



Statutory Authorization: 24 V.S.A., §4412(4)

Type: REGULATORY

Related Topic Areas: Community & Economic Development; Land Use & Development Regulations; Performance Standards; Zoning Regulations

Home Occupations

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Overview

Vermont, as in many other rural states, has a long tradition of people who work from their homes, either as a primary or supplemental source of income. The advent of telecommuting, home offices, and flexible job scheduling has made working from home even more common. For regulatory purposes, a home occupation is generally defined as any activity carried on within a dwelling by a resident of that dwelling for the purpose of earning income.

Where population densities are low and houses are widely scattered, home occupations usually cause little concern. However, as development densities increase and residential lots get smaller, the likelihood that home occupations may negatively affect surrounding properties increases. Municipalities then find the need to establish regulations that protect residential neighborhoods, sometimes at the expense of home workers.

Vermont chose to address this matter by including statutory language, under the Vermont Planning and Development Act (24 V.S.A. Chapter 117), that both protects the existence of home occupations and also authorizes municipalities to regu-



Accommodating home occupations is increasingly important in today's economy. It also provides good opportunities to reuse excess space in everything from historic Victorian homes in old towns to barns and outbuildings in the countryside. Clear standards and careful management can minimize negative impacts from traffic, parking, and noise in residential neighborhoods.

late home occupations to ensure that they do not have an “undue adverse effect” on surrounding properties and neighborhoods. This language clearly establishes the need to balance sometimes competing objectives: the ability of local residents to work from home and the need to protect the character of residential neighborhoods—a challenge faced by many communities.

Application

In practice, many Vermont municipalities have chosen to include in their zoning regulations the exact language found in the statute and then, for administrative purposes, define terms and associated standards. For example:

- The “minor portion” of the dwelling unit that may be used for the home occupation is often specified. This is generally assumed to be less than 50 percent, but is often

limited to no more than 25 percent of the useable or habitable floor area of the dwelling unit.

- Local regulations also often specify whether accessory structures can be used for a home occupation and/or included in the calculation of useable floor area.
- A business that draws customers or clients to the site (for example, retail sales) may not be allowed as a home occupation.
- The home occupation may be limited to residents of the dwelling unit or may also include a small number (one or two) of nonresident employees.
- Signs announcing the business may be limited in number and size.
- Outside storage, equipment, displays, or uses that are uncharacteristic in a residential neighborhood may be prohibited.
- There may be a limit on the number

Protection of Home Occupations

24 V.S.A., §4412(4)

State law states that: “No bylaw may infringe upon the right of any resident to use a minor portion of a dwelling unit for an occupation that is customary in residential areas and that does not have an undue adverse impact upon the character of the residential area in which the dwelling is located.”



Home businesses that are compatible with farming, such as small-scale food processing, equipment sales and service, and contractor yards, can often be incorporated into an existing farm complex. While such businesses may not be appropriate for dense residential neighborhoods, they may fit well in rural settings, while providing added economic options for the landowners.

of vehicle trips generated by the home occupation beyond the number associated with normal residential use.

- If parking is needed for the home occupation, it may be limited to off-street locations, and applicants may be required to screen parking areas from public view and neighboring properties. The parking of commercial vehicles (for example, trucks and heavy equipment) may also be prohibited.
- Impacts such as excessive noise, glare, odor, or the storage of hazardous materials also may be expressly prohibited.

The basic premise of most home occupation regulations is that the home occupation should essentially be invisible, and its presence must not negatively impact the surrounding neighborhood.

Home occupations typically require some type of administrative review and approval, including the issuance of a zoning permit by the zoning administrator, to ensure that the basic definition and minimum requirements for home occupations are met. In some cases, municipalities exempt from regulation home offices, studios,

work areas used by writers, artists, consultants, or telecommuters that are located entirely within a principal dwelling or accessory structure, used only by a resident of the dwelling, and involve no signs, public access, or outdoor storage or displays. These types of home occupations, which are not visibly apparent and generally have no impact on neighboring properties, also tend to be difficult to identify and regulate.

