

Town Council Zoning and Regulatory Committee
Selectmen's Conference Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

Councilor Betty Ludtke Chair
Councilor William Crocker Jr.
Councilor John Crow
Councilor Charles Bloom
Vice President Kris Clark
Jake Dewey, Chair, Zoning Board of Appeals
Stephen Robichaud, Chair Planning Board

August 13, 2026
3:00pm

MEETING MINUTES

Chair of Committee opened the meeting by announcing the following:

Good afternoon, it's 3:00pm on August 13, 2026. This meeting is being recorded and will be rebroadcast on the Town of Barnstable Government Access Channel in accordance with Massachusetts General Laws, Chapter 30A, Section 20. The chair must inquire whether anyone else is recording this meeting, and if so, please make their presence known. This meeting will be replayed via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Government Access Channel live video-on-demand archives on the Town of Barnstable website. Let's begin with the roll call, please. Administrator to the Town Council took Roll Call: Committee members

Stephen Robichaud	here
Jake Dewey	here
Councilor Crow	absent
Councilor Ludtke	here
Councilor Bloom	here
Councilor Clark	here
Councilor Crocker	here

Chair of Committee asked for public comment: We have no one from the public. So, we had arranged to have this special session today. This is an additional meeting for this committee, and it is to continue to review our zoning for the Home Occupation. And we had left off, and I think last time, we were concerned that our Building Commissioner, Brian Florence, was not with us, and he should be here shortly. I understand he's running slightly late, we'll get started. We'll continue our discussions, and then we'll have Brian join us. Jim, you've given us some new information. Do you want to review what this is here?

Jim Kupfer, Director, Planning and Development: On Laserfiche, the board and the public have access to this, are a couple of handouts that Brian Florence has provided to the group. And I'll just pull them up first so everyone can see as well. So, if you go onto the Town's webpage, we have our special subcommittee page, Town Council Zoning Subcommittee, then we have, on the right side, meeting materials; everyone has access to all of these. pulling back up the webpage there. So under meeting materials, and then you can pull up Laserfiche, which is the Town's system for documents and under today's meeting, the date of the meeting, we have two documents that have been uploaded here and both come from Commissioner Brian Florence, and I'm sure he can speak to both of these more thoroughly, but I'll just quickly go over these real quick. The first item was this committee specifically had asked for a little bit more understanding of the Home Occupation and Business License Review. I know a couple of the members went and saw the process firsthand and asked for kind of an outline or a spell out specifically how that functions. Commissioner Florence and his team did just that, outlining participants, the application and its process and again, Brian Florence will go into more details here momentarily, and

under business, they're going to go into more detail about the business licenses, what is required, what they're looking for, and some helpful reminders when doing those reviews.

Home Occupation and Business License Zoning Review

Participants

- Building Commissioner / Zoning Enforcement Officer
- Deputy Director ISD
- Permit / SPR Coordinator
- Further review by other agencies as determined by this process

Application

- *Home Occupation Registration (240-46)* and *Business License (MGL c. 110.5)* applications are regulatorily required approvals.
- *Home occupation and Business License* applications are entered into the Town's permitting system by the applicant.
- The application(s) contains a series of questions from the Home Occupation restrictions that are designed to trigger higher scrutiny by the zoning enforcement officer depending on how they are answered.
 - Reference: §240-46 B. (1)-(15) <https://ecode360.com/6559568>
- Applications that trigger this type of zoning review include:
 - Home occupation (240-46)
 - Business license (110.5 CMR) and
 - Building Permit (780 CMR)

Process

Zoning reviews of these applications typically take place on Fridays

We verify:

- Zoning district
- Water protection overlay district
- Type of use proposed
- Description of the proposed use

Business license

Business license applications that do not comply with the zoning ordinance are denied, moved to Site Plan Review or referred to a multi-member board (ZBA, PB, ConCom etc.).

Applications that Involve Business Use on a Residential Parcel (Home Occupation)

The following *Home Occupation* regulations/restrictions are strictly applied to the application during this zoning review process: [the following is paraphrased]

NOTE: Avoid subjective statements in regulation:

- **Objective:** The activity must be conducted by residents of the dwelling.
- **Objective:** The use must be incidental and subordinate to the residential use.
- **Objective:** The use may occupy no more than 20% of the dwelling unit.
- **Subjective/Objective:** There are no external alterations to the dwelling that are not customary to residences.
- **Subjective:** The use may not be objectionable or detrimental to the neighborhood.
- **Subjective/Objective:** Traffic generated shall not be more disruptive to the neighborhood than normal residential district traffic.
- **Subjective:** The use shall not include the production of offensive conditions.
- **Objective:** There is no storage or use of toxic or hazardous materials permitted beyond normal household quantities (25 gal.).
- **Objective:** Parking generated [by the home occupation] is kept on the same lot containing the home occupation, and not within the front yard. (excluding driveway and roadway)
- **Subjective:** There is no exterior storage or display of materials or equipment.
- **Objective:** No more than one vehicle exceeding one-ton capacity and one trailer not to exceed 20 feet in length with more than four tires.
- **Objective:** No signs are allowed to be displayed on the premises.
- **Objective/Impractical:** Advertising by the business may not include the residential address.
- **Objective:** There are no more than one nonresident employee allowed.
- **Objective/Discretionary:** Specific restricted uses are prohibited such as (retail, barber, vehicle repair etc.).

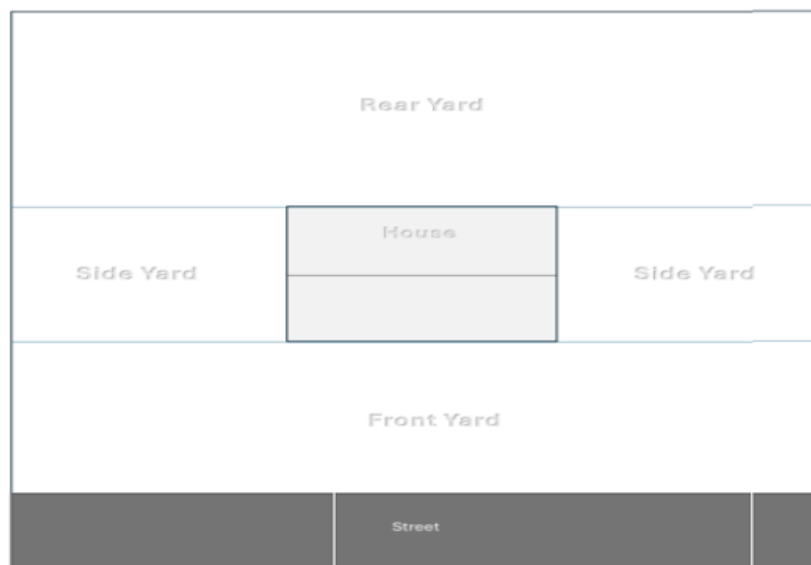
Approvals

- Business Licenses that comply with zoning are given a business license by the Town Clerk
- Home Occupations that comply with zoning are given a Certificate of Registration along with their business and license.
- The Zoning Enforcement Officer identifies and lists any conditions for approval as well as any restrictions that apply to the use on the face of either the Home Occupation Registration Certificate or the Business License.

Rejected Applications

Business licenses and Home Occupations that do not comply with zoning but might be able to comply if they modify their plans are given options to do so. We try to work with the applicants to help them get to an approvable condition, but those that simply cannot are rejected at the Zoning Review process and given information pertaining to multi-member board access or their rights to an appeal.

In addition, one of the diagrams here, the setbacks diagram, that's meant to be for discussion purposes when we get to what is a front yard, what is the rear yard, what is the side yard and so Brian will speak more to that. So those are the two new documents that you have before you. In addition, I have provided the Commissioner with many of your questions and comments that were made from the previous meeting, and he is prepared to speak to those as well.



And so for the rest of it, you have the last document that was provided and again, this document provides the home occupation as it stands, today, the ordinance as it stands right now, the redline version of the existing home occupation ordinance that included site plan review, and a clean version of site plan review, and then one without site plan review, but trying to meet the intent of what the committee has been striving for, both in redline and clean version. So those are the key documents for this afternoon.



Town of Barnstable
Department of Planning & Development

<https://www.townofbarnstable.us/Departments/planninganddevelopment/>



MEMORANDUM

Date: June 29, 2026
To: Town Council Zoning and Regulatory Subcommittee
From: Planning & Development Staff
Re: Proposed Home Occupation Ordinance

Since the last meeting of the Town Council Zoning and Regulatory Subcommittee, town staff have been working to advance edits to the Town's home occupation ordinance.

To better understand concerns and priorities of the subcommittee, members of the Town's Building and Planning departments met with committee members to demonstrate how home occupation application reviews are currently conducted. Staff have since developed two draft versions of an amended home occupation ordinance. These drafts have been developed to reflect both feedback received at previous subcommittee meetings, and additional input from members in reaction to meeting with town staff.

The first draft ordinance is a response to the comments received by the subcommittee and includes an additional requirement of site plan approval for home occupations that meet certain characteristics. This is intended to allow for a more robust staff review of relevant applications to determine if Special Permit approval is required. A second version was developed in response to some members expressing that Site Plan Review approval may not be required or appropriate for these applications. In this version applicants would instead be required to submit additional materials at application in writing to effectuate a detailed review by staff.

Both versions include the same clarifying and housekeeping edits, such as introducing new definitions and establishing the requirement of a home occupation license for improved monitoring.

Attached:

- Existing home occupation ordinance
- Draft amended home occupation ordinance – redlined (with Site Plan Review)
- Draft amended home occupation ordinance – clean version (with Site Plan Review)
- Draft amended home occupation ordinance – redlined (without Site Plan Review)
- Draft amended home occupation ordinance – clean version (without Site Plan Review)

§ 240-46. Home occupation. [Added 8-17-1995 by Order No. 95-195; amended 9-15-2022 by Order No. 2023-011]

- A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within a dwelling, subject to the provisions of this section, provided that the activity shall not be discernible from outside the dwelling except as provided herein; there shall be no increase in noise or odor; no visible alteration to the premises which would suggest anything other than a residential use; no increase in traffic above normal residential volumes; and no increase in air or groundwater pollution.
- B. A home occupation shall be permitted in all zoning districts as of right, subject to the following conditions:
- (1) The activity is conducted by a permanent resident of a dwelling unit, located within that dwelling unit, or within an accessory structure located on the same lot, subject to the limitations herein.
 - (2) Such use is clearly incidental to and subordinate to the use of the premises or occupants for residential purposes.
 - (3) Such use occupies no more than 20% of the dwelling unit, including office and storage areas combined, unless relief is granted by special permit as provided by Subsection C(1)(a) below. Such use within an accessory structure shall occupy no more than 200 square feet unless relief is granted by special permit as provided by Subsection C(1)(f) below.
 - (4) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use except as provided herein.
 - (5) The use is not objectionable or detrimental to the neighborhood and its residential character.
 - (6) Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics.
 - (7) The use shall not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other objectionable effects.
 - (8) There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.
 - (9) Any need for parking generated by such use shall be met on the same lot containing the customary home occupation, and not within the front yard.
 - (10) There is no exterior storage or display of materials or equipment.
 - (11) There are no commercial vehicles related to the home occupation, other than one van or one pickup truck not to exceed one-ton capacity, and one trailer not to exceed 20 feet in length and not to exceed four tires, parked on the same lot containing the home

occupation. This section does not apply to residents of a dwelling who park take-home work vehicles that are not registered to them and that do not have a home occupation on-premises.

