

Memorandum:

To: Pomfret Planning and Zoning Commission

Date: February 22, 2008

From: James D. Rabbitt, AICP, Town Planner

Re: Text Amendment (Home Based Businesses)

Per your request, I have attached the proposed text amendments regarding home based business.

Jamie.

Proposed Text Amendment

Insert the Following new language (special permit):

SECTION 4.2 Rural Residential District

Add - Home Based Business to Special Permit uses (number appropriately).

SECTION 5.2: Pomfret Street Residential District

Section 5.2

Add - Home Based Business to Special Permit uses (number appropriately)

Proposed new language to be added to Section 12 – Supplementary Regulations:

12.17 Home Based Business

The use of a portion of a dwelling or out-building(s) for business purposes by the resident occupants when clearly incidental and secondary to the residential use of the dwelling (such as a home office or a home occupation) involving no more than two (2) non-resident employees or involving regular visitors and/or trips to and from the business. *(This definition includes, but is not limited to, the office, studio or workshop of an architect, artist, contractor, computer or Internet-based business, dentist, dressmaker, economist, engineer, insurance agent, lawyer, logger, musician, photographer with no chemical development on site, physician, psychologist, real estate broker, serviceman or a dwelling used for preserving or cooking for compensation. Such uses as restaurants, tearooms, funeral homes, barbershops, beauty parlors, dancing schools, and animal hospital are not considered incidental and accessory to a residential use and shall not be deemed a home-based business).*

The Commission shall approve home based business permits only under the following conditions:

- 12.17.1 The activity shall be clearly secondary to the use of the premises for dwelling purposes. When conducted within a dwelling, it shall occupy no more than twenty-five percent of the floor area of the dwelling, exclusive of any garage, attic or basement. The business shall be deemed to be a component of the overall residential use and shall not be deemed to be a separate non-residential use. No permanent dedication of the residential structure to non-residential uses shall result from such accessory use(s). No significant alteration of or addition to a dwelling may be made to accommodate a business meeting the criteria of a special permit.
- a. The activity may be located in an accessory building. The square footage of the business in an accessory building shall occupy no more than fifty (50) percent of the floor area of the dwelling, exclusive of any garage, attic or basement and the total for such area shall not exceed 1,000 square feet. Except, the Commission may by a $\frac{3}{4}$ vote of the Commission's entire membership, allow up to an additional 500 square feet, beyond the 50% as detailed above, when additional square footage is designed to preserve and maintain the single-family residential appearance of the subject lot and be consistent with the single-family character of the neighborhood. However, the total square footage of a home business in an accessory building shall not exceed a total of 1,500 square feet per parcel of land,
- 12.17.2 The activity shall not change the residential character of the property or neighborhood in any substantial manner, except as may be expressly allowed by the Commission. There shall be no mechanical or structural fabrication or assembly of any products or items unless that operation occurs entirely within a building, except that which is incidental to the provision of a permitted service or as detailed in Section 12.17.8 below.
- 12.17.3 The activity shall not result in noise levels, frequencies, or qualities, or in odors, vibrations, illumination, pollution, television or radio interference, or other nuisance conditions that are perceptibly different at the property line from those that may reasonably be expected from residential uses, except as may be expressly allowed by the Commission.
- 12.17.4 The activity shall not unreasonably alter the existing residential character of the neighborhood. Parking area(s) shall be subject to the review and approval of the Planning and Zoning Commission, in accordance with the procedures set forth in

Section 13 (Special Permits) and Section 14 (Site Plans) as being of adequate size for the particular use, suitably screened throughout the year with evergreen planting, walls, structures or fences, or combinations thereof, properly designed to avoid any sanitation or drainage problems, and with entrance and exit drives designed so as to minimize traffic hazards. There shall be no material change of traffic characteristics of the neighborhood. The business shall not generate more than an average of five (5) truck deliveries/trips per day.

