

COUNTY OF YORK

MEMORANDUM

DATE: August 30, 2024

TO: York County Board of Supervisors

FROM: Mark L. Bellamy, Jr., County Administrator 

SUBJECT: Home Based Business Ordinance Amendment – Sept 17, 2024 Meeting

Mr. Anderson has incorporated your feedback from the August 3, 2024 meeting into the attached ordinance amendment. We are providing this revised document to allow you once again to provide any feedback you might have. Please offer any comments to Mr. Anderson by September 3, 2024 that he might have the document ready for the September 17, 2024 regular meeting.

Attachment:

- Home Based Business Draft Ordinance

MLB/3309

(DRAFT)
BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of ____, 2024:

Present

Vote

G. Stephen Roane, Jr., Chairman
Sheila S. Noll, Vice Chairman
Douglas R. Holroyd
M. Wayne Drewry
Thomas G. Shepperd, Jr.

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE THE AMENDMENT OF THE HOME OCCUPATION REGULATIONS SET FORTH IN ARTICLE II, GENERAL REGULATIONS, OF CHAPTER 24.1, ZONING, OF THE YORK COUNTY CODE

WHEREAS, the York County Board of Supervisors appointed a citizen committee to review the home occupation regulations set forth in the County's Zoning Ordinance; and

WHEREAS, staff has worked with the ad hoc Home-Based Business Committee of community stakeholders to conduct a comprehensive review of the County's home occupation regulations and prepare a series of proposed amendments; and

WHEREAS, the Committee has completed its review and transmitted the draft amended regulations to the York County Planning Commission for sponsorship, review, and approval; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with the applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board of Supervisors recommended changes be incorporated into the language approved by the Planning Commission; and

Whereas, as stated by the ad hoc committee and supported by the Planning Commission, the Board of Supervisors finds that the public necessity, convenience, general welfare and good zoning practice requires the adoption of amendments to the County's zoning ordinance in accord with the application; and

WHEREAS, the Board has carefully considered the ad hoc Home-Based Business Committee proposal, the public comments, and the Planning Commission recommendation with respect to this application; and

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2024, that it does hereby approve Application No. ZT-185-20 to the York County Board of Supervisors with a recommendation of approval to amend various sections of Chapter 24.1, Zoning, of the York County Code, to read and provide as follows:

Sec. 24.1-280. Home occupations permitted.

Home occupations, as defined in section 24.1-104, shall be a permitted residential accessory use in conjunction with any lawful residential use if in conformance with the following provisions. Should the zoning administrator determine that a specific use or activity proposed for operation as a home occupation is not materially similar to those uses and activities listed herein, the matter shall be resolved in accordance with the procedures outlined in section 24.1-302 of this chapter.

Sec. 24.1-281. General requirements for home occupations.

All home occupations shall be subject to the following provisions unless excepted by the board in accordance with the provisions of section 24.1-283:

- (a) The owner/operator and business license holder of the home occupation shall reside on the premises. No person other than individuals residing on the premises shall be engaged on the premises in such operation at any given time unless otherwise authorized under section 24.1-283(e).
- (b) The home occupation(s) shall be clearly incidental and subordinate to the residential use of the property. The use(s) may not exceed four hundred (400) square feet or twenty-five percent (25%) of the floor area of the principal residence, whichever is greater, shall be less, unless a greater larger area is deemed appropriate and is authorized by the Board of Supervisors in conjunction with consideration of a special use permit application for a home occupation.

- (c) There shall be no change in the outside appearance of the building or premises or other evidence of the conduct of such home occupation visible from the street or adjacent properties. Outdoor storage shall not be permitted.
- (d) Any demand for parking generated by the conduct of such home occupation(s) which is in addition to the spaces required for the residential use shall be accommodated off the street in a suitably located and surfaced space. Parking must be ten feet (10') from any property line and where three (3) or more spaces are required they shall be effectively screened and buffered by landscaping from view of adjacent residential properties and the home occupation shall be authorized only by issuance of a special use permit by the board. In its approval action, the Board will specify the maximum parking limits associated with the home occupation.
- (e) The occupation or activity shall not require the use of machinery or equipment that creates noise in violation of county code sections 16-19 through 16-19.6, odor, smoke, dust or glare or flammable or toxic substances or is dangerous or otherwise detrimental to persons residing in the home or on adjacent property. Commercial vehicles must be kept in a garage or an enclosed and screened storage yard.
- (f) All public contact related to such use shall be limited to the period between 8:00 a.m. and 8:00 p.m. ~~No heavy truck or vehicle or piece of equipment having a gross rated carrying capacity of more than one (1) ton gross weight shall be parked or stored on or operated from the site in connection with a home occupation unless such vehicle or equipment has been specifically authorized in conjunction with a use permit authorizing a small contracting business.~~