- (12) No sign shall be displayed indicating the home occupation.
 - (13) If the home occupation is listed or advertised as a business, the street address shall not be included.
 - (14) No more than one nonresident employee may be employed on the premises of a home occupation, except pursuant to a special permit in accordance with Subsection C(1)(c) below.
 - (15) Home occupations shall not include such uses similar to, and including the following:
 - (a) Barber- and beauty shops.
 - (b) Commercial stables or kennels.¹
 - (c) Offices which provide public access, provided that offices that are used only for administrative purposes shall be permitted.
 - (d) The sale of retail or wholesale merchandise from the premises, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection B(3) above.
 - (e) The sale of antique or secondhand goods, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection B(3) above.
 - (f) Service or repair of vehicles, and gasoline- or diesel-powered machinery.
 - (g) Contractor's storage yards. Contractor's storage yard includes the keeping of materials in trade outdoors, such as: lumber, granite, windows and other such bulk materials, including but not limited to stone, gravel, mulch, firewood, etc., beyond the limits of personal use.
 - (h) Veterinary services.
 - (i) The manufacture of goods using heavy machinery.
 - (j) Medical or dental practice.
 - (k) Fortune-telling or palm reading.
- C. Home occupation by special permit. The Zoning Board of Appeals may allow by special permit, subject to the provisions of § 240-125C herein, a home occupation subject to the specific standards for such conditional uses as required in this section:
- (1) Home occupations shall comply with all of the requirements of Subsection B(1) through

1. Kennel - Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or over.

- (11) above, except the Zoning Board of Appeals may allow by special permit the following waivers from the requirements of Subsection B above.
 - (a) The Zoning Board of Appeals may allow an activity to exceed 20% of a dwelling's gross floor area by special permit but at no time shall allow a home occupation to occupy more than 40% of a dwelling's gross floor area.
 - (b) The Zoning Board of Appeals may allow one nonilluminated wall sign not exceeding two square feet in area by special permit.
 - (c) The Zoning Board of Appeals may allow more than one nonresident employee to be employed on the premises of a home occupation but at no time shall a home occupation allow for greater than two nonresidents of the household to be employed on the premises at the same time.
 - (d) The Zoning Board of Appeals may allow the parking of one work vehicle capable of being operated under a Massachusetts Class B license related to the home occupation by special permit. All parking generated by the use by special permit shall be accommodated off-street, screened by a physical or natural barrier so not to be seen from a public way.
 - (e) Home occupations shall not include the uses listed in Subsection B(15) above. However, The Zoning Board of Appeals may allow activities that may not be customary within a dwelling, provided that the activity meets the intent as specified herein.
 - (f) The Zoning Board of Appeals may allow a home occupation use to be located within an accessory structure which may occupy greater than 200 square feet of the accessory structure, on the same lot as the primary residential dwelling unit occupied by the applicant. Such use within an accessory structure may occupy greater than 200 square feet by special permit but at no time shall the use within the accessory structure occupy an area within an accessory structure that is greater than 25% of the square footage of the primary residential dwelling unit occupied by the applicant.
- (2) Home occupations requiring a special permit shall require Article IX, Site Plan Review.
- (3) Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his or her residence, and shall not be transferable to another person, or to another location.

§ 240-46. Home occupation.

- A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within a dwelling, subject to the provisions of this section, provided that the activities related to such Home Occupation shall not be discernible from outside the dwelling, ~~except as provided herein; there shall be no~~ does not increase in noise or odor, does not ~~involve~~ no visible alterations to the premises which would ~~that~~ suggest anything other than a residential use, ~~use other than residential; it does not generate no increase in traffic above beyond~~ normal residential volumes; and ~~no~~ does not increase in air or groundwater pollution.

B. Definitions.

Building Commissioner – ~~Duly appointed building commissioner or his designee acting as the zoning enforcement officer.~~

Commercial Kennel – Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or older.

Commercial Stable – A property, building, or land used to house, board, train, or rent out horses for financial gain or commercial purposes.

Commercial Vehicle – Any vehicle associated with a Home Occupation that meets the definition of "Commercial Plates Required Vehicle" as set forth in 540 CMR 2.05(3).

Contractor's Storage Yard – Keeping of materials in trade outdoors, such as: lumber, granite, windows and other such bulk materials, including, but not limited to, stone, gravel, mulch and firewood beyond the limits of personal use.

Front Yard – The open, unoccupied space on a lot that extends across the full width of the property, situated between the principal building (front building line) and the front lot line adjacent to the street.

Home Occupation – Business activity conducted within a dwelling unit or accessory structure that is incidental and subordinate to the primary residential use of the premises and meets the Home Occupation requirements contained in this Ordinance.

Home Occupation License – A license issued to a Responsible Party permitting that individual to have a Home Occupation within their residence or on their residential property.

Park-and-Ride – a location at which drivers leave their vehicles to get into another vehicle to go to another location.

Responsible Party – Any individual in possession of a Home Occupation License issued by the Town of Barnstable.

Trailer – any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle that is associated with a Home Occupation.

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B.C. A home occupation shall be permitted in all zoning districts as of right, subject to the following conditions:

- (1) There is no other Home Occupation within the dwelling unit, except for as provided in Subsection E(3).
- (2) The Home Occupation is conducted by the owner of the premises where the Home Occupation is located, or by a residential tenant with written authorization from the owner to engage in the Home Occupation. The Home Occupation is clearly incidental and subordinate to the principal residential use of the premises.
- (1) The activity is conducted by a permanent resident of a dwelling unit, located within that dwelling unit, or within an accessory structure located on the same lot, subject to the limitations herein.
- (2) Such use is clearly incidental to and subordinate to the use of the premises or occupants for residential purposes.
- (3) A Home Occupation shall require a Home Occupation License issued by the Building Commissioner or his/her designee.
- (4) Any vehicle associated with the Home Occupation that meets the definition of Commercial Vehicle above shall display a commercial registration number plate as required by 540 CMR 2.05. A Home Occupation with a Commercial Vehicle associated with it shall require approval pursuant to Subsection E.
- (3)(5) Such use occupies no more than 20% of the dwelling unit, including office and storage areas combined, unless relief is granted by special permit as provided by Subsection C(4)(a) F(1)(a) below. Such use within an accessory structure shall occupy no more than 200 square feet unless relief is granted by special permit as provided by Subsection C(4)(b) F(1)(b) below.
- (4)(6) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use except as provided herein.
- (5) The use is not objectionable or detrimental to the neighborhood and its residential character.
- (6)(7) Traffic associated with the Home Occupation shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics, including, but not limited to, an increase of traffic, or the presence of vehicles associated with the Home Occupation. Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics.
- (7)(8) The use shall not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other effects not ordinarily associated with residential use that produce negative impacts on the neighborhood, consistent with the Intent section above, or other objectionable effects.
- (8)(9) There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.

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- ~~(9)(10) No vehicles associated with the Home Occupation shall park on the street or within the Front Yard, as defined above. Any need for parking generated by such use shall be met on the same lot containing the customary home occupation, and not within the front yard.~~
- ~~(40)(11) All supplies, materials and equipment associated with the Home Occupation shall be stored in an enclosed structure or in or on a Commercial Vehicle or trailer allowed on the premises under this Section. Except as authorized under Subsection E(2), There is no exterior storage or display of materials or equipment.~~

- ~~(11) There are no commercial vehicles related to the home occupation, other than one van or one pickup truck not to exceed one-ton capacity, and one trailer not to exceed 20 feet in length and not to exceed four tires, parked on the same lot containing the home occupation. This section does not apply to residents of a dwelling who park take-home work vehicles that are not registered to them and that do not have a home occupation on premises.~~
- ~~(12) All outdoor lighting associated with the home occupation shall be fully shielded and directed downward to prevent glare.~~
- ~~(13) No sign shall be displayed indicating the home occupation.~~
- ~~(14) If the home occupation is listed or advertised as a business, the street address shall not be included.~~
- ~~(15) All employees associated with the Home Occupation reside on the premises, except for as provided in No more than one nonresident employee may be employed on the premises of a home occupation, except pursuant to a special permit in accordance with Subsection C(1)(c)E(1)(c) below.~~
- ~~(16) The property on which the Home Occupation is located shall not serve as a Park and Ride.~~
- ~~(17) Home occupations shall not include such uses similar to, and including the following:~~
- ~~(a) Barber- and beauty shops.~~
 - ~~(b) Commercial stables or kennels. ⁽¹⁾
[1]—Kennel—Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or over.~~
 - ~~(c) Offices which provide public access, provided that offices that are used only for administrative purposes shall be permitted.~~
 - ~~(d) The sale of retail or wholesale merchandise from the premises, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection B(3) above. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection C(5) above, except as exempted in Zoning Ordinance 240.8~~
 - ~~(e) The sale of antique or secondhand goods, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection B(3) above.~~
 - ~~(f) Service or repair of vehicles, and gasoline- or diesel-powered machinery.~~
 - ~~(g) Contractor's storage yards. Contractor's storage yard includes the keeping of materials in-trade outdoors, such as: lumber, granite, windows and other such bulk materials, including but not limited to stone, gravel, mulch, firewood, etc., beyond the limits of personal use.~~
 - ~~(h) Veterinary services.~~
 - ~~(i) The manufacture of goods using heavy machinery.~~
 - ~~(j) Medical or dental practice.~~
 - ~~(k)~~

Fortune-telling or palm reading.

D. Home Occupation License. Applicants shall be required to receive a Home Occupation License from the Building Commissioner or his/her designee for each Home Occupation located within a residence or on a residential property.