- 12.17.5 The activity shall not create an unreasonable health or safety hazard.
- a. Hazardous and/or toxic Materials may not be stored on site. For the purposes of this Section, Toxic or Hazardous Material are any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Pomfret. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acid and alkalis and all substances defined as Toxic or Hazardous under State Statute, and also include such products as solvents and thinners in quantities greater than normal household use, except as otherwise permitted in this Section.
 - b. No solid waste shall be generated, placed, used, stored or sold on the property in conjunction with the home business.
 - c. There shall be no storage of bulk fuel on the property, except as otherwise permitted in this Section. Bulk fuel shall be defined as the storage of fuel in excess of 25 gallons.
- 12.17.6 The proposed home based business shall be conducted by the owner of the property. The property subject to the permit must be the primary residence of the owner/permittee (*An entity does not own and reside, as their primary residence, on the parcel subject to the permit may not conduct a home based business*).
- 12.17.7 There shall be no outside display or storage of materials associated with the home based business.
- 12.17.8 There shall be no retail sales. Except, retail sales of goods produced/manufactured on site by the proprietor and or their employee's from raw materials as part of the home business may be sold on the site. Retail display shall be limited to 50 square feet with in the building that houses the home business. Items shall not be purchased off site for resale.
- a. An additional two (2) parking spaces shall be provided for retail sales. Parking spaces shall be screened from the street and abutting property lines by fences, walls, structures, vegetation, and/or earthen berms.
 - b. Where existing topography, site conditions, property ownership and/or landscaping will effectively screen parking from an abutting property, the Planning and Zoning Commission may modify the above screening and setback requirements with a $\frac{3}{4}$ vote of the entire commission.
- 12.17.9 Storage of commercial and industrial vehicles or equipment.

It is the intention of this sub-section to regulate the parking and/or storage of commercial and industrial vehicles and equipment within the Town's two residential zoning districts (Rural Residential and Pomfret Street Residential District) for the purpose of a home based business. It does not apply to vehicles and equipment for personal transportation or in non-business related applications.

No more than a total of 10 unique pieces of commercial and industrial, vehicles, trailers and equipment in any combination may be stored on any residential property of 10 acres or more. Unique being defined as not the same size or type (i.e. two excavators, two dump trucks, two flat bed trailers etc. are permitted only if they are substantially different in size. One 40 foot flat bed trailer and one 40 foot box trailer would be permitted as they are a different type of trailer.)

- a. the parcel of land where the home based business and associated storage is proposed shall contain an existing single family residential home where the primary operator/owner of the home based business must reside
- b. the vehicles and trailers must have a current Connecticut DMV registration and registration must be within the Town of Pomfret all other equipment must be registered with the Tax assessor in the Town of Pomfret.
- c. the use creates no more than 5 deliveries and/or customer trips per day.
- d. there shall be no sale, storage, transferring, dumping, or processing of materials on site. (i.e. gravel, stone, wood, demolition debris, sand, etc.)
- e. vehicles and equipment described in this section shall not be left with engines idling for more than 10 minutes at any time of day.
- f. only fuels and lubricants associated with the maintenance of the vehicles/trailers/equipment stored on the property are allowed. Lubricants may not be stockpiled beyond a typical one-year supply. Diesel fuel may be stored in a quantity not to exceed 1,000 gallons in an above ground tank for the purposes of fueling the registered vehicles and equipment. All other registered motor vehicles shall be fueled elsewhere. Storage and use of all lubricants and fuel must comply with all Federal, State and Local regulations and shall be inspected and approved by the Fire Marshal before a zoning permit may be granted. The applicant shall maintain appropriate emergency spill kit(s) on site at all times.
 - i. Maintenance and repair shall be limited to items contained within the provisions of this section and must be owned by the permit holder and identified as one of the items allowed to be stored on the property as part of the permit.
- g. Vehicles/trailers/equipment may not be stored within 200 feet of a front, side and/or rear property line and shall be completely screened from the street and abutting property lines by fencing, structures, topography or vegetation. Except, by a $\frac{3}{4}$ vote, the Planning and Zoning Commission may modify the setback distances to a greater or lesser amount where existing topography, site conditions, property ownership and/or landscaping will or will not effectively screen the vehicles and/or equipment from abutting residentially zoned areas.
- h. There shall be no outdoor lighting associated with the storage of vehicles/trailers/equipment beyond the customary lighting associated with a single family home.