Sec. 24.1-282. Home occupations permitted as a matter of right.

- (a) Permitted home occupations in all residential districts shall include the following:
 - (1) Artists and sculptors.
 - (2) Authors and composers.
 - (2.1) Day care for not more than four (4) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family.
 - (3) Dressmakers, seamstresses, tailors.
 - (4) Home crafts such as model making, rug weaving, cabinet making, furniture refinishing, or ceramics.
 - (5) Office facility of a member of the clergy.

- (6) Office facility of a resident salesperson, sales representative or manufacturer's representative.
 - (7) Home office facility for resident accountants, architects, artists, photographers, brokers, computer programmers, consultants, counselors, dentists, physicians, engineers, lawyers, insurance agents, real estate agents or similar professionals provided, however, that clients or patients may not be seen at the home office facility.
 - (8) Telephone answering service.
- (b) ~~Permitted home occupations which may only be conducted in the RC, RR, R33, R20, and R13 districts include the following:~~
- (1) ~~Photography studios.~~
 - (2) ~~Tutoring, music or voice lessons or similar services for not more than four (4) persons other than the family members of the provider at any single time.~~
 - (3)(9) Other activities and uses which the zoning administrator determines can be operated in complete accordance with section 24.1-281 of this chapter and which are not otherwise regulated or prohibited by this chapter or any other provision of law.

The activities specifically authorized under this subsection shall be permitted to have on-site client contact notwithstanding the provisions of Section 24.1-281 to the contrary.

Sec. 24.1-283. Home occupations permitted by special use permit.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

- (a) Home occupations permitted under section 24.1-282 which generate a parking demand for three (3) or more parking spaces, ~~and those occupations permitted under section 24.1-282(b) in residential districts other than those specified.~~
- (b) Home occupation(s) with on-premises retail sales, or personal services, or customer/client contact.
 - (1) Uses which may be authorized under this section shall include barber and beauty shops, antique shops, bicycle rental, rental of rooms for nontransient use, day care for more than four (4) children, in-home professional offices with customer or client contact, firearms or ammunition sales, and other materially

similar activities and land uses involving on-premises retail sales, customer contact, and personal services. These provisions shall also apply to catering operations conducted in accordance with section 29.5 of the Rules and Regulations of the Board of Health of the Commonwealth of Virginia provided, however, that food preparation that is conducted from the structure's standard residential kitchen for off-premises sale and consumption and that does not involve any on-site customer contact or non-resident employees shall not be deemed to require a special use permit.

- (2) All public contact related to such use shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday, unless otherwise specified by the board.
- (3) Off-street parking shall be provided in accordance with the applicable standards established in article VI for business and commercial uses. Such spaces shall be in addition to those otherwise required for the residential use of the property, and shall be no less than ten feet (10') from any property line, unless on an existing driveway, and shall be effectively screened from view of adjacent properties and street rights-of-way by landscaping supplemented, if necessary, by fencing.
- (4) The type and extent of items to be displayed, stored or sold, or personal services to be offered on the premises shall be specifically stipulated by the board in authorizing any such use permit. In no case shall the area devoted to sales, storage, display or conduct of such home occupation exceed twenty-five percent (25%) of the floor area of the residence or such smaller area as may be stipulated by the board.

Such use shall comply with all applicable requirements for home occupations as established in section 24.1-281 of this chapter.