- (1) All Responsible Parties shall make application to renew their Home Occupation Licenses every three (3) years. Renewals are subject to approval and may be withheld for violations of the Barnstable Town Code, including, but not limited to, the requirements set forth in this Section.
- (2) Home Occupation License shall be for a term of three (3) calendar years, beginning on January 1. License fees shall not be pro-rated when obtained after January 1.
- (3) Home Occupation Licenses shall include, at a minimum, the following information: A license number, name and photo of the Responsible Party, the location of the Home Occupation, license plate numbers of all commercial vehicles associated with the Home Occupation, telephone number of the Responsible Party, email address of the Responsible Party, and location of off-premises parking associated with the Home Occupation.
- (4) A Home Occupation License may be revoked by the Building Commissioner or his designee for cause, including, but not limited to: Violation of any of the provisions of this Section.
 - (a) Providing false information in any application associated with the Home Occupation.
 - (b) Parking business-associated vehicles in violation of what is allowed by this Section.
 - (c) Failing to register vehicles associated with the Home Occupation as required by Subsection (C)(4).
 - (d) Failure to timely communicate with the Building Commissioner or his or her designee during any enforcement action.
- (5) A Responsible Party aggrieved by a decision by the Building Commissioner pursuant to this Subsection D may appeal to the Zoning Board of Appeals within thirty (30) days of the decision. Appeals to the Zoning Board of Appeals shall be delivered in accordance with Massachusetts General Laws c. 40A § 15.

E. Home occupation requiring Site Plan Approval. Home occupations that meet the criteria listed in Section C, but have special characteristics listed below, shall require Article IX, Site Plan Review, before a Home Occupation License can be issued for the property. Special characteristics requiring Site Plan Review approval for a home occupation are the following:

- (1) The Applicant proposes parking a commercial vehicle or trailer on the property where the Home Occupation is located. Any such commercial vehicle or trailer shall not exceed one-ton capacity or 20 feet in length, and shall have no more than four tires.
- (2) Keeping of materials or equipment in trade outdoors. Materials must be properly screened with either fencing or ~~Page 9 of 28~~ that materials and/or equipment are not

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visible from the public view, and adhere to applicable setback standards for the relevant zoning district to limit impacts to noise, odor, or other impacts from non-residential uses on a residential area.

Materials or equipment shall not be located within the setbacks required by the residential zoning district the Home occupation is located in. All materials or equipment associated with the Home occupation are prohibited from locating in the front yard.

- (3) A Home Occupation already exists within the dwelling, but in no event may more than two Home Occupations be licensed on the same dwelling at the same time.
- (4) At the discretion of the Building Commissioner, if the Commissioner determines that the proposed use is unclear and/or impacts of use cannot clearly be defined at time of Home Occupation license request.

C-E. Home occupation by special permit. The Zoning Board of Appeals may allow by special permit, subject to the provisions of § 240-125C herein, a home occupation subject to the specific standards for such conditional uses as required in this section:

- (1) Home occupations shall comply with all of the requirements of Subsection ~~B(1)(C)(1)~~ through ~~(14)(B)~~ above, except the Zoning Board of Appeals may allow by special permit the following waivers from the requirements of Subsection **B** above.
 - (a) The Zoning Board of Appeals may allow an activity to exceed 20% of a dwelling's gross floor area by special permit but at no time shall allow a home occupation to occupy more than 40% of a dwelling's gross floor area.
 - (b) The Zoning Board of Appeals may allow one nonilluminated wall sign not exceeding two square feet in area by special permit.
 - (c) The Zoning Board of Appeals may allow more than one nonresident employee to be employed on the premises of a home occupation but at no time shall a home occupation allow for greater than two nonresidents of the household to be employed on the premises at the same time.
 - (d) The Zoning Board of Appeals may allow the parking of one work vehicle capable of being operated under a Massachusetts Class B license related to the home occupation by special permit. All parking generated by the use by special permit shall be accommodated off-street, screened by a physical or natural barrier so not to be seen from a public way.
 - (e) ~~(c)~~ Home occupations shall not include the uses listed in Subsection ~~B(15)(C)(17)~~ above. However, The Zoning Board of Appeals may allow activities that may not be customary within a dwelling, provided that the activity meets the intent as specified herein.
 - (d) The Zoning Board of Appeals may allow a home occupation use to be located within an accessory structure which may occupy greater than 200 square feet of the accessory structure, on the same lot as the primary residential dwelling unit occupied by the applicant. ~~Such use within an accessory structure may occupy~~

greater than 200 square feet by special permit but at no time shall the use within the accessory structure occupy an area within an accessory structure that is provided that at no time shall use within the accessory structure occupy an area within an accessory structure that is greater than 25% of the square footage of the primary residential dwelling unit occupied by the applicant.

(f)(e) ~~An additional commercial vehicle or trailer associated with a Home Occupation. At no time shall there be more than two total commercial vehicles and/or trailers associated with Home Occupations permitted on the property.~~

(2) Home occupations requiring a special permit shall require Article IX, Site Plan Review.

(3) ~~Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his or her residence, and shall not be transferable to another person, or to another location.~~

(4) ~~Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his/her residence, and shall not be transferable to another person or location.~~

§ 240-46. Home occupation. [Added 8-17-1995 by Order No. 95-195; amended 9-15-2022 by Order No. 2023-011]

A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within a dwelling or accessory structure, subject to the provisions of this section, provided that, activities related to such Home Occupation is not discernible from outside the dwelling, does not increase noise or odor, does not involve visible alterations that suggest a use other than residential, does not generate traffic beyond normal residential volumes, and does not increase air or groundwater pollution.

B. Definitions.

Building Commissioner – Duty appointed building commissioner or his designee acting as the zoning enforcement officer.

Commercial Kennel – Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or older.

Commercial Stable – A property, building, or land used to house, board, train, or rent out horses for financial gain or commercial purposes.

Commercial Vehicle – Any vehicle associated with a Home Occupation that meets the definition of “Commercial Plates Required Vehicle” as set forth in 540 CMR 2.05(3).

Contractor's Storage Yard – Keeping of materials in trade outdoors, such as: lumber, granite, windows and other such bulk materials, including, but not limited to, stone, gravel, mulch and firewood beyond the limits of personal use.

Front Yard - The open, unoccupied space on a lot that extends across the full width of the property, situated between the principal building (front building line) and the front lot line adjacent to the street.

Home Occupation – Business activity conducted within a dwelling unit or accessory structure that is incidental and subordinate to the primary residential use of the premises and meets the Home Occupation requirements contained this Ordinance.

Home Occupation License – A license issued to a Responsible Party permitting that individual to have a Home Occupation within their residence or on their residential property.

Park-and-Ride – a location at which drivers leave their vehicles to get into another vehicle to go to another location.

Responsible Party – Any individual in possession of a Home Occupation License issued by the Town of Barnstable.

Trailer – any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle that is associated with a Home Occupation.

C. A home occupation shall be permitted in all zoning districts as of right, subject to the following conditions:

- (1) There is no other Home Occupation within the dwelling unit, except for as provided in Subsection E(3).
- (2) The Home Occupation is conducted by the owner of the premises where the Home Occupation is located, or by a residential tenant with written authorization from the owner to engage in the Home Occupation. The Home Occupation is clearly incidental and subordinate to the principal residential use of the premises.
- (3) A Home Occupation shall require a Home Occupation License issued by the Building Commissioner or his/her designee.
- (4) Any vehicle associated with the Home Occupation that meets the definition of Commercial Vehicle above shall display a commercial registration number plate as required by 540 CMR 2.05. A Home Occupation with a Commercial Vehicle associated with it shall require approval pursuant to Subsection E.
- (5) Such use occupies no more than 20% of the gross square footage of the dwelling unit, including office and storage areas combined, unless relief is granted by special permit as provided by Subsection F(1)(a) below. Such use within an accessory structure shall occupy no more than 200 square feet unless relief is granted by special permit as provided by Subsection F(1)(f) below.
- (6) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use except as provided herein.
- (7) Traffic associated with the Home Occupation shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics, including, but not limited to, an increase of traffic, or the presence of vehicles associated with the Home Occupation.
- (8) The use shall not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other effects not ordinarily associated with residential use that produce negative impacts on the neighborhood, consistent with the Intent section above.
- (9) There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.
- (10) No vehicles associated with the Home Occupation shall park on the street or within the Front Yard, as defined above.
- (11) All supplies, materials and equipment associated with the Home Occupation shall be stored in an enclosed structure or in or on a Commercial Vehicle or trailer allowed on the premises under this Section. Except as authorized under Subsection E(2).
- (12) All outdoor lighting associated with the home occupation shall be fully shielded and directed downward to prevent glare.
- (13) No sign shall be displayed indicating the home occupation.
- (14) If the home occupation is listed or advertised as a business, the street address shall not

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be included.

- (15) All employees associated with the Home Occupation reside on the premises, except for as provided in Subsection F(1)(C).
- (16) The property on which the Home Occupation is located shall not serve as a Park and Ride.
- (17) The following uses shall not be permitted as Home occupations:
 - (a) Barber- and beauty shops.
 - (b) Commercial stables or kennels.
 - (c) Offices which provide public access, provided that offices that are used only for administrative purposes shall be permitted.
 - (d) The sale of retail or wholesale merchandise from the premises, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection C(5) above, except as exempted in Zoning Ordinance 240-8.
 - (e) The sale of antique or secondhand goods, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection C(5) above.
 - (f) Service or repair of vehicles, and gasoline- or diesel-powered machinery.
 - (g) Contractor's storage yards.
 - (h) Veterinary services.
 - (i) The manufacture of goods using heavy machinery.
 - (j) Medical or dental practice.
 - (k) Fortune-telling or palm reading.

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- D. Home Occupation License. Applicants shall be required to receive a Home Occupation License from the Building Commissioner or his/her designee for each Home Occupation located within a residence or on a residential property.
- (1) All Responsible Parties shall make application to renew their Home Occupation Licenses every three (3) years. Renewals are subject to approval and may be withheld for violations of the Barnstable Town Code, including, but not limited to, the requirements set forth in this Section.
 - (2) Home Occupation License shall be for a term of three (3) calendar years, beginning on January 1. License fees shall not be pro-rated when obtained after January 1.
 - (3) Home Occupation Licenses shall include, at a minimum, the following information: A license number, name and photo of the Responsible Party; the location of the Home Occupation; license plate numbers of all commercial vehicles associated with the Home Occupation; telephone number of the Responsible Party; email address of the Responsible Party; and location of off-premises parking associated with the Home Occupation.
 - (4) A Home Occupation License may be revoked by the Building Commissioner or his designee for cause, including, but not limited to: Violation of any of the provisions of this Section.
 - (a) Providing false information in any application associated with the Home Occupation.
 - (b) Parking business-associated vehicles in violation of what is allowed by this Section.
 - (c) Failing to register vehicles associated with the Home Occupation as required by Subsection C(4).
 - (d) Failure to timely communicate with the Building Commissioner or his or her designee during any enforcement action.
 - (5) A Responsible Party aggrieved by a decision by the Building Commissioner pursuant to this Subsection D may appeal to the Zoning Board of Appeals within thirty (30) days of the decision. Appeals to the Zoning Board of Appeals shall be delivered in accordance with Massachusetts General Laws c. 40A § 15.