On the other hand, many municipalities also allow for and regulate “expanded” home occupations, such as larger home businesses or cottage industries, that may allow for additional structures, yard areas, outside employees, and heavy equipment storage. This is especially true in rural communities or districts where dwellings are relatively isolated and the community wants to retain an active rural economy. For these types of home occupations, conditional use review by the appropriate municipal panel (a zoning board of adjustment or development review board) is commonly required to ensure that the use does not have an undue adverse effect on the local environment, neighboring properties, or community

services and facilities.

When home businesses are allowed as conditional uses, the regulations frequently require that, in addition to the normal conditional use criteria set forth in Chapter 117 (§4414[3]), home businesses must also satisfy local standards that may regulate the amount of interior and exterior space used by the business; the number of nonresidents employed by the business; vehicle and equipment parking and storage; the frequency of deliveries or customer visits; hours of operation; and applicable performance standards. For example, some municipalities allow separate accessory structures or yard areas to be used for the home business. In any case, the home business must be conducted by a resident of the property, must generally be secondary and subordinate to the residential use of the site, and must not change the predominant character of the neighborhood in which it is located.

Once granted, the home occupation approval stays with the land as long as the home occupation is continued—it does not disappear when the property changes hands if the new residents continue the use.

Home Child-Care Facilities

24 V.S.A. §4412(5)

A home child-care facility that serves no more than six children full-time and four children part-time—which is protected under Chapter 117 as an allowed use of a single-family dwelling—is also considered to be a type of home occupation that falls under the statutory protections for home occupations. Municipal regulations cannot unduly burden or restrict such facilities. A zoning permit may be required for facilities serving six or fewer children; and site plan approval may be required for operations that serve no more than six full-time and four part-time children. Larger day-care facilities are subject to all applicable municipal regulations.

A concern faced by many communities is what to do when a home occupation is successful and grows to the point where the proprietor wishes to hire more employees, increase production, or use more space than is allowed as a home occupation. The simple answer is that the business has outgrown the home occupation provisions and should relocate into an area more suitable for that type of activity. Relocation, however, can be a diffi-

cult, if not fatal, transition for a small business. In response to this problem, municipalities may allow for business expansion under other definitions of home business as noted above, or as a type of “mixed use” in which the residential use is no longer considered the principal use of the property. Again, these types of uses are generally allowed as conditional uses only in specified zoning districts.

For the most part, home occupations offer low visibility options for local employment. Occasionally, however, home employment involves equipment or operations that clearly impinge on a neighborhood’s quality of life. It is for those few cases that it is important to have a clear set of standards. It’s up to the community to create standards that reflect the desired balance between flexibility and neighborhood protection.

Summary of Home Occupation and Home Industry Standards (Example: Bolton)		
	Home Occupation	Home Industry
Secondary/Subordinate to Residential Use	Yes	Yes
Within Principal Dwelling	Yes	Yes
Within Accessory Structures	Yes	Yes
Maximum Square Footage	1,000 square feet	Not specified
Outdoor Storage of Materials	No	With approval
Nonresident Employees	Max: 2	Max: 5
Parking Spaces	See Section 3.11 (parking standards)	See Section 3.11 (parking standards)
Traffic	Residential (10 trips per day)	Characteristic of other uses allowed in district
Landscaping/Screening	No	May be required
Signs	See Section 3.14 (sign requirements)	See Section 3.14 (sign requirements)
Retail Sales	Limited to products and services produced on premises and related products; by appointment only	Limited to products and services produced on premises and related products
Zoning Permit	Yes	Yes
Conditional Use Review	No	Yes

Home Occupations Bylaw Language

Example: *Town of Bolton*

Section 9.2 Exemptions

(A) In accordance with the Act [§4446], the following uses and structures have been determined to impose no impact or a de minimus impact on the surrounding area and the overall pattern of land development in the town and are exempted from these regulations. No permit or approval shall be required for:

(9) A home office within a principal dwelling or attached garage which is carried on by a resident of that dwelling, and which involves no signs, public access or outdoor storage or displays.