- (c) Small contracting businesses operated as home occupations in the RC, RR and WCI district.
 - (1) For the purpose of this section, small contracting businesses shall be deemed to include businesses engaged in construction and repair of buildings; installation and servicing of heating, cooling and electrical equipment, flooring, painting, plumbing, roofing and tiling; landscaping; and other such uses deemed by the zoning administrator to be similar in terms of type, scale and impact. This section shall not be construed to necessitate a use permit for offices of such businesses as authorized and conducted in accordance with the provisions established in sections 24.1-281 and 24.1-282 nor shall this section be construed to provide opportunities for business operations which involve on-site manufacturing of products or materials utilized in the conduct of such business.

- (2) All structures, parking and loading areas, and storage areas associated with such use shall be located at least one hundred feet (100') from any lot line. Such setback and buffer area shall be landscaped and fenced in order to provide immediately a Type 50 transitional buffer.
 - (3) Not more than two (2) vehicles and pieces of equipment associated with the operation of a business shall be operated from the site or stored there overnight, unless a greater number is deemed appropriate and is authorized by the board of supervisors in conjunction with consideration of a special use permit application. Small transportable equipment including lawn mowers; chain saws; power hand tools; table, band or radial arm saws; and similar items shall not be included in such a determination.
 - (4) Unless otherwise stipulated by the board in granting a special use permit, the areas covered by all structures used primarily in connection with such uses shall not exceed a total of one thousand five hundred (1,500) square feet.
 - (5) Unless otherwise stipulated by the board in granting a special use permit, the area covered by any outdoor storage associated with such use shall not exceed a total of one thousand (1,000) square feet.
 - (6) All parking, loading and storage associated with such use shall be screened effectively from view from adjacent properties by landscaping and appropriate wooden or masonry fencing materials.
 - (7) The board shall find and determine that the proposed small contracting business is not likely to generate traffic, including commercial delivery vehicles, in greater volume than would normally be expected in the district in which it is located.
 - (8) The board shall find and determine that the proposed small contracting business is not likely to create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the district in which it is located.
- (d) Docking workboats and off-loading seafood as a home occupation in RR and RC districts.
- (1) Such uses may be authorized only on property which is classified RC or RR. The docking of workboats, off-loading of seafood, and the conduct of a waterman's operation shall be limited to occupants of the premises who are engaged in commercial fishing or the harvesting of seafood from open waters using traditional methods such as lines, nets, crab-pots, tonging or dredging. Uses which involve aquaculture methodologies including but not limited to the propagation, rearing, enhancement and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments pursuant to

a license for on-bottom shellfish aquaculture from the Virginia Marine Resources Commission shall not be eligible for consideration under these provisions. Such uses shall, for the purposes of this chapter, be considered to be aquaculture and shall be permitted in accordance with the listings set forth in section 24.1-306, Table of Land Uses, of this chapter.

The above provisions notwithstanding, Special Use Permit authorization shall not be required for traditional waterman activities (commercial fishing, harvesting seafood from open water using traditional methods) conducted in a manner and from property complying with the terms applicable to commercial aquaculture set forth in section 24.1-414.3.

- ~~(2)~~ No admission, dockage, or wharfage fees shall be charged.
- ~~(4)~~ On-premises wholesale or retail sale of seafood shall be prohibited.
- ~~(6)~~(2) Outdoor storage of goods, equipment, or materials (other than the workboat itself) shall be limited to a total of one thousand (1,000) square feet and shall not be located in any front or side yard, or within twenty feet (20') of any property line. Any equipment or storage located on the property shall be screened from view from all public streets and adjacent properties by a landscaped buffer area supplemented, if determined necessary by the zoning administrator or the board at the time of permit approval, by masonry or wooden fencing material. In its approval of a special use permit, the board may limit outdoor storage to less than one thousand (1,000) square feet or may require a setback greater than twenty feet (20') if deemed necessary based on the characteristics of the subject site or its surroundings.
- ~~(7)~~(3) Repair of workboats shall be limited to routine maintenance, which may include:
 - a. minor tune-ups;
 - b. change of oil and filters;
 - c. washdown and drainage of workboats;
 - d. winterizing (draining lines, etc.);
 - e. other customary routine repairs or maintenance.
- ~~(8)~~(4) All federal, state and local requirements for docking facilities shall be met and the necessary permits obtained prior to the issuance of a building permit for docks, piers, or boat houses.