- E. Home occupation requiring Site Plan Approval. Home occupations that meet the criteria listed in Section C, but have special characteristics listed below, shall require Article IX, Site Plan Review, before a Home Occupation License can be issued for the property. Special characteristics requiring Site Plan Review approval for a home occupation are the following:
- (1) The Applicant proposes parking a commercial vehicle or trailer on the property where the Home Occupation is located. Any such commercial vehicle or trailer shall not exceed one-ton capacity or 20 feet in length, and shall have no more than four tires.
 - (2) Keeping of materials or equipment in trade outdoors. Materials must be properly screened with either fencing or vegetation so that materials and/or equipment are not visible from the public view, and adhere to applicable setback standards for the relevant zoning district to limit impacts to noise, odor, or other impacts from non-residential uses on a residential area.

Materials or equipment shall not be located within the setbacks required by the residential zoning district the Home occupation is located in. All materials or equipment associated with the Home occupation are prohibited from locating in the front yard.
 - (3) A Home Occupation already exists within the dwelling, but in no event may more than two Home Occupations be licensed on the same dwelling at the same time.
 - (4) At the discretion of the Building Commissioner, if the Commissioner determines that the proposed use is unclear and/or impacts of use cannot clearly be defined at time of Home Occupation license request.
- F. Home occupation by special permit. The Zoning Board of Appeals may allow by special permit, subject to the provisions of § 240-125C herein, a home occupation subject to the specific standards for such conditional uses as required in this section:
- (1) Home occupations shall comply with all of the requirements of Subsection C(1) through (18) above, except the Zoning Board of Appeals may allow by special permit the following waivers from the requirements of Subsection C above.
 - (a) The Zoning Board of Appeals may allow an activity to exceed 20% of a dwelling's gross floor area by special permit but at no time shall allow a home occupation to occupy more than 40% of a dwelling's gross floor area.
 - (b) The Zoning Board of Appeals may allow one nonilluminated wall or freestanding sign not exceeding two square feet in area by special permit.
 - (c) The Zoning Board of Appeals may allow one nonresident employee to be employed on the premises of a home occupation but at no time shall a home occupation allow for greater than one nonresident of the household to be employed on the premises at the same time.
 - (d) Home occupations shall not include the uses listed in Subsection C(17) above. However, The Zoning Board of Appeals may allow activities that may not be customary within a dwelling, provided that the activity meets the intent as specified herein.
 - (e) The Zoning Board of Appeals may allow a home occupation use to be located within an accessory structure which may occupy greater than 200 square feet of the

accessory structure, on the same lot as the primary residential dwelling unit occupied by the applicant, provided that at no time shall the use within the accessory structure occupy an area within an accessory structure that is greater than 25% of the square footage of the primary residential dwelling unit occupied by the applicant.

- (f) An additional commercial vehicle or trailer associated with a Home Occupation. At no time shall there be more than two total commercial vehicles and/or trailers associated with Home Occupations permitted on the property.
- (2) Home occupations requiring a special permit shall require Article IX, Site Plan Review prior to seeking relief.
- (3) Any special permit granted by the Zoning Board of Appeals shall require a condition that the Home Occupation receive and maintain a Home Occupation License.
- (4) Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his/her residence, and shall not be transferable to another person or location.

(No Site Plan Review version)

§ 240-46. Home occupation.

- A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within a dwelling, subject to the provisions of this section, provided that the activities ~~related to such Home Occupations~~ shall not be discernible from outside the dwelling, ~~except as provided herein there shall be no~~ ~~does not~~ increase in noise or odor; ~~does not~~ involve visible alterations to the premises which ~~would~~ ~~that~~ suggest anything ~~other than a~~ residential use; ~~use other than residential; does not~~ ~~generates~~ increase in traffic ~~above~~ ~~below~~ normal residential volumes; and ~~no~~ ~~does not~~ increase in air or ground water pollution.

B. Definitions.

Building Commissioner – ~~Duly appointed building commissioner or his designee acting as the zoning enforcement officer.~~

Commercial Kennel – ~~Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or older.~~

Commercial Stable – ~~A property, building, or land used to house, board, train, or run out horses for financial gain or commercial purposes.~~

Commercial Vehicle – ~~Any vehicle associated with a Home Occupation that meets the definition of "Commercial Plates Required Vehicle" as set forth in 540 CMR 2.05(3).~~

Contractor's Storage Yard – ~~Keeping of materials in trade outdoors, such as lumber, granite, windows and other such bulk materials, including, but not limited to, stone, gravel, mulch and firewood beyond the limits of personal use.~~

Front Yard – ~~The open, unoccupied space on a lot that extends across the full width of the property, situated between the principal building (front building line) and the front lot line adjacent to the street.~~

Home Occupation – ~~Business activity conducted within a dwelling unit or accessory structure that is incidental and subordinate to the primary residential use of the premises and meets the Home Occupation requirements contained this Ordinance.~~

Home Occupation License – ~~A license issued to a Responsible Party permitting that individual to have a Home Occupation within their residence or on their residential property.~~

Park-and-Ride – ~~a location at which drivers leave their vehicles to get into another vehicle to go to another location.~~

Responsible Party – ~~Any individual in possession of a Home Occupation License issued by the Town of Barnstable.~~

Trailer – ~~any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle that is associated with a Home Occupation.~~

B-C. A home occupation shall be permitted in all zoning districts as of right, subject to the following conditions:

- (1) There is no other Home Occupation within the dwelling unit, except for as provided in Subsection E(1)(d).
- (2) The Home Occupation is conducted by the owner of the premises where the Home Occupation is located, or by a residential tenant with written authorization from the owner to engage in the Home Occupation. The Home Occupation is clearly incidental and subordinate to the principal residential use of the premises.
- (3) The activity is conducted by a permanent resident of a dwelling unit located within that dwelling unit, or within an accessory structure located on the same lot, subject to the limitations herein.
- (4) Such use is clearly incidental to and subordinate to the use of the premises or occupants for residential purposes.
- (5) A Home Occupation shall require a Home Occupation License issued by the Building Commissioner or his/her designee.
- (6) Any vehicle associated with the Home Occupation that meets the definition of Commercial Vehicle above shall display a commercial registration number plate as required by 540 CMR 2.05. A Home Occupation with a Commercial Vehicle associated with it shall be required to display evidence that the vehicle's parking is in compliance with all applicable provisions outlined in this section.
- (7) Such use occupies no more than 20% of the dwelling unit, including office and storage areas combined, unless relief is granted by special permit as provided by Subsection C(4)(a)(i) below. Such use within an accessory structure shall occupy no more than 200 square feet unless relief is granted by special permit as provided by Subsection C(4)(d)(i) below.
- (8) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use except as provided herein.
- (9) The use is not objectionable or detrimental to the neighborhood and its residential character.
- (10) Traffic associated with the Home Occupation shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics, including, but not limited to, an increase of traffic, or the presence of vehicles associated with the Home Occupation. Traffic generated shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics.
- (11) The use shall not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other effects not ordinarily associated with residential use that produce negative impacts on the neighborhood, consistent with the Intent section above, or other objectionable effects.
- (12) There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.

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- (10) No vehicles associated with the Home Occupation shall park on the street or within the Front Yard, as defined above. Any need for parking generated by such use shall be met on the same lot containing the customary home occupation, and not within the front yard.
- (11) All supplies, materials and equipment associated with the Home Occupation shall be stored in an enclosed structure or in or on a Commercial Vehicle or trailer allowed on the premises under this Section. If not stored in a structure or trailer, materials must be properly screened with either fencing or vegetation so that materials and/or equipment are not visible from the public view, and adhere to applicable setback standards for the relevant zoning district to limit impacts to noise, odor, or other impacts from non-residential uses on a residential area. There is no exterior storage or display of materials or equipment.

- (14) There are no commercial vehicles related to the home occupation, other than one van or one pickup truck not to exceed one-ton capacity, and one trailer not to exceed 20 feet in length and not to exceed four tires, parked on the same lot containing the home occupation. This section does not apply to residents of a dwelling who park take-home work vehicles that are not registered to them and that do not have a home occupation on premises.
- (12) All outdoor lighting associated with the home occupation shall be fully shielded and directed downward to prevent glare.
- (13) No sign shall be displayed indicating the home occupation.
- (14) If the home occupation is listed or advertised as a business, the street address shall not be included.
- (15) All employees associated with the Home Occupation reside on the premises, except for as provided in No more than one nonresident employee may be employed on the premises of a home occupation, except pursuant to a special permit in accordance with Subsection C(4)(e)(1)(G) below.
- (16) The property on which the Home Occupation is located shall not serve as a Park and Ride.
- (17) Home occupations shall not include such uses similar to, and including the following:
- (a) Barber- and beauty shops.
 - (b) Commercial stables or kennels. ⁽¹⁾
~~(1) — Kennel — Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months or over.~~
 - (c) Offices which provide public access, provided that offices that are used only for administrative purposes shall be permitted.
 - (d) The sale of retail or wholesale merchandise from the premises, with the exception of online or mail order sales. ~~The storage of merchandise is included in the total area limits of the home occupation subject to Subsection B(4) above. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection C(5) above, except as exempted in Zoning Ordinance 240-8.~~
 - (e) The sale of antique or secondhand goods, with the exception of online or mail order sales. ~~The storage of merchandise is included in the total area limits of the home occupation subject to Subsection B(4) above.~~
 - (f) Service or repair of vehicles, and gasoline- or diesel-powered machinery.
 - (g) Contractor's storage yards. ~~Contractor's storage yard includes the keeping of materials in trade outdoors, such as lumber, granite, windows and other such bulk materials, including but not limited to stone, gravel, mulch, firewood, etc., beyond the limits of personal use.~~
 - (h) Veterinary services.
 - (i) The manufacture of goods using heavy machinery.
 - (j) Medical or dental practice.
 - (k)

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Fortune-telling or palm reading.

