed vehicles shall be garaged on-site when not in use.

Any variance from these conditions must be granted by the Township Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-70d.(3). However, a vehicle/equipment permit allowing specified deviation(s) from the provisions of this subsection regarding the number, size and/or garaging of commercially licensed vehicles and/or pieces of equipment may be granted by the Planning Board simultaneously with the granting of minor site plan approval, provided that the vehicle/equipment permit shall be subject to reinstatement, modification or withdrawal at the time of the annual renewal permit and inspection process as indicated in subsection 16-6.7k. of this chapter hereinbelow.

g. On-Site Chemical Storage and Disposal.

1. Hazardous chemicals, pesticides and petrochemicals must be stored in noncorrosive containers secured from animals and children.
2. The cleaning of containers (e.g., drums, tanks and motor vehicles) which were used to store or transport hazardous chemicals, pesticides or petrochemicals is prohibited on the residential property.
3. Any spill of hazardous chemicals, pesticides or petrochemicals must immediately be reported to the Township Board of Health and the New Jersey Department of Environmental Protection and Energy and removed in accordance with State laws.
4. Any **home occupation** utilizing hazardous chemicals, pesticides, petrochemicals or flammable materials must supply the Township reviewing agency or officer

with a list of such chemicals, their storage location, and the method of their disposal at the time of plan review. The storage and disposal of such substances shall be in accordance with all applicable governmental laws and regulations.

h. *Additional Requirements.*

1. The residential character of the lot and building(s) shall be maintained at all times and all structures shall be maintained in good repair.
2. A **home occupation** shall operate only between the hours of 7:00 a.m. and 7:00 p.m. on Mondays through Fridays and on Saturdays between the hours of 8:00 a.m. and 4:00 p.m.; the **home occupation** shall not operate on Sunday except for emergency purposes.
3. No sign other than an unlighted nameplate no more than two (2) square feet in area attached to a postal box in a usual manner shall be permitted.
4. No exterior lighting shall be permitted specific to the **home occupation**.

i. *Township Review Requirements.* The necessity and type of Township review of an application for a **home occupation** is dependent upon the specifics of the employees associated with the **home occupation**, the specific use of the single-family detached dwelling and/or its accessory buildings or structures for the **home occupation**, the specific activities associated with the **home occupation**, and the clients, patrons, or customers which are expected on the property as a result of the **home occupation**:

1. No site plan approval or zoning permit shall be required for any **home occupation** if all of the following conditions apply:
 - (a) If no person other than one (1) member of the household residing on the premises is engaged in the **home occupation**;
 - (b) If no area within the single-family detached dwelling and/or its accessory buildings or structures is dedicated solely for the conduct of the **home occupation**;
 - (c) If no goods, materials, equipment, supplies or other items of any kind are delivered to or from the subject property in connection with the **home occupation** except in the permitted vehicle(s) owned by the resident employee;
 - (d) If no clients, patrons or customers come onto the property in regards to the **home occupation**; and
 - (e) If all other provisions regarding home occupations in this subsection are met, with no variance from the provisions of this subsection or vehicle/equipment permit required.
2. A zoning permit shall be required for any **home occupation** if all of the following conditions apply:
 - (a) If no person other than up to two (2) members of the household residing on the premises are engaged in the **home occupation**;
 - (b) If no more than two hundred (200) square feet of net habitable floor area within the single-family detached dwelling, and no area within its accessory buildings or structures, is dedicated solely for the conduct of the **home occupation**;
 - (c) If no goods, materials, equipment, supplies or other items of any kind are delivered to or from the subject property in connection with the **home occupation** except in the permitted vehicle(s) owned by the resident

employee or in a service or delivery vehicle not having more than four (4) wheels and two (2) axles; and