~~(9)~~(5) The workboats and seafood unloading operations shall be conducted in such a manner as to prevent potentially offensive odors from being produced. No overnight storage of seafood waste shall be permitted on the property.

~~(10)~~(6) Any outdoor or security lighting shall be shielded so that glare is not directed onto adjacent property.

~~(11)~~(7) The number of workboats docked at the property shall not exceed the capacity of the pier or boat house. The "rafting" of boats shall not be permitted.

~~(12)~~(8) No heavy trucks shall be permitted to operate from the property.

~~(13)~~(9) Any demand for parking generated by the conduct of such use shall be accommodated off the street.

~~(14)~~(10) The storage and utilization of toxic substances shall be limited to types and quantities that would customarily be utilized or stored for residential use. Any storage or utilization of combustible, toxic, or flammable substances shall be in accordance with the National Fire Prevention Code.

~~(15)~~(11) The board shall, on a case-by-case basis, review and impose such other conditions as it deems necessary and appropriate to assure that the use will be compatible with, and will not adversely impact, adjoining properties and the environment of the area. Such conditions and restrictions may include:

- a. hours of operation;
- b. number of workboats permitted to use the private residential pier or dock;
- c. a requirement to prepare a water quality impact assessment;
- d. additional screening or landscaping requirements for outdoor storage areas and equipment.

(e) Home occupation(s) with non-resident employees.

(1) All home occupation categories whether permitted as a matter of right or by special use permit under section 24.1-282 and 24.1-283 may be authorized under this section to include one (1) or more non-resident employees. The allowable number of non-resident employees shall be specified in the use permit approval.

(2) Evaluation of this allowance shall be based on the general provisions of section 24.1-281 and applicable requirements as set forth in section 24.1-283.

(f) Enlargement or expansion of permitted home occupations.

- (1) The board may authorize by special use permit issued in accordance with the procedures stipulated in article I, enlargements or expansion of home occupations permitted in sections 24.1-282 and 24.1-283.
 - (2) The board shall find that the overall spirit and intent of section 24.1-281 will not be violated by the issuance of a special use permit authorizing an enlargement or expansion and may attach any conditions deemed necessary to ensure such compliance.
- (g) Any commercial or passenger vehicle(s), as defined below, utilized by a home occupation(s) shall be parked on, stored on, or operated on or from the property.
- (1) Commercial Vehicle:
 - (a) Any vehicle with a gross vehicle weight rating (GVWR) of nineteen thousand five hundred one (19,501) pounds or more;
 - (b) Any trailer of an overall length (OAL) of seventeen (17) feet or more;
 - (c) Any heavy construction equipment, whether located on the street or on a truck, trailer, or semi-trailer;
 - (d) Any solid waste collection vehicle, tractor truck or tractor truck/semi-trailer or tractor/truck combination, dump truck, concrete mixer truck, or towing or recovery vehicle;
 - (e) Any trailer, semi-trailer or other vehicle in which food or beverages are stored or sold.
 - (2) Passenger Carrying Vehicle:
 - (a) Any vehicle designed to carry sixteen (16) or more passengers, including the driver;
 - (b) Any vehicle licensed by this Commonwealth for use as a common or contract carrier or as a limousine.

Sec. 24.1-284. Prohibited home occupations.

The following uses shall not be permitted as accessory home occupations:

- (a) Automobile repair and servicing.
- (b) Funeral chapels or funeral homes.

- (c) Gift shops.
- (d) Medical or dental clinics or hospitals.
- (e) Restaurants, tearooms, or other eating or drinking establishments.
- (f) Commercial stables, commercial kennels.
- (g) Veterinary clinics.
- (h) Convenience store.
- (i) Small engine and equipment repair.
- (j) Tattoo parlor.
- (k) Gambling or gaming establishment.
- (l) Vape, e-cigarette, or tobacco sales.
- (m) Adult uses.
- (n) Any home occupation involving the use of a vehicle, regardless of size, used in transportation of hazardous materials as defined in section 103 of the federal Hazardous Materials Transportation Act (49 C.F.R. Par 172, Subpart F).
- (o) Other activities and land uses which the zoning administrator determines to be materially similar to the activities listed above.