- (18) At the discretion of the Building Commissioner, if the Commissioner determines that the proposed use is unclear and/or impacts of use cannot clearly be defined at time of Home Occupation license request, a Special Permit shall be required pursuant to requirements of Subsection E.
- D. Home Occupation License. Applicants shall be required to receive a Home Occupation License from the Building Commissioner or his/her designee for each Home Occupation located within a residence or on a residential property.
- (1) All Responsible Parties shall make application to renew their Home Occupation Licenses every three (3) years. Renewals are subject to approval and may be withheld for violations of the Barnstable Town Code, including, but not limited to, the requirements set forth in this Section.
- (2) Home Occupation License shall be for a term of three (3) calendar years, beginning on January 1. License fees shall not be pro-rated when obtained after January 1.
- (3) Home Occupation Licenses shall include, at a minimum, the following information: A license number, name and phone of the Responsible Party; the location of the Home Occupation; license plate numbers of all commercial vehicles associated with the Home Occupation; telephone number of the Responsible Party; email address of the Responsible Party; and location of off-premises parking associated with the Home Occupation.
- (4) A Home Occupation License may be revoked by the Building Commissioner or his designee for cause, including, but not limited to: Violation of any of the provisions of this Section.
- (a) Providing false information in any application associated with the Home Occupation.
 - (b) Parking business-associated vehicles in violation of what is allowed by this Section.
 - (c) Failing to register vehicles associated with the Home Occupation as required by Subsection C(4)(5).
 - (d) Failure to timely communicate with the Building Commissioner or his or her designee during any enforcement action.
- (5) A Responsible Party aggrieved by a decision by the Building Commissioner pursuant to this Subsection D may appeal to the Zoning Board of Appeals within thirty (30) days of the decision. Appeals to the Zoning Board of Appeals shall be delivered in accordance with Massachusetts General Laws c. 40A § 15.
- C-E. Home occupation by special permit. The Zoning Board of Appeals may allow by special permit, subject to the provisions of § 240-125C, herein, a home occupation subject to the specific standards for such conditional uses as required in this section:
- (1) Home occupations shall comply with all of the requirements of Subsection B(4)(5)(1) through (11)(13) above, except the Zoning Board of Appeals may allow by special permit

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the following waivers from the requirements of Subsection B above.

- (a) The Zoning Board of Appeals may allow an activity to exceed 20% of a dwelling's gross floor area by special permit but at no time shall allow a home occupation to occupy more than 40% of a dwelling's gross floor area.
- (b) The Zoning Board of Appeals may allow one nonilluminated wall sign not exceeding two square feet in area by special permit.

(c) The Zoning Board of Appeals may allow more than one nonresident employee to be employed on the premises of a home occupation but at no time shall a home occupation allow for greater than two nonresidents of the household to be employed on the premises at the same time.

(d) The Zoning Board of Appeals may allow a second Home Occupation within the same dwelling.

(e) The Zoning Board of Appeals may allow the parking of one work vehicle capable of being operated under a Massachusetts Class-B license related to the home occupation by special permit. All parking generated by the use by special permit shall be accommodated off-street, screened by a physical or natural barrier so as not to be seen from a public way.

(f) Home occupations shall not include the uses listed in Subsection B(4)(c)(17) above. However, The Zoning Board of Appeals may allow activities that may not be customary within a dwelling, provided that the activity meets the intent as specified herein.

(g) The Zoning Board of Appeals may allow a home occupation use to be located within an accessory structure which may occupy greater than 200 square feet of the accessory structure, on the same lot as the primary residential dwelling unit occupied by the applicant. Such use within an accessory structure may occupy greater than 200 square feet by special permit but at no time shall the use within the accessory structure occupy an area within an accessory structure that is greater than 25% of the square footage of the primary residential dwelling unit occupied by the applicant.

(h) An additional commercial vehicle or trailer associated with a Home Occupation. At no time shall there be more than two total commercial vehicles and/or trailers associated with Home Occupations permitted on the property.

- (2) Home occupations requiring a special permit shall require Article IX, Site Plan Review.
- (3) Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his or her residence, and shall not be transferable to another person, or to another location.
- (4) Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his/her residence, and shall not be transferable to another person or location.

§ 240-66. Home occupation. [Added 8-17-1995 by Order No. 95-195; amended 9-15-2012 by Order No. 2023-011]

- A. Intent. It is the intent of this section to allow the residents of the Town of Barnstable to operate a home occupation within a dwelling or accessory structure, subject to the provisions of this section, provided that, activities related to such Home Occupation is not discernible from outside the dwelling, does not increase noise or odor, does not involve visible alterations that suggest a use other than residential, does not generate traffic beyond normal residential volumes, and does not increase air or groundwater pollution.

B. Definitions.

Building Commissioner – Duly appointed building commissioner or his designee acting as the zoning enforcement officer.

Commercial Kennel – Premises used for the harboring and/or care of more than six dogs or other domestic non-farm animals six months old or older.

Commercial Stable – A property, building, or land used to house, board, train, or rent out horses for financial gain or commercial purposes.

Commercial Vehicle – Any vehicle associated with a Home Occupation that meets the definition of "Commercial Plates Required Vehicle" as set forth in 540 CMR 2.05(3).

Contractor's Storage Yard – Keeping of materials in trade outdoors, such as: lumber, granite, windows and other such bulk materials, including, but not limited to, stone, gravel, mulch and firewood beyond the limits of personal use.

Front Yard – The open, unoccupied space on a lot that extends across the full width of the property, situated between the principal building (front building line) and the front lot line adjacent to the street.

Home Occupation – Business activity conducted within a dwelling unit or accessory structure that is incidental and subordinate to the primary residential use of the premises and meets the Home Occupation requirements contained this Ordinance.

Home Occupation License – A license issued to a Responsible Party permitting that individual to have a Home Occupation within their residence or on their residential property.

Park-and-Ride – a location at which drivers leave their vehicles to get into another vehicle to go to another location.

Responsible Party – Any individual in possession of a Home Occupation License issued by the Town of Barnstable.

Trailer – any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle that is associated with a Home Occupation.

C. A home occupation shall be permitted in all zoning districts as of right, subject to the following conditions:

- (1) There is no other Home Occupation within the dwelling unit, except for as provided in Subsection E(1)(d).
- (2) The Home Occupation is conducted by the owner of the premises where the Home Occupation is located, or by a residential tenant with written authorization from the owner to engage in the Home Occupation. The Home Occupation is clearly incidental and subordinate to the principal residential use of the premises.
- (3) A Home Occupation shall require a Home Occupation License issued by the Building Commissioner or his/her designee.
- (4) Any vehicle associated with the Home Occupation that meets the definition of Commercial Vehicle above shall display a commercial registration number plate as required by 540 CMR 2.05. A Home Occupation with a Commercial Vehicle associated with it shall be required to display evidence that the vehicle's parking is in compliance with all applicable provisions outlined in this section.
- (5) Such use occupies no more than 20% of the gross square footage of the dwelling unit, including office and storage areas combined, unless relief is granted by special permit as provided by Subsection E(1)(a) below. Such use within an accessory structure shall occupy no more than 200 square feet unless relief is granted by special permit as provided by Subsection E(1)(f) below.
- (6) There are no external alterations to the dwelling which are not customary in residential buildings, and there is no outside evidence of such use except as provided herein.
- (7) Traffic associated with the Home Occupation shall not be more disruptive to the neighborhood than traffic normally resulting from a residential use, considering volume, hours, vehicle types and other traffic characteristics, including, but not limited to, an increase of traffic, or the presence of vehicles associated with the Home Occupation.
- (8) The use shall not involve the production of offensive noise, vibration, smoke, dust or other particulate matter, odors, electrical disturbance, heat, glare, humidity or other effects not ordinarily associated with residential use that produce negative impacts on the neighborhood, consistent with the Intent section above.
- (9) There is no storage or use of toxic or hazardous materials, or flammable or explosive materials, in excess of normal household quantities.
- (10) No vehicles associated with the Home Occupation shall park on the street or within the Front Yard, as defined above.
- (11) All supplies, materials and equipment associated with the Home Occupation shall be stored in an enclosed structure or in or on a Commercial Vehicle or trailer allowed on the premises under this Section. If not stored in a structure or trailer, materials must be properly screened with either fencing or vegetation so that materials and/or equipment are not visible from the public view, and adhere to applicable setback standards for the relevant zoning district to limit impacts to noise, odor, or other impacts from non-residential uses on a residential area.

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- (12) All outdoor lighting associated with the home occupation shall be fully shielded and directed downward to prevent glare.
- (13) No sign shall be displayed indicating the home occupation.
- (14) If the home occupation is listed or advertised as a business, the street address shall not be included.
- (15) All employees associated with the Home Occupation reside on the premises, except for as provided in Subsection E(1)(c).
- (16) The property on which the Home Occupation is located shall not serve as a Park and Ride.
- (17) The following uses shall not be permitted as Home occupations:
 - (a) Barber- and beauty shops.
 - (b) Commercial stables or kennels.
 - (c) Offices which provide public access, provided that offices that are used only for administrative purposes shall be permitted.
 - (d) The sale of retail or wholesale merchandise from the premises, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection C(5) above, except as exempted in Zoning Ordinance 240-8.
 - (e) The sale of antique or secondhand goods, with the exception of online or mail order sales. The storage of merchandise is included in the total area limits of the home occupation subject to Subsection C(5) above.
 - (f) Service or repair of vehicles, and gasoline- or diesel-powered machinery.
 - (g) Contractor's storage yards.
 - (h) Veterinary services.
 - (i) The manufacture of goods using heavy machinery.
 - (j) Medical or dental practice.
 - (k) Fortune-telling or palm reading.
- (18) At the discretion of the Building Commissioner, if the Commissioner determines that the proposed use is unclear and/or impacts of use cannot clearly be defined at time of Home Occupation license request, a Special Permit shall be required pursuant to requirements of Subsection E.

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- D. Home Occupation License. Applicants shall be required to receive a Home Occupation License from the Building Commissioner or his/her designee for each Home Occupation located within a residence or on a residential property.
- (1) All Responsible Parties shall make application to renew their Home Occupation Licenses every three (3) years. Renewals are subject to approval and may be withheld for violations of the Barnstable Town Code, including, but not limited to, the requirements set forth in this Section.
 - (2) Home Occupation License shall be for a term of three (3) calendar years, beginning on January 1. License fees shall not be pro-rated when obtained after January 1.
 - (3) Home Occupation Licenses shall include, at a minimum, the following information: A license number, name and photo of the Responsible Party; the location of the Home Occupation; license plate numbers of all commercial vehicles associated with the Home Occupation; telephone number of the Responsible Party; email address of the Responsible Party; and location of off-premises parking associated with the Home Occupation.
 - (4) A Home Occupation License may be revoked by the Building Commissioner or his designee for cause, including, but not limited to: Violation of any of the provisions of this Section.
 - (a) Providing false information in any application associated with the Home Occupation.
 - (b) Parking business-associated vehicles in violation of what is allowed by this Section.
 - (c) Failing to register vehicles associated with the Home Occupation as required by Subsection (C)(4).
 - (d) Failure to timely communicate with the Building Commissioner or his or her designee during any enforcement action.
 - (5) A Responsible Party aggrieved by a decision by the Building Commissioner pursuant to this Subsection D may appeal to the Zoning Board of Appeals within thirty (30) days of the decision. Appeals to the Zoning Board of Appeals shall be delivered in accordance with Massachusetts General Laws c. 40A § 15.

