

Town of Lovettsville

Minutes of Town Council Public Hearing, August 21, 2008

The Public Hearing of the Lovettsville Town Council on LVZA 2008-0001 Home Occupation Zoning Ordinance Amendment was called to order by Mayor Elaine Walker at 8:41 P.M. at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.

Welcomes and Introductions

Mayor Walker welcomed the citizens attending the meeting and thanked them for attending.

The Mayor introduced Vice Mayor Robert Zoldos, Council Members Scott Dockum, Richard Efthim, and Shaun Staley.

The Mayor also introduced the Town Staff present: Zoning Administrator Steve McGregor, Project Manager Karin Fellers and Town Clerk Judy Kromholz.

Absent: Council Member Michael Senate, Town Manager Keith Markel

Audience: Commissioner Charlotte Coleman

Explanation of Procedures and Opening of the Hearing

Mayor Walker led the attendees in the Pledge of Allegiance. She then read the Public Notice of this Public Hearing as it appeared in Leesburg Today (Attachment I). Clerk Kromholz confirmed that no public input had been received for this public hearing as of the close of business today.

Presentation

Zoning Administrator McGregor made a presentation. (Attachment II Staff Report)

Public Speakers

No member of the public signed up to speak. Mayor Walker asked if there were any further speakers and there were none.

Closing Comments

Mayor Walker again asked if there were any more speakers and there were none.

Declaration to close the Public Hearing

Mayor Walker declared this Public Hearing closed at 8:56 P.M.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Dates Approved: December 18, 2008

Attachment I: Leesburg Today Announcement

Attachment II: Staff Report

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**Public Hearing Notice
Lovettsville Town Council**

The Lovettsville Town Council will hold a public hearing at 8:00 PM Thursday, August 21, 2008, to hear comments from any person on the following:

LVZA 2008-0001, to amend the Town of Lovettsville Zoning Ordinance for home occupations. **Modify Section 3-1, District Regulations (b) General Standards for Certain Uses, (v) Home Occupation**, to prohibit on-site sales and signs; to allow additional traffic related to home child care for four or fewer children; to allow internet sales; to prohibit additional on-site parking related to home occupation. **Modify Section 7-8, Signs in Residential Districts, (b)(iv)**, to prohibit home occupation signs. **Modify Section 13-2**, to extensively revise the definition of Home Occupation.

The hearing will take place at the Town Office, 6 E. Pennsylvania Avenue, Lovettsville, Virginia 20180. The text under consideration is available at the Town Office between the hours of 9AM and 3PM weekdays or other times by appointment. Call 540-822-5788.

By Order of Elaine Walker, Mayor

8/8 & 8/15/08

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**ZONING ORDINANCE AMENDMENT
LVZA 2008-0001 Home Occupations
Town of Lovettsville**

STAFF REPORT

Town Council Public Hearing

August 21, 2008

7:30 PM at the Town Office 6 E. Pennsylvania Avenue Lovettsville, Virginia

PROPOSAL: The Town of Lovettsville is proposing changes in the definition of home occupations and some of the related regulations in the zoning ordinance. The purpose is to simplify the definition; remove some contradictions between the definition and some of the regulations; and update the regulations.

BACKGROUND: The Planning Commission discussed the item in May 2008 and held a public hearing on June 11. There were no comments from the public. On June 18 the Commission discussed the issues and indicated the need for some additional changes to the staff recommended draft for amending the ordinance.

PLANNING COMMISSION DELIBERATIONS: The Planning Commission considered a number of issues per the Council directive to evaluate ordinance regulations for home occupations. The Commission discussed the definition of home occupations; who should be allowed to undertake home occupations; certain contradictions between the definition of home occupations and ordinance regulations; the need to clarify how products created in the home would be sold; if the sale of products on the internet could be undertaken as a home occupation; whether or not signs are appropriate for home occupations; additional parking for home occupations; allowing additional traffic in the case of a home occupation where four or less children were being taken care of as a business;

Table 1 provides a summary critique of the ordinance elements of the home occupation regulations that need clarification; contradictions that need to be resolved; and aspects that need to be updated.

Table 1. HOME OCCUPATIONS		
Ordinance definition (13-2)	District Regulations (3-1)(v)	Comment
1. Can have non-family members, but no more than two (2).	1. Can only have family members, number unspecified	Needs consistency
2. No signs, except name plate.	2. Signs permitted up to four (4) square feet only with name of resident and/or the home occupation activity.	Needs consistency.
3. No traffic restriction but uses allowed would generate more traffic than would be normally anticipated, such as barber and beauty shops, professional office, personal services use.	3. No more traffic can be generated than would "normally be anticipated in a residential neighborhood".	Needs consistency.
4. Preparation of food and other similar products for sale permitted. Does not specify if goods are to be sold on the premises or off-premises.	4. Items "handcrafted on the premises" can be sold on the premises.	4. Sale of products on the premises constitutes a retail use and should not be allowed.
5. Does not specify child care use for four or less children.	5. Child care use for four or less children is not allowed because it would generate more traffic than would normally be anticipated in a residential neighborhood.	5. Home child care for four or less children is a reasonable home occupation in a residential neighborhood because the drop off and pick up is limited and only twice daily. There is a need for limited home child care in the Town as there are no commercial facilities for it.

There are some commercial uses listed as examples of home occupations in the definition of home occupation uses (Section 13-2 DEFINITIONS) that would generate more traffic than normally anticipated in a residential neighborhood, which is not permitted under the standards for home occupations in Section 3-1 (b)(v)(G). These include such uses as barber shops, beauty shops, professional offices and rooms for tourists.