Section 4.13 Home Business [Home Occupation, Home Industry]

(A) Home Occupation. In accordance with the Act (§4412[4]), no provision of these regulations may infringe upon the right of any resident to use a minor portion of a dwelling for an occupation which is customary in a residential area and which does not have an undue adverse impact on the character of the residential area in which the dwelling is located. No zoning permit shall be required for a home office within a principal dwelling or attached garage which is carried on by a resident of that dwelling, and which involves no signs, public access or outdoor storage or displays. For other home occupations that meet the following requirements, a zoning permit issued under Section 9.3 shall be required to document and record the use in the land records of the town:

(1) The home occupation shall be conducted by residents of the dwelling and up to a maximum of two (2) non-resident employees on-site at any time.

(2) The home occupation shall be conducted within the principal dwelling, an attached garage, or an accessory structure on the same lot, and shall not occupy a gross floor area greater than 1,000 square feet.

(3) Outdoor storage, displays or equipment associated with a home oc-

cupation, other than those that are customarily associated with a residential use, are prohibited.

(4) The home occupation shall meet all performance standards set forth in Section 3.12.

(5) No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use (a maximum of 10 vehicle trips per day).

(6) Off-street parking for residents of the dwelling, employees and customers shall be provided in accordance with Section 3.11. No commercial vehicles other than passenger vehicles (e.g., cars, vans, pick-up trucks) associated with the business shall be parked on the premises.

(7) Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.

(8) One (1) sign shall be allowed in accordance with Section 3.14.

(9) Retail sales or services on-site are limited to the sale of goods or services produced on the premises, and related products, by appointment only.

(B) Home Industry. Home industry, as distinguished from "home occupation" under Subsection (A), may be allowed as an accessory to a single family dwelling in designated zoning districts subject to conditional use review under Section 5.4, and the following provisions:

(1) The home industry shall be conducted on-site by residents of the dwelling, and up to five (5) full-time nonresident employees at any given time.

(2) Exterior storage of materials and equipment associated with a home industry shall be limited to a clearly designated yard or storage area approved by the Development Review Board, which meets all applicable setbacks for the district in which the property is located. The Board may require greater setbacks as deemed necessary to avoid adverse impacts to neighboring properties or public rights-of way. The Board also may require that such areas be adequately screened year-round from public view and neighboring prop-

erties, and secured to protect public safety.

(3) Exterior yard or storage areas shall also meet surface water and wetland setbacks and buffers as required under Section 3.17.

(4) The storage of hazardous materials anywhere on the premises shall be limited to those materials necessary for the operation of the home industry and shall be stored in accordance with all applicable state and federal regulations.

(5) The home industry shall not change the character of the neighborhood, nor result in a change in the outward appearance of the dwelling or the accessory structure.

(6) The home industry shall not generate traffic, including delivery traffic, in excess of volumes characteristic of other uses allowed in the district in which the home industry is located.

(7) Off-street parking shall be provided for residents, employees, delivery vehicles and customers in accordance with Section 3.11. Commercial vehicles or equipment associated with the home industry shall be parked within designated yard or parking areas, approved by the Board. The Board may also require that parking areas are adequately screened year-round from public view and adjoining properties.

(8) Adequate provisions shall be made for water, wastewater and the disposal of solid waste, in accordance with applicable municipal and state regulations.

(9) A home industry shall meet all applicable performance standards under Section 3.12. In addition to other conditions, the Board may limit the hours of operation as deemed necessary to minimize adverse impacts to neighboring properties and protect the character of the area.

(10) One (1) sign may be allowed in accordance with Section 3.14.

(11) On-site retail sales or services are limited to the sale of goods or services produced on the premises, and related products.

Source: The Bolton Land Use and Development Regulations (2005); also table on page 12-3.