- E. Home occupation by special permit. The Zoning Board of Appeals may allow by special permit, subject to the provisions of § 240-125C herein, a home occupation subject to the specific standards for such conditional uses as required in this section:
- (1) Home occupations shall comply with all of the requirements of Subsection C(1) through (18) above, except the Zoning Board of Appeals may allow by special permit the following waivers from the requirements of Subsection C above.
 - (a) The Zoning Board of Appeals may allow an activity to exceed 20% of a dwelling's gross floor area by special permit but at no time shall allow a home occupation to occupy more than 40% of a dwelling's gross floor area.
 - (b) The Zoning Board of Appeals may allow one nonilluminated wall or freestanding sign not exceeding two square feet in area by special permit.
 - (c) The Zoning Board of Appeals may allow one nonresident employee to be employed on the premises of a home occupation but at no time shall a home occupation allow for greater than one nonresident of the household to be employed on the premises at the same time.
 - (d) The Zoning Board of Appeals may allow a second Home Occupation within the same dwelling.
 - (e) Home occupations shall not include the uses listed in Subsection C(17) above. However, The Zoning Board of Appeals may allow activities that may not be customary within a dwelling, provided that the activity meets the intent as specified herein.
 - (f) The Zoning Board of Appeals may allow a home occupation use to be located within an accessory structure which may occupy greater than 200 square feet of the accessory structure, on the same lot as the primary residential dwelling unit occupied by the applicant, provided that at no time shall the use within the accessory structure occupy an area within an accessory structure that is greater than 25% of the square footage of the primary residential dwelling unit occupied by the applicant.
 - (g) An additional commercial vehicle or trailer associated with a Home Occupation. At no time shall there be more than two total commercial vehicles and/or trailers associated with Home Occupations permitted on the property.
 - (2) Home occupations requiring a special permit shall require Article IX, Site Plan Review prior to seeking relief.
 - (3) Any special permit granted by the Zoning Board of Appeals shall require a condition that the Home Occupation receive and maintain a Home Occupation License.
 - (4) Any special permit granted by the Zoning Board of Appeals shall be issued solely to the applicant at his/her residence, and shall not be transferable to another person or location.

Councilor Ludtke: Okay, thank you, Jim. Yes, we had requested that from Mr. Florence, because what he does, as I say, the three of us, Steve, Will, and I went to see that process and we asked him to codify it for us and when he was doing that process, he explained that he uses the ordinance to back up his decisions. That's why it's so detailed, because I don't know if the rest of you have been kind of looking around, I've been looking at other towns and ours is far more detailed than the other towns. The other towns are very simple. They basically say, don't take away from the residential field, basically, they say that a little bit more now that I understand why, because Brian is using this for his process. So that opens up some understanding into why it is, and what is it. I know we had had a little kind of a straw poll and we decided to pursue the red lines with the site plan review. I do see that in other towns. You know, if you get to certain, I've lost track of how many towns I've looked at, but some of them, they call them businesses, you know, businesses trigger versus a home occupation. So, does everyone have what they had from last time? and we could continue moving along until Brian gets here. Okay, why don't we do that, and thank you, Jim, for that. I have a check mark in the definitions by front yard. I think I told you guys in my precinct, there's two roads that are very close, so backyards and front yards are kind of interchangeable so that's going to be a good discussion, I think. Or do we want to have that discussion now or is it better to wait for Brian, do you think?

Jim Kupfer: Yes, I think so because he's going to be best to describe how he interprets those and I think we could have a really good conversation about whether or not this definition needs to be changed for specifically for the Home Occupation because, you know, we have called out front yard specifically for Home Occupations because the intent here is to mask the whatever condition the home occupation is providing so that it doesn't take away from the residential feel. We don't go beyond that. However, throughout our zoning and likely through building code as well, there is a front yard, backyard, side yard. So, I think there should be a good dialogue about whether or not we need to further define side yard and backyard once Brian gets here.

Councilor Ludtke: I think we can talk about that, and I think it's important too, because if we're overloading a backyard, somebody else's backyard may back up to that backyard and that becomes equally detracting from the residential feel perhaps.

Steve Robichaud: Do you want to see if there's any additional comments from the board about the definitions and then continue on from there?

Councilor Ludtke: That's a good place to start to refresh ourselves. You want to go back to definition, Steve, you have something?

Steve Robichaud: I would just say that, as I thought about it more, I really agree with the comments that are on the record from Mr. Dewey. I think that when staff digs in again to another kind of go through revision, I watched the recording and I thought that all of the comments we made about the definitions were critical and should be incorporated. We had some really good discussion there last time.

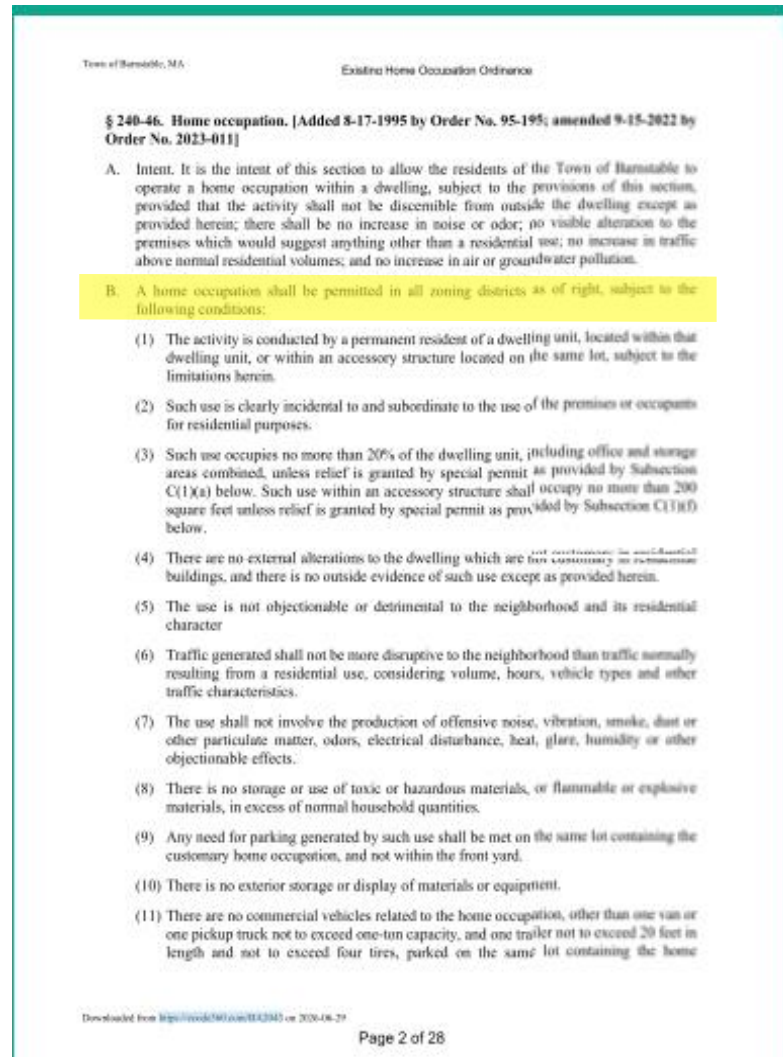
Jim Kupfer: we have a pretty thorough list here already.

- Backyard.
- Parking equipment, screening, et cetera.

We have a handful of these and I know Brian's going offer some opinions on some of them, but we could certainly tee those up, yes.

Steve Robichaud: Beautiful, that was all.

Councilor Ludtke: Do you want to start on the next page then? Just do a quick review. If we had, as I say, because I know we bounced around a little bit. On section B, there's, he has it up on the screen. Anything jumping out for anyone there? Take a quick scan here. No, there's none.



Jake Dewey: In 1 are we specifying within the dwelling unit, so are we allowing a second home occupation outside of the dwelling unit? Again, we're going back to that property versus unit discussion.

Councilor Ludtke: I know that was a big discussion for definitions.

Steve Robichaud: That, that did come up last time, and I completely agree. I think it could be a little bit more all-encompassing and just say within the parcel.

Councilor Ludtke: We thought parcel Kris you had a cute little saying about the person or definition for parcel.

Jake Dewey: Then also I guess I go the other way with, if you know the wife has a cleaning company and husband has a landscaping company but the cleaning company is very minimal could they both operate it at their house I mean yeah why not maybe that should go to the ZBA maybe that's what would push it to the next threshold.

Steve Robichaud: Yes, I agree.

Councilor Ludtke: That strikes that whole thing. There is no other, so what do we think, and that's just comes up in the ZBA, the intent what is the intent, I mean the overarching intent is to keep this

residential feel, but also we want to be able to allow people to pursue you know employment and better their lives and make money if they're doing so in a way that's not going to detract from the residential feel so we have to balance both of those so this number 1 probably needs some work, anybody have any suggestions or we just kind of look at the rest of them and see what we need to look at here.

Jake Dewey: I think it's basically that if more than one home occupation or more than one is only allowed under a special permit or by special permit basically, one on the property but again we're running into what about condos, what about duplexes, what about apartment buildings you know that's a dwelling unit versus a property or a dwelling unit.

Councilor Ludtke: That's right with all of our multifamily we're going to have people that are going to have businesses potentially on both sides. Is this something the Planning Board would do?

Steve Robichaud: I actually have no idea how we deal with the multifamily. Jim do you have any thoughts on that?

Jim Kupfer: Home Occupation is meant to be a use that is occupying the interior space with there are some accessory items that could that spill out such as a vehicle or maybe some loose equipment as we've seen, for condos for instance if someone is needs a business certificate and is working out of one of the apartment buildings that does CPA work or whatever they are eligible to do, this would say that if you have a roommate, it's you only have one at that unit and you would right now, I mean if we're talking about this specific one, the second one you would kick it to Site Plan Review, that's how it would work and so that wouldn't prohibit someone that's living on I don't know floor 3 to also have a similar business.

Councilor Ludtke: Let me ask a question about that, maybe Cynthia is an example, Cynthia you work from home don't you, remotely, do you have to have a home occupation license and all that.

Administrator: I work remotely for the Council, with the permission and direction from Leadership.

Jim Kupfer: That's different, so if Home Occupation is only going to apply to you if you are essentially running a business out of your house or at the bare minimum need an address for your business certificate, that's where a lot of folks get wrapped into this. Remote work is not a Home Occupation, you're just sitting there at your computer working for X company in Boston that's different you're not running, you're not owning and operating a business out of the home, if you are that's when you're going to get captured into this.

Steve Robichaud: Jim's comments were very helpful. I understand why the dwelling unit term has been used, I wonder if somebody with an A.D.U. that's renting that A.D.U. would it be proper for that to allow that whoever is in that A.D.U. to also have a business license? Maybe dwelling unit is the right way to describe it.

Councilor Ludtke: I think it is? It's the way we're going with our zoning right.

Steve Robichaud: Right. If there's a primary structure single family home with a separate detached A.D.U. each one of those would be considered its own dwelling unit and in my definition I kind of like the within piece.