- (d) If all other provisions regarding home occupations in this subsection are met, with no variance from the provisions of this subsection or vehicle/equipment permit required.
3. Minor site plan approval from the Planning Board shall be required for all other applications for a **home occupation** in accordance with the following and all applicable provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.):
- (a) Public notice for any hearing of the minor site plan by the Planning Board shall be required in accordance with subsection 16-7.6d. of this chapter;
 - (b) An applicant for a **home occupation** requiring minor site plan approval shall appear before either the designated Site Plan Committee or a Committee specially designated by the Planning Board to review applications for home occupations;
 - (c) The Community Development Office shall complete the initial review of the submitted application and provide comments and recommendations to the Committee;
 - (d) Where the application involves variances or raises traffic, planning, landscaping, or environmental concerns, the Director of Community Development may request other consultants of the Planning Board to review the submitted application and provide comments and recommendations thereon to the Committee;
 - (e) Upon completion of its review of the submitted application, the Committee shall offer its recommendations to the Planning Board;
 - (f) The Planning Board shall approve the application, with specific conditions and limitations if appropriate, or shall deny the application; and
 - (g) Any change to the **home occupation** that results in any change to the site design and physical appearance of the subject property from that which was last approved by the Planning Board shall require new site plan approval from the Planning Board.
- j. *Information Required for Home Occupations Requiring Minor Site Plan Approval.*
- 1. Application form: (fifteen (15) copies).
 - 2. Plans: (fifteen (15) copies) which need not be prepared by a Licensed Professional Land Surveyor (N.J.P.L.S.) or Licensed Professional Engineer (N.J.P.L.E.), provided that the information required by this chapter for home occupations is clearly shown, is drafted upon a previously prepared survey of the subject property, and is reproducible for record keeping purposes.
 - 3. Township Zoning Map on which the subject property has been identified.
 - 4. Acreage figures, north arrow, and approval signature lines.
 - 5. Existing block and lot number(s) of the subject lot(s) as they appear on the Township Tax Map.
 - 6. Photographs (two (2) sets) from perimeter of property into subject site, with a sketch indicating from where the photographs were taken.
 - 7. Photographs (two (2) sets) from perimeter of property into adjacent sites, with a sketch indicating from where the photographs were taken.

8. The location of existing and proposed structures, parking areas and driveways on the site.
 9. The zoning district(s) within which the property is located, including a listing of the requirements for single-family detached dwelling units.
 10. Existing vegetation on-site and proposed landscaped areas.
 11. Floor plans of existing and proposed buildings and structures on-site, with a clear delineation and square footage calculation of the portion of each to be used for the **home occupation**.
 12. The net habitable floor area of the principal single-family detached dwelling and the gross floor area of each accessory building and structure on-site.
 13. Existing and proposed building and lot coverage of the property.
 14. Proposed hours of operation.
 15. Existing and proposed lighting on the property.
 16. Existing and proposed signage on the property.
 17. Number of employees engaged in the **home occupation** on the subject property, indicating on-site resident employees and nonresident employees.
 18. An identification and description of all vehicles and pieces of equipment (e.g. type and size) on the property at any time used for the **home occupation**, with an identification of which vehicles will be garaged on-site and where such vehicles will be garaged.
 19. A brief narrative description of the **home occupation**, indicating any delivery or pick-up services, equipment or merchandise used, nature of activity, products and/or clientele, the nature of sounds emitted from site, and a description of any equipment that may cause interference with radio or television reception.
 20. The names of all adjacent property owners as they appear on the most recent tax list prepared by the Township Tax Assessor.
 21. Administrative and escrow fees for minor site plans paid in accordance with subsection 16-9.1 of this chapter.
 22. Certificate from the Township Tax Collector that all taxes and assessments are paid to date.
 23. Affidavit of property ownership.
 24. Name, address and telephone number of homeowner.
 25. Name, title, address and license number of any professional who prepared the plan.
- k. *Annual **Home Occupation** Site Plan Certification.* In order for a **home occupation** which required minor site plan approval to be considered conforming to the approved site plan, a **home occupation** site plan certification shall be required each year in accordance with the following:
1. Between January 1st and March 31st of each year following the year in which site plan approval has granted, the owner/resident of the **home occupation** shall file a written request for a **home occupation** site plan certification from the Director of Community Development, except that a **home occupation** site plan certification shall not be required within six (6) months of site plan approval;