Such uses, even if they are within residential structures, should not be considered merely home occupation uses, but commercial uses that should be developed under other more appropriate ordinance regulations (commercial zoning districts, conditional use permits) or Town Plan land use policies.

Not all home child care, however, can be considered strictly a commercial enterprise and has a more home occupation character. Limited child care is a reasonable, convenient activity in a home and neighborhood because of the limited number of children and the traffic generation is limited to twice daily for

drop off and pick up. The Planning Commission agreed that a home child care business for four or less children is reasonably defined as a home occupation. The Planning Commission concluded that the definition of home occupations should be simplified, as recommended by staff. Also that the ordinance should indicate that home occupations can only be undertaken by residents of a dwelling without limitation as to the number of residents of that dwelling that could be undertaking a home occupation or their relation to each other. No employees other than residents of the dwelling could be engaged in the activities of the business. If outside employees are needed the use becomes more commercial in nature, which should then trigger the rezoning or conditional use permit process.

The standard in Section 3-1 (b)(v)(f) allows the sale of products made in the home to be sold at the home. The definition states that food may be prepared in the home for sale, without saying if food may or may not be sold at the home. The Planning Commission concluded that any products, not just food, made in the home cannot be sold at the home (where customers come to the home) but only made in the home for sale off-site.

The ordinance also does not include reference to home occupations that involve internet sales where customers do not come to the dwelling. The Commission agreed that this type of home occupation would not detract from a residential neighborhood, assuming that no storage of material for such sale occurs outside the dwelling on the residential lot, as stated in the existing regulations.

The Commission concluded that the text regulating home occupations should clearly and directly state that no parking should be added on a residential parcel for the purpose of undertaking a home occupation.

The Planning Commission concluded that no signs should be allowed for any home occupation because it would alter the visual environment of the residential neighborhood for a commercial purpose.

PLANNING COMMISSION RECOMMENDATION: On July 2, 2008 the Planning Commission recommended amending the ordinance as shown in the attached draft text related to home occupations.

ATTACHMENT: 1) Zoning Ordinance text recommended by the Planning Commission for amending zoning ordinance text related to home occupations, July 2, 2008.

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**LVZA 2008-0001 Home Occupations
(Zoning Ordinance Amendment)**

Recommended for approval by the Town of Lovettsville Planning Commission
July 2, 2008

MODIFY: Page 13-7, Section 13-2, DEFINITIONS, to read:

~~“HOME OCCUPATION: Any activity carried out for gain by a resident and conducted in the resident’s dwelling unit. An occupation carried on within a dwelling and clearly incidental thereto. A home occupation shall be operated by a member or members of the family residing on the premises and no more than two (2) persons not residents of the premises shall be employed. Such use shall not exceed twenty five percent (25%) of the livable floor area of the building exclusive of the basement. No advertising sign shall be displayed other than a nameplate not exceeding four 4 square feet in area and there shall be no other evidence that the building is being used for any other purpose than a dwelling. A home occupation may include such activities as the rental of rooms to tourists, the preparation of food products for sale, and similar activities. A home occupation may also include a professional office or personal service establishment such as a beauty shop or barber shop, if it meets the criteria of this definition.”~~

MODIFY: Page 3-5, Section 3-1 DISTRICT REGULATIONS, (b) General Standards for Certain Uses, (v) Home Occupation, to read:

“HOME OCCUPATION: Home occupations may be conducted in a residence provided:

- (A) No employees other than residents of the dwelling shall be permitted to be engaged in such employment.
- (B) The use of dwelling for home occupations shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area may be used in the conduct of the home occupation.
- (C) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation. Internal alterations or construction modifications not customary on dwellings shall be prohibited.

July 10, 2008

- (D) No outside storage shall be used in conjunction with the home occupation.
- (E) Signs shall not be permitted. ~~in accordance with Section 7-8(b)(iv) of this ordinance and appropriate permits are required for signage.~~
- (F) The preparation of food or the hand manufacture of other products is permitted if it complies with other standards in this section. There shall be no sales other than items handcrafted on the premises.
- (~~F~~G) No goods, products or commodities made on the premises or bought or secured for the express purpose of resale shall be sold on the premises directly to customers who come to the premises. This prohibition does not apply to the sale of goods, products or commodities over the Internet from the premises by residents of the premises in which case customers do not come to the premises.
- (~~G~~H) No traffic shall be generated by such home occupation in greater volume than would normally be anticipated in a residential neighborhood, except for home child care with four or fewer children. and any need for parking generated by the conduct of such home occupation shall be provided on-site and shall not be located in a required front yard or required side or rear yard. No expansion of parking areas on the site shall be permitted for home occupation activity.
- (H) Deliveries or pickups shall be allowed only between the hours between 9:00 a.m. and 6:00 p.m. Not more than two (2) trips per day shall be permitted for such purposes. Regular pickups and deliveries shall not be made by tractor trailer trucks.
- (I) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond limits of the parcel of property. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage.
- (J) No hazardous materials may be manufactured, stored, processed or disposed of on the premises.
- (K) Persons conducting a home occupation shall obtain a business license and pay the business license tax as described in the Town's Business, Professional and Occupational License Tax Ordinance.
- (L) An application for Home Occupation shall be completed by the applicant and approved by the Zoning Administrator prior to the commencement of the home occupation.

MODIFY: Page 7-12, Section 7 SIGN REGULATIONS, 7-8 Signs in Residential Districts, (b)(iv), to read:

“iv. Home Occupation. None permitted. ~~One sign, not exceeding four (4) square feet in area, for the purpose of indicating a home occupation on the property and bearing only the name and/or home occupation of the an occupant of such dwelling, subject to the limitations of, Section 3-1(b)(v)(E) of this Ordinance.”~~