Councilor Ludtke: I kind of like the within piece as well because again I keep saying my precinct but I have a lot of people in Hyannis in the very thick of it, a lot of working folks and the irritation is not from within it's from without it's what's going on in the yards so maybe that's where you may have to trigger more of the special permit if you're going to be adding storage if you're going to be adding vehicles, more driveway services that kind of thing. I drove by one the other day and the entire there's a

driveway and then it was all gravel on one side up to the fence and there were, you know, six vans pulled in; it was very neat but what's that? I don't know, it's so hard, it's really hard.

Jake Dewey: The way this reads right now is you could have, because dwelling unit is the structure right Jim, so you could essentially have a Home Occupation that is within and one that is outside but only the ones operating in the structure. The other is just on the parcel is how I read it but I don't know if that's right.

Steve Robichaud: I would say to that even if it is just like a landscaper that is all outside I think it's kind of inferred or implied that they're going to be doing some billing paperwork estimating marketing within you know in a home office type thing I think that's kind of assumed and I think for any small business that is a norm.

Jake Dewey: Then are we limiting the example I said before, a cleaning gal who does her books there, but you know only has one car, and it's her personal car and everything else and then her husband maybe is a landscaper and has a landscape trailer outside are we limiting that right now? We would be limiting that, that wouldn't be allowed right; and do we want that to be able to be considered on a special permit basis?

Councilor Ludtke: I do I want that to be considered for a special permit because I think that's the norm, I think the idea that there aren't two adults working in a household is, it's not accurate. I think in this day and age most households there are two people working, two adults working.

Jake Dewey: but we don't want a stonemason company and a landscaping company both there special permit. Let the ZBA determine if it's high impact or low-end impact. This is in that context that it's talking about is it in on a 1/4 acre in Hyannis where it's densely populated or is it on 5 acres in the Marstons Mills where the landscape has a barn in the. I would leave it.

Councilor Ludtke: Then this is okay because this is under this paragraph and it's by right so we're saying by right someone inside the dwelling, I think everybody agrees, that it's not going to impact the neighborhood in an adverse way, so people are okay now with number one?

Steve Robichaud: I am, I think part of this process should include an informational packet for an applicant that says, **if you do want to potentially operate two then you simply need to file an application with the ZBA.**

Councilor Ludtke: If everyone could take a look at number 2.

Vice President Clark: If I may ask Jim a question? By filing to the ZBA what kind of consequences, filing fee, and an application process is it? I'm just trying to think, what is the consequence for going for the special permit?

Jim Kupfer: Time and money; if you come in and you're seeking a second Home Occupation and if this were to pass, the second Home Occupation would require a special permit to the Zoning Board of Appeals. You would need to file for an application fee which could range around \$150 or so or slightly more and obviously things like stamps, so it's small dollars, but they all add up. Then it's two weeks in the paper, so really three weeks overall; so we're talking about a month before you get in front of the Zoning Board of Appeals, and they may need additional information, what have you, so it's not a sure thing, it's a month's time.

Vice President Clark: On a normal course of action, or a normal case, it's not going to trigger or the engaging an attorney or an engineer, but it could.

Jim Kupfer: It could, yeah, you're not certain of that. It depends on, honestly, how savvy or informed the individual is that's coming forward on their business and how prepared they are to speak

to the Zoning Board of Appeals. I mean, we always, whenever anyone comes into our office and says they need to file and apply and come before the Zoning Board of Appeals, we always recommend they speak to a land use attorney for that matter, or an engineer, depending on the circumstances. So yes, and those fees, I'm sure, are not cheap. I haven't looked at those recently, but those will definitely add up quickly.

Councilor Ludtke: Well, that's a good point. That's why I really like what Steve said. I watched Jake's ZBA last night, and we had evidence of that. I mean, if you're unprepared and don't know what you're up to and you don't have an attorney, it gets to be difficult. If we take Steve's suggestion, which is a great one, and we have a good booklet that goes along with this, because we should be doing everything we can to drive down the costs of our residents, to do anything in this town, that should always be an overarching goal; Because you're right, the attorneys are thousands, literally thousands, okay? So, I think that would be something, this pamphlet would allow people to understand the process better and be able to come in and speak for themselves. I mean, if they're running a business, they're probably pretty savvy on how to do things, right? If you're taking on that challenge, we should not make the ZBA overly complicated for this. I don't know. What do you think? You see people, Jake.

Jake Dewey: I think that we want to be supportive of business. I think that's, like, been a mantra of Town Council for quite a long time, to make Barnstable business friendly. So, you know, maybe it's with Jim's discretion that there's someone in Planning that is a helper in this. I think at one point we had an Economic Development Businessperson 10 years ago or something, but maybe there's someone in there that can help give people guidance. You know, they can't be a lawyer. They're not going to give it all, but at least guide them to say, yeah, this is possible, and here's your path, go because otherwise it's very intimidating for someone trying to start a business.

Jim Kupfer: We do have a coordinator that does assist anybody who comes in, we have them sit down and talk to them about the process. People, you know, to be honest with you, a lot of people are excited about it but get nervous about the unknown. So, we try and walk them through as best as possible, but there's a lot of things you need, administrative things you need to start a business and to come forward with all the proper information, so, going before the Zoning Board of Appeals is certainly something novel for a lot of folks.

Councilor Ludtke: I also think it acts as a speed bump. Sometimes speed bumps are good. Just to give people that extra time to be sure, you know, we're getting it right, so we don't have some of the results we see out there right now.

Jake Dewey: So, on number 2, I would just question, do we need to remove the word principle in the last line?

Steve Robichaud: I don't think that word is needed.

Councilor Ludtke: I agree. I think it's superfluous.

Steve Robichaud: **Subordinate to the residential use of the premises.**

Councilor Ludtke: Anyone have a problem with that? Seeing none, Okay, we're getting rid of that then; and again, I'm assuming, Jim, you're the one taking these notes.

Jim Kupfer: Yeah, well, I'll be note-taking and we'll review each of these with the internal team too to give you any response if we say, you know, this word can't possibly be removed because of X, Y, Z. We'll report back, but yes, I am taking notes and I noticed our Building Commissioner, Brian Florence is here.

Councilor Ludtke welcomed Brian Florence and asked "Brian, you could, because you only had three of us that came to watch your process, Jim has explained that you provided this to this committee,

if you could come up and walk us through your process, and as I explained to folks as we were going through the process that, that is why this is so detailed, because you use this to justify your decisions.

Brian Florence, Building Commissioner: Thank you, Members of the committee, Councilor Ludtke as chairman. The process we conduct Friday, every week, is zoning reviews of Home Occupations, and business licenses that the Clerk regulates, even though we're not required to do that. We do it as a courtesy both to the Clerk and our Citizens:

For example: If somebody applies for a license, the process that the clerk uses is a Doing Business As (DBA) process, It's Mass General Law, Chapter 110, Section 5; and what it says is if you're going to operate in Barnstable without using your name or the name of your business, in other words, as a DBA, then you have to register with the Town. The purpose of that is to keep track of who's doing business in town.

Councilor Ludtke: Let me just ask you something, you say register with the town. Is that a Town Clerk function or a you function?

Brian Florence: It's a town clerk function.

Councilor Ludtke: So, register with the town. You just, Nothing's happened yet, Is that step one? You're just registering?

Brian Florence: Yes. So, let's say you open a cleaning business or a landscaping business, and you are doing it as Barnstable Landscaping as opposed to using your name or Barnstable Landscaping as opposed to using VP Incorporated. Then you have to register with the Town under Mass General Law 110, Section 5, to let the Clerk know and let the Town know who it is doing business under a name other than their own. That's a DBA. We're not required to review those, but when I came to Barnstable, the Clerk and I agreed that it was in everybody's best interest, including the applicants, to have a zone review because it wouldn't be beneficial to anyone if they got a DBA from the Clerk, we call it a business license here, got a DBA through the Clerk, open their business, and then the Building Commissioner found it was not lawful in that zoning district. So, we do a zoning review. It's more of a courtesy, we don't have to, but we do it and we have issued and denied home occupations and told the Clerk that they could issue or deny this business license based on our review. I don't think technically the Clerk wanted to and I said that that's not a zoning use. It's not a use allowed in that zoning district. I think that technically the Clerk could probably issue the business license anyway because it doesn't require a zoning review under that General Law, but we've not had any problems with it.

Councilor Ludtke: Can we be more restrictive than the general law, Brian?

Brian Florence: That's a legal question. I don't know.

Councilor Ludtke: Because I think we want zoning review. I think that's why we're all here at this juncture that we've had difficulties within our residential neighborhoods.

Brian Florence: Not through that process. I've never had a problem with that issue. So we do review the business licenses. We do it every Friday. You saw us doing it when you came to our Friday meeting. So, it's not a problem. I would not recommend you do anything with it, but if you are going to do something with the General Law, you're going to want to talk to the Town Attorney's Office.

Councilor Ludtke: I just want to be clear on this. So the General Law doesn't say, what if a business guy said, I'm not doing that zoning stuff. That's not in the General Law.

Brian Florence: Most likely what will happen is he's going to go get, try to get a checkbook somewhere and the bank is going to say, nope, go get us a zoning sign off.

Councilor Ludtke: Why would the bank say that?

Brian Florence: I don't know. You'll have to ask the bank.

Councilor Ludtke: Does the bank know your process? No, I'm serious. I'm being serious.

Brian Florence: I'm not being flip with you. I'm saying, I don't know. The bank has their processes. The Clerk has their process. My process is really just zoning and looking at a zoning review under Mass General Law, Chapter 110 Section 5 is a courtesy I do. I don't know all the answers to what, why or where, how those processes work; and some of it even has to do with the Secretary of State, but I do know that we do them every week. I've never seen a business come through Town that hasn't done this with us. If you can find one, I'd be happy to have a conversation with them, but I don't know of any.

Councilor Ludtke: We were just talking before you came in, about maybe producing a brochure or pamphlet to make sure this is very clear to people, so they don't have to engage an attorney to get through this process. So it sounds like people know that their first stop is the Town Clerk and then the Town Clerk says, what?

Brian Florence: We're talking for the business license; you're not talking about home occupations right now. You're talking about business license regulated through Mass General Law, Chapter 110 Section 5 yes, they know that the first stop, if they're going to do a DBA is to go through the Town Clerk, I would imagine, right? Cause that's how we find them. You mentioned something, Councilor Ludtke, that they shouldn't have to come with an attorney, You, there, were no attorneys that are zoning review when you folks came in and did a zoom video conference for this. There were no attorneys there. It was just us meeting with the citizens.

Councilor Ludtke: No, we were talking about another process before you came in. We were talking about if we got to the special permit with the ZBA aspect, we were just, talking other things before you arrived.

Brian Florence: So sure. Sorry. I missed it.

Councilor Ludtke: That's fine. Now we're, I just, I'm just trying to understand because we did talk about this pamphlet, how, you know, how people know what they're doing right now.

