**MODEL HOME-BASED BUSINESS BYLAW***Prepared by Pioneer Valley Planning Commission*

**HOME-BASED BUSINESSES**

1.1 Purposes

The purposesof this sectionare to:

a. Permit the residents of the Town of \_\_\_\_\_\_\_a broad choice in the use of their homes as places of livelihood and the production or supplementing of personal and family income;

b. Protect residential propertyvalues;

c. Protect residential areas from any adverse impacts associated with home-based businesses;

d. Ensure that the rights of neighbors and other townspeople are not compromised by intrusive, hazardous, or environmentally degrading business activities:

e. Establish performance criteria and standards for home-based businesses that will provide fair and equitable administration and enforcement of this section.

1.2 Definitions

Home-basedBusiness: Any activity conducted by a resident within a dwelling or accessory structures for financial gain. A home-based business is an accessory use to the primary use of the parcel. Home-based businesses include home occupations and cottage industries.

Home Occupation: A home-based business which is incidental to and clearly subordinate to, the residential use of the property. A home occupation has no more than two employees who are not resident on the premises, does not use accessory structures (except for unheated storage), has no retail sales (except for goods and services produced on the premises), and occupies no more than 33% of the gross floor area of the dwelling.

Cottage Industry: A cottage industry is a more intensive form of home-based business, having more employees, more floor area used for the business, or other signs of greater use of a residential parcel for business purposes. A cottage industry. like a home occupation, remains clearly subordinate to the use of the parcel and dwelling for residential purpose

Minor cottage industry: A cottage industry with no more than five non-resident employees working on the premises at anyone time and which does not use any accessory structures for any aspect of the business aside from unheated storage.

Major cottage industry: A cottage industry with no more than ten non-resident employees working on the premises at any one time or one which uses an accessory structure for business purposes other than unheated storage.

Non-resident employees: Employees who do not live on the parcel being used for a home-based business.

1.3 Applicability

Home Occupations shall be allowed by right in the \_\_\_\_\_\_\_\_\_\_\_ District(s) subject to the following applicable regulations.

Major and Minor Cottage Industries shall be allowed in the \_\_\_\_\_\_\_\_\_\_\_District(s) only upon issuance of a Special Permit from the Special Permit Granting Authority subject to the following regulations and, in addition, to the applicable regulations of this bylaw found at Section \_\_\_\_\_\_\_\_\_\_\_Administration.

1.4 Standards for All Home-based Businesses

The following standards shall be used as requirements for all Home-based Businesses, whether they are Home Occupations or Cottage Industries.

a. Residency Requirements

The principal residence of the owner/operator of every home-based business shall be the dwelling unit on the premises in which the business operates.

b. Minimum Dimensional Requirements

The site must meet the density and dimensional requirements in Table \_\_\_\_\_\_ (Intensity Regulation) for the district in which it is located.

c. Parking Standards

Off-street parking for any home-based business must be provided on the premises and must be located at the side or rear of the principal building. While adequate off-street parking must be provided for all regular employees, visitors, and clients, the property owner is urged to minimize providing excessive parking areas.

Landscaping is required to screen parking areas from the road and from adjacent landowners. See the definition of screening materials below.

d. Storage of Heavy Equipment and Commercial Vehicles

All heavy equipment such as tractor trailers, semi-trailers, or construction equipment must be either garaged or screened with plantings or fencing to at least the height of the equipment. See the definition of screening materials below.

One commercial vehicle which is not heavy equipment and which is not more than two tons in rated capacity may be parked outdoors on the property. Additional commercial vehicles must be garaged or screened as for heavy equipment.

e. Screening Materials

Screening materials, such as plants or fencing, must provide at least 90% opacity to a height of at least six feet in all seasons. If such screening is not provided by existing or proposed vegetation, it shall be supplemented by additional plantings or fencing. All screening materials shall be aesthetically appropriate and in keeping with the character of the district.

f. Signs

See Section - (Existing Sign Bylaw) for sign standards

g. Lighting standards

Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.