2. A fifty (\$50.00) dollar fee shall be charged by the Township for the processing of the **home occupation** site plan certification request;
3. Within thirty (30) days after the request is filed, it shall be the duty of the Community Development Director or his designated representative to conduct an announced inspection of the subject property with the owner/resident for the purpose of confirming that the uses, structures and operations associated with the **home occupation** conform to the site plan last approved by the Planning Board;
4. Prior to the inspection, the Community Development Director shall consult the Township Zoning Officer to ascertain whether any written and signed objection regarding the **home occupation** was received by the Township from a property owner within four hundred (400) feet of the subject site since the last issuance of a **home occupation** site plan certification or the date of minor site plan approval, whichever date is more recent;
5. If the Director of Community Development finds that the uses, structures and operations associated with the **home occupation** conform to the site plan last approved by the Planning Board and no written and signed objection regarding a vehicle/equipment permit has been received by the Township from a property owner within four hundred (400) feet of the subject site, a **home occupation** site plan certification shall be issued within ten (10) days after the site inspection;
6. If the Director of Community Development finds that the uses, structures and/or operations associated with the **home occupation** do not conform to the site plan last approved by the Planning Board, notice in writing of any nonconformity shall be sent to the owner/resident within ten (10) days after the site inspection:
 - (a) Said notice also shall specify a reasonable time period, depending upon the nature of the nonconformities, within which the owner/ resident must bring the **home occupation** into conformity with the last approved site plan.
 - (b) The resident/owner shall eliminate the nonconformities within the time period specified by the Director of Community Development and, and at the conclusion of said time period, the Director of Community Development shall reinspect the site and shall issue a **home occupation** site plan certification if the nonconformities have been eliminated.
 - (c) If the nonconformities are not eliminated within the specified time period or if repeated nonconformities to the approved site plan occur, the Director of Community Development may take whatever action is necessary to correct the violation including, but not limited to, the filing of complaints in Municipal Court or the initiation of an injunctive action to compel elimination of the nonconformities.
7. If the Director of Community Development finds that the uses, structures and/or operations associated with the **home occupation** are in conformity with the site plan last approved by the Planning Board, but a written and signed objection regarding a vehicle/equipment permit previously granted by the Planning Board has been received by the Township from a property owner within four hundred (400) feet of the subject site, the following procedure shall be followed:
 - (a) The objection(s) shall be brought to the attention of the owner/resident by the Community Development Director or his designated representative during the inspection of the subject property; and
 - (b) The owner/resident shall be required to appear before the Planning Board at the next scheduled meeting which has time available, and the Planning

Board shall decide either to renew the vehicle/equipment permit, not renew the vehicle/equipment permit, or require the owner/resident to modify the site plan as appropriate.

In deciding whether to renew the vehicle/equipment permit, the Planning Board shall consider the potential nuisances associated with the deviation(s) included within the vehicle/equipment permit from the requirements of subsection 16-6.7f.3(c) hereinabove governing commercially licensed vehicles and pieces of equipment. The potential nuisances to be considered by the Planning Board are to include, but not be limited to, traffic, noise, fumes, dust, glare and odors.

8. In addition to the authorities and responsibilities of the Director of Community Development noted hereinabove, whenever a written and signed objection regarding a **home occupation** has been received by the Township from a property owner within four hundred (400) feet of the subject site, and the objection pertains to the conduct of the **home occupation** rather than to an alleged nonconformity with the approved site plan or to a vehicle/equipment permit, it shall be the duty of the Director of Community Development to attempt to have the owner/resident take whatever reasonable action is necessary to eliminate or lessen the reason for the objection.
(Ord. #92-759, S 8; Ord. #01-1050, S 8)