

LOCAL LAW 2023- , A LOCAL LAW REPEALING SUB-SECTION G(2) –
“HOME OCCUPATIONS” OF SECTION 165.44 OF ARTICLE VIII
(ADMINISTRATION AND ENFORCEMENT) OF THE TOWN CODE AND
REPLACING IT WITH A NEW SECTION ENTITLED
“HOME-BASED BUSINESSES”

SECTION 165-44 G(2) – HOME-BASED BUSINESSES

(a) Intent and Purpose

This Section of Town Code applies to all Home-Based businesses in non-commercial zoning districts. The Home-Based Businesses regulations seek to balance the need of some individuals to work at home with rights of other individuals to enjoy the residential character of their neighborhood and their private property. The purpose of the Home-Based Businesses regulations is to protect the health, safety, and welfare of neighboring residents and the preservation of the neighborhood as a comfortable place for the people who live there. Home-Based businesses are intended to be a seamless addition, not a disturbance, to any neighborhood.

It is also the intent and purpose of these regulations to provide for certain types of restricted occupational uses within non-commercial districts. Only such uses will be allowed which:

1. Are incidental to the use of the premises as a residence;
2. Are compatible with residential uses;
3. Are limited in extent; and
4. Do not detract from the residential character of the neighborhood.

(b) Definitions

For the purposes of this Section, the following words shall have the meaning indicated unless the context clearly requires otherwise:

BUSINESS VEHICLE

A car, bus, van, trailer or commercial motor vehicle (CMV) used to transport goods or passengers for the profit or benefit of an individual or business.

MOTORIZED EQUIPMENT

A device used by a business that includes an internal combustion engine or an electric motor of greater than one-quarter (1/4) horsepower.

HOME-BASED BUSINESS:

A lawful activity commonly carried on or managed within a dwelling or accessory structure on a residential property by a member or members of the family who occupy the dwelling, where the business activity is clearly incidental to the residential use of the property and where the residential character of the property, dwelling and accessory structures is maintained.

PREMISES

All lands, structures, installed equipment and appurtenances located on a property.

(c) Standards for Home-Based Businesses Permitted as of Right

Home-Based businesses complying with the standards set forth in this Section shall be considered minor in character and shall be permitted as of right with no permit required. Home-Based businesses permitted as of right must meet the following standards:

- [1] The Home-Based business shall be owned by a person or persons, not by an entity. Properties owned by an entity are required to comply with the provisions of subsection G(2)(d).
- [2] The dwelling on the premises shall be the primary and legal place of residence for the owner of the Home-Based business.
- [3] The Home-Based business shall be clearly incidental and secondary to the residential use of the property. No additions or alterations to the dwelling or property that change its residential character shall be permitted.
- [4] No separate entrance or driveway used primarily by the business shall be permitted.
- [5] Outdoor storage of goods, materials, or products connected with a Home-Based business is prohibited.
- [6] Only one unilluminated, two-sided sign no larger than two (2) square feet shall be displayed on the property for the Home-Based business. All other on-site advertising is prohibited.
- [7] Business vehicles. In addition to any personal resident vehicles, no more than two (2) licensed and registered vehicles not to exceed a gross vehicle weight rating of 14,000 pounds used for the Home-Based business shall be located on the premises, unless housed in an enclosed residential garage.
- [8] Motorized equipment. Any motorized equipment and/or attachments thereto used in the Home-Based business shall be stored in an enclosed structure.
- [9] No more than one person other than a resident of the dwelling shall work on-premises.
- [10] The Home-Based business shall not be open to the public or receive deliveries earlier than 8:00 a.m. or later than 8:00 p.m. Only vehicles of not more than two (2) axles and not greater than 14,000 pounds of gross vehicle weight shall make deliveries to Home-Based businesses. Such deliveries shall not restrict routine traffic flow.
- [11] A Home-Based business shall produce no offensive noise, vibration, smoke, dust, odors, heat or lighting.
- [12] A Home-Based business shall not use, store, produce or dispose of toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials, as deemed such by federal standards. Quantities of such supplies common to residential uses shall be exempted. Home-Based business activities conducted and material/equipment used shall not be of a nature to require the installation of fire safety features not common to residential uses.
- [13] All parking associated with the Home-Based business shall be in the driveway or inside of a structure where the Home-Based business is located. Parking on the street or in the yard is prohibited.
- [14] No more than two client, customer or delivery vehicles shall be on the premises of the Home-Based business at the same time.
- [15] The gross floor area within a dwelling or accessory structure used or occupied in conjunction with a Home-Based business, inclusive of basements, attics, cellars and similar areas, shall not be greater than 25 percent (25%) of the gross floor area of the first floor of a dwelling, and in no event shall such business area exceed 500 square feet.
- [16] An accessory structure may be used for the Home-Based business or to support the Home-Based business but is subject to the gross floor area limitations set forth in

paragraph 15 above.

- [17] More than one Home-Based business shall be permitted on a premises subject to the above conditions which would apply to all businesses.

(d) Home-Based Business Requiring Town Approval

- [1] If a Home-Based business does not meet the standards set forth in Section (c) above but is not prohibited by Section (e) herein, the owners thereof shall apply through the Codes Enforcement Office for a permit from the Planning Board. The application shall be in the form provided by the town and shall specify the business use, how it conforms to the intent of this Section and any other documentation that the Codes Officer requires.
- [2] No Home-Based business subject to Planning Board approval shall operate until such approval is granted.

(e) Prohibited Home-Based Businesses

The following operations are prohibited:

- [1] A Home-Based business where the owner of the business does not reside on the premises.
- [2] A Home-Based business that is the primary use of the premises.
- [3] On-premises retail sales, unless clearly incidental and secondary to the Home-Based business, limited in scope and where there is no display of items for sale in any configuration resembling a retail store.
- [4] Warehousing as a service.
- [5] Restaurant/Café/Tavern.
- [6] Mortician/Funeral home.
- [7] Ambulance service.
- [8] Limousine service with more than one vehicle parked outside.
- [9] Major appliance repair (except when working at customers' homes).
- [10] Junkyard.
- [11] Automotive repair, body work, painting, detailing, washing services (except when working at customers' homes).
- [12] Massage parlors.
- [13] Medical or dental laboratory.
- [14] Raising or harboring of domestic pets for sale where facilities are less than 100 feet from any property line and the lot is less than five acres.

(f) General Provisions

- [1] The Town Board shall establish the application and permit fees for the Home-Based business permit.
- [2] The Home-Based business owner is responsible for notifying the Town Codes Officer of any changes in the business operations that affect its status under this Section. Failure to do so shall constitute a violation of these provisions.
- [3] A violation of any provision of this Section shall be subject to the enforcement and penalty

provisions of Section 165-47, as amended from time to time.

(g) Sunset Clause

It is recognized that there currently exist in the Town of Pompey businesses operating on residential properties that pre-date this statute. Owners of such businesses who did not obtain town approval to operate such businesses under the pre-existing Home Occupation provisions of the Town Code are in violation of the Town of Pompey Zoning Code. Unless such a business meets the standards to operate as of right set forth in Section (c) above, Owners of such businesses are hereby required to obtain the necessary operating permit no later than one-hundred and eighty (180) days from the effective date of this Local Law. Failure to do so shall constitute a violation of this law, subject to the enforcement and penalty provisions set forth in Section 165-47, as amended from time to time.

(h) Severability

The invalidity of any clause, sentence, paragraph or provision of this Section shall not invalidate any other clause, sentence, paragraph, or part thereof.

(i) Effective Date

This Local Law shall take effect immediately upon filing with the New York Department of State.