Lighting must be compatible with the character of the district. No light shall be taller than fifteen feet.

h. Hours of Operation

In no case shall a home-based business be open to the public, including non-resident employees, clients, visitors, and deliveries, earlier than 7:00 a.m. nor later than 10:00 p.m.

i. General Nuisances

Any activity that might result in excessive noise, electrical interference, smoke, dust, odors, heat, or glare beyond that which is common to the residential character of the district is prohibited. The Zoning Enforcement Officer may require an application to provide tests demonstrating such conformance.

j. Hazardous Materials

No highly toxic, explosive, flammable. Combustible, corrosive, radioactive or similar hazardous materials shall be used, stored, or manufactured on the premises in amounts exceeding those which are typically found in normal residential use.

k. Retail Sales

There shall be no sales of services or products on the premises which are not produced on the premises, except those sales which are incidental to the business. For example, a music teacher may sell sheet music. In addition, there shall be no designated area intended specifically for retail sales.

l. Traffic

Traffic associated with a home-based business, such as deliveries or visits by clients, shall not place an unreasonable burden on the town, the roads, or the neighborhood of the home-based business because of safety concerns, excessive noise, or aesthetics. Home-based business owners are reminded that traffic concerns will be reviewed as part of the permitting and renewal process for all cottage industries.

m. Compliance with Standards

All home-based businesses must comply with all applicable federal, state, and local regulations.

1.5. Additional Standards for Home Occupations

a. Employees

No more than two (2) employees who do not live on the premises shall be permitted to work on the premises at anyone time for a home occupation.

b. Use of Accessory Structures

A home occupation use must be conducted wholly within the residential dwelling on the parcel except that accessory structures such as sheds, detached garages, and barns, may be used for unheated storage of materials for the business.

c. Floor Area

A home occupation may not use more than 33% of the gross floor area of the dwelling for business purposes. The gross floor area is defined for this purpose as the total floor area of all heated and ventilated and, therefore, habitable rooms in the dwelling. This includes spaces such as basements and attics, if they are heated and ventilated.

1.6. Additional Standards for Minor Cottage Industries

a. Employees

No more than five (5) employees who do not live on the premises shall be permitted to work on the premises at any one time for a Minor Cottage Industry use.

b. Increased Setback Requirements

Required zoning setbacks may be increased for a minor cottage industry subject to the review of the SPGA for any activity that could potentially detract from the agricultural-residence area but that is not deemed incompatible with the neighborhood. Potentially detracting activities include, but are not limited to: employee parking areas, loading zones, and storage sheds. Additional screening may also be required by the SPGA to shield these accessory uses from abutting residential lots.

c. Use of Accessory Structures

A minor cottage industry must be conducted wholly within the residential dwelling on the parcel except that accessory structures such as sheds, detached garages, and barns may be used for unheated storage of materials for the business.

d. Floor Area

A minor cottage industry may not use more than 49% of the gross floor area of the dwelling for business purposes. The gross floor area is defined for this purpose as the total floor area of all heated and ventilated, and, therefore, habitable rooms in the dwelling. This includes spaces such as basements and attics if they are heated and ventilated.

1.7. Additional Standards for Major Cottage Industries

a. Employees

No more than ten (10) employees who do not live on the premises shall be permitted to work on the premises at anyone time for a Major Cottage Industry use.

b. Increased Setback Requirements

Required zoning setbacks may be increased for a major cottage industry subject to the review of the SPGA for any activity that could potentially detract from the agricultural-residence area but that is not deemed incompatible with the neighborhood. Potentially detracting activities include but are not limited to: employee parking areas, loading zones, and storage sheds. Additional screening may also be required by the SPGA to shield these accessory uses from abutting residential lots.

c. Use of Accessory Structures

A major cottage industry must be conducted wholly within the primary dwelling and accessory structures on the parcel. At least 33% of the total floor area used by the cottage industry must be in the primary dwelling. For all major cottage industries the home-based business owner must ensure that the use of the parcel remains primarily residential with the business as an incidental accessory use.

d. Floor Area

A major cottage industry may not use more than 49% of the gross floor area of the dwelling and accessory structures for business purposes. The gross floor area is defined for this purpose, as the total floor area of all heated and ventilated and therefore habitable rooms and spaces in the dwelling and any accessory structures which are used for business purposes. This includes spaces such as basements and attics, if they are heated and ventilated. If an accessory structure is not used at all for the cottage industry, its floor area should not be counted towards the gross floor area total.

1.8. Special Permit Requirements

The procedures and criteria described in Section \_\_(Special Permit section)\_\_\_\_\_\_\_ of this bylaw shall govern the granting of Special Permits for cottage industries except that the following shall be used as additional requirements in the Special Permit process for all cottage industries. An applicant for a Cottage Industry Special Permit should read Section (Special Permits) before applying for the Permit, as that section includes requirements with direct bearing upon the legal operation of a cottage industry.

a. The Special Permit Granting Authority for home-based business uses shall be the Planning Board.

b. A Special Permit is required for all cottage industries and for all changes and expansions ofsuch uses.

c. All Special Permits from the SPGA for a cottage industry use are non-transferable and issued to a specific applicant for a specific cottage industry on a specific parcel.

d. Special Permits for Cottage Industries must be renewed immediately following the first year of operation and then every five years after that. The renewal process shall follow the same procedures as an original Special Permit submission.

e. Special Permits for Cottage Industries may be revoked by the SPGA for cause after reasonable notice to the holder of the permit and following a public hearing held in accordance with Section (Special Permits) of this bylaw.

**Changes Needed Elsewhere in the Bylaw**

If a municipality adopts a new home-based business bylaw, it should adopt at the same time changes elsewhere in its zoning bylaw so as to ensure coordination with the new bylaw. While every zoning bylaw will be different and require individual attention to effect this coordination, the following are some of the common changes which will often need to be made in a zoning bylaw.

Definitions

The definitions of home-based business, home occupation, and major and minor cottage industry which are in the model bylaw should be added to the definition section of the zoning bylaw. Any existing or conflicting definitions should be deleted. Besides older definitions for these three phrases, some possible conflicting words or phrases might be, home office, artisan/craftsman, professional office, or home professional office. Check to make sure that the definition of Special Permit Granting Authority includes the board specified to evaluate home-based businesses.

General Use Regulations

Home-based businesses should be added to the Table of Uses for the appropriate districts. If a new SPGA is specified for home-based businesses, note in the table which town board is responsible for Special Permits for each use.

Administration - Special Permits

It is important to include in this section a clause allowing the chosen town board, whether Zoning Board of Appeals or Planning Board, to be a Special Permit Granting Authority (SPGA). Often only one such board is specified as a SPGA in an existing zoning bylaw; if that board is not the one chosen to evaluate permits for home- based businesses, the chosen board must be added. This is an example of an appropriate clause:

The Zoning Board of Appeals and the Planning Board shall have the special permit

granting authority specified in Section \_\_\_\_\_ Schedule of Use Regulations.

Check the rest of the Special Permit section of the Administration component to make sure that the chosen SPGA for home-based businesses is included everywhere appropriate. For example, if the existing zoning bylaw specifies that an applicant can find Special Permit applications at the Town Hall and the Zoning Board of Appeals, and the SPGA for home-based businesses is to be the Planning Board, add the Planning Board to the clause specifying availability of application forms.

It is appropriate for a municipality to review the adequacy of its Special Permit regulations and criteria at the same time it is contemplating adding a home-based business bylaw. Compare the existing Special Permit section of the bylaw to those of other similar towns and to models available from your regional planning agency. Ask the opinion of members of the existing SPGA regarding any changes they may wish to see in the regulations. Proposing changes to the Special Permit rules at the same time as a new home-based business bylaw may prove politically inconvenient; it is probably best to unlink the two sets of changes in voters' minds and on warrants, so as to allow independent evaluation of each proposed change.