Brian Florence: I think the pamphlet's a great idea. We did that with Planning and Development when it came to restaurants, opening it, opening a restaurant, going from a existing restaurant to a new restaurant, under a different ownership, even though there's a lot of regulatory issues that get triggered from that. We created exactly what your referring to, actually Economic Development, Mike Travato, did, Mike wanted to see something for restaurant tours because he was getting a lot of not complaints, but a lot of feedback from restaurant tours saying, Hey, you know, we don't know all these regulations are out there. So not only did we create the brochure, but we created a system, a process in Site Plan Review where they're welcome to come in and have a conversation at Site Plan, It's unofficial. They don't have to, they don't have to be there, we can't force them, we can't make them fill out an application or pay the fee, but we're happy to have all the regulators in place at once to have that conversation with them. So, we do the same thing in this process with Home Occupation. and business licenses, as you've seen from what I wrote here, if something else is triggered, if something, if I'm looking at something and it goes beyond what I should or shouldn't be issuing as a Building Commissioner, I'll refer that to other people, Conservation, Health Department, and those sorts of things, So I'm sorry to have gotten off track, it's a pretty thorough process.

Councilor Ludtke: Everybody, please jump in and ask questions because we really need to learn from Brian. So please everybody feel free.

Steve Robichaud: The Mass General Law, Chapter 110 Section 5 business license, the process is to go to the town clerk, register with the town clerk, but on the, on the sheet provided under, under the section application, it says, business license applications are entered into the Town's permanent existence by the applicant. Is that different than what you just described with the Town Clerk?

Brian Florence: No, and it's not the full story either. So, if you enter a building permit application, a licensing application, a home occupation, all those things are entered by the applicant. If you want something from the Town, you fill out an application, you go in and you pay a fee or otherwise there are times when some of our folks don't, they're not computer literate, So we will enter it for them.

Steve Robichaud: Is that different or the same to what you just described with going to the Town Clerk and registering with the Town

Brian Florence: The same

Steve Robichaud: I know I brought this up before but I just, it always just it feels odd to me this is triggered by wanting to obtain a DBA certificate, but that's one path to operating a business, another path to operating a business is just operating under your business's name so not all businesses need a DBA.

Brian Florence: That's correct.

Steve Robichaud: So, for a business that wants to operate in the Town that doesn't need a DBA is it the same process?

Brian Florence: It is. I have not, like I said earlier I've not run into anybody that's operating a new business in Barnstable that doesn't come through this process; it may happen, I don't know for sure, I think it's an outlier rather than the majority by far so we get people who want to do it but it's kind of a sore spot for me because it adds a tremendous workload to us we're constantly reviewing corporations, and LLC's and things like that but it's what I agreed to do with the Town Clerk and we do it every week.

Steve Robichaud: Okay great, appreciate that.

Brian Florence: We're going to move on to the next item which is Home Occupation and it's the same thing for Home Occupation: we do a review to make sure that the use being proposed is allowed in the zoning district, we started as you said in the very beginning Councilor Ludtke we use the Home Occupation restrictions and limits section of that ordinance to ask questions in our system and we literally base the application on those restrictions. so I'm going to go Home Occupation section, and while I'm on the subject, Council Crocker, and Chairman Dewey if you guys would like you're welcome and invited to come this Friday or any Friday and see the process, I encourage you to do it because it's pretty eye-opening when you realize that a lot of the stuff you've heard in the public that nobody's looking at this stuff it really isn't true it's very well vetted, so that's the Home Occupation and Director Kupfer had said that there was some very specific things that you were interested in hearing from me about and I had sent out a red line version of those. Is that something you'd like to touch on?

Councilor Ludtke: Yes, why don't we do that

Jim Kupfer: These are the questions that you all had from the last meeting and I forwarded those to Brian and Brian had an opportunity to respond to those, so we could have that dialogue here today if you like and I did it in the email that was also sent last week prior to the meeting.

Brian Florence: The definition of Commercial Vehicle as defined by the State, Can this be adjusted to not treat small vehicles the same? I'm going defer to the Town Attorney on that, Karen had written the Commercial Vehicle provisions that we have now the Mass 240, 46 provisions are pretty clear, they say one commercial vehicle not to exceed one ton and a trailer with no more than 20 feet in length and four

tires on it. It was written a little differently so the question was can it be addressed? Can this be adjusted to not treat small vehicles the same? I had said down at the bottom of my comments there for enforcement purposes, it's easy enough for us to distinguish between a truck and a sedan and I suppose it'd be worth asking Attorney Nober if they're going to be able to do that if they're going to be able to do that. The ordinance could eliminate the term commercial vehicles, but I put a caution there. It's not just trucks that are that are potentially a problem if you have a cleaning company, for example, gets very successful it's successful companies that are the problem. Someone starts out with a truck and a landscape trailer and mows lawns for a while he's fine he doesn't bother anybody until he gets two trucks and two trailers and three trucks and three trailers that sort of thing well the same thing would go for go for a sedan it's not a bother to anybody to have a Barnstable Maids or a Barnstable house cleaning car in their yard but if they get very successful and they have two and then three and then four, I don't know that defining the vehicle type is really what you're shooting for as opposed to quantity but now I leave that up to you folks.

Steve Robichaud: Well, that was a big topic of conversation at one point. Is what the vehicle looks like because they come in such different shapes and sizes. I did just pull up the ordinance because on page 5 under definitions it mentions Commercial Vehicle is any vehicle that meets the criteria in the 540 CMR 2.5 Subsection 3; I just pulled that up; I was looking at it it's got some interesting stuff. I mean it's basically any vehicle with a curb weight of 6 000 pounds or more any vehicle with five or more wheels on the ground it also mentions pickup trucks or cargo vans owned by a partnership trust or corporation any that are used to transport tools supplies materials equipment from a job site any vehicle that has a business advertisement or business markings any vehicle hired for the use of a plow so it makes sense that these definitions are what we're using to classify as a commercial vehicle because that's the kind of stuff we're trying to avoid it makes I mean especially where it's based on either the weight or the number of tires numbers of tires is a good one because if your pickup truck that's a dually, that means it's a big one.

Councilor Ludtke: I'm kind of picking up on Brian's idea, I think quantity is the issue. I almost don't have a problem I don't know what the rest feel? Do you feel with kind of almost any vehicle like you said the landscape guy who starts with a pickup truck in a trailer all of that is confined in his trailer and it sits there nicely; I don't have a problem with that I don't think anybody would. It's when you start getting all sorts of extraneous things

Brian Florence: If you think about it Chairman Robichaud, the F-350 which is allowed under the regulation as a one-time that has six tires.

Steve Robichaud: You have to be right, I mean even if the number absolutely is the most important thing no question about it but you could get into a situation where you have one vehicle that's is large and loud, but its just one.

Councilor Ludtke: I know during the school year, I see the school buses being taken home, I don't have a problem with that either because off they go from their house. That's an early call early wake up for those school bus drivers for sure and I don't think I've heard any, I know they're in my precinct too, I've seen them and I haven't heard any complaints. Have you heard complaints about school bus drivers school buses?

Brian Florence: Not a one

Councilor Ludtke: That's why I'm not overly anxious about it, it is one of those extreme circumstances of a certain type of commercial vehicle.

Jim Kupfer: But again, for a Home Occupation, these commercial vehicles must be tied to the home occupation itself. That's a second conversation that we will have at some point about whether or

not we want to regulate specifically commercial vehicles in general. This group decided to wait until after we finalized this conversation first.

Councilor Ludtke: Well, that's a good point, and that makes that school bus a different animal, because as you said, that's not their occupation. That's not their home occupation.

Steve Robichaud: That's along the lines of the plumber, the HVAC tech that works for a company, and the company's allowing them to take home that vehicle.

Brian Florence: Tow truck operators, the list goes on. There's a lot of people that use the work vehicle to travel back and forth from home.

Councilor Ludtke: I like what Steve read, I think, you know, again, we shouldn't limit it, particularly. Are people okay with that definition? What we have in there?

Steve Robichaud: It's logical.

Councilor Ludtke: I think it's something someone can look up, it's very objective, so I think that's good. But we have to talk about when quantity triggers a special permit when the quantity starts building.

Brian Florence: I don't love using 540 CMR, because people then assume that we're enforcing 540 CMR. We don't have any authority there. That's the Registry of Motor Vehicles. It's there. I understand. I don't object to it being there the way Attorney Nober wrote it. Just understanding that's not something we can enforce, we don't enforce that. We enforce one ton vehicle, which is very easy to enforce. Anything over a 3500 Ford is a one ton. Anything over 3,500 in Chevy is over one ton. So we can very easily pick that number out. We know what the DOT rating is for those vehicles. I don't think you want to regulate it so that they have a plow truck on the front of it, or a plow on the front of it. They can't be in a residential, because a lot of, there's too many residential houses with plows. So, again, I don't love 540 being listed there. Just understand we don't regulate 540. So, if you're going to keep it listed there, that's, you know, there's potentially some issues there. I like the one ton. I like the number of wheels. Those things are very helpful from an enforcement perspective.

Jim said you had questions on definitions such as equipment, screening, front yard, backyard, et cetera. Any more information on what you mean by equipment? If you're talking about like a Bobcat or something along those lines, the way we regulate that now is it has to be on the trailer that's allowed. So, if you have a trailer, a 20-foot trailer and more than four tires, you have a Bobcat as long as it's on there, it's fine. If you have a Bobcat on your trailer and a backhoe in your yard, now you've gone off script. You're no longer compliant with the zoning ordinance. Same thing with landscaping tools. I would need some more information on what you mean by equipment.

Steve Robichaud: The reason this came up is simply because the word equipment is used later on in the red line document, and it's not listed under definitions. There are different people that may define equipment differently, so we may want to consider adding the word equipment to our definitions. I also had the word material as something that we might want to offer what our definition is so there's no subjective reasoning.

Brian Florence: You will never hear me say once, please don't add a definition.

Councilor Ludtke: I think we ought to really focus on this equipment because that's where the preponderance of the complaints are, is excess equipment and whatever you want to call them, things like-a plow or- the Bobcat or the snow, the big lawnmowers.

Brian Florence: but if you think about it, If you have one truck and one trailer and there's something on the trailer or in the truck, it doesn't really affect the neighborhood. If you have so much

stuff that it's not on your truck or on your trailer and it's spilling into the yard, that affects the neighborhood or if you have three trucks and trailers and stuff on all of them, that's even worse.

Councilor Ludtke: What do you do in that case, Brian?

Brian Florence: Let's say you have somebody that's got three Bobcats and one truck and one trailer and three Bobcats and they're in the yard. If we get a complaint about it, we reinforce it, tell them you can't have it, and we have a record of that taking place.

Councilor Ludtke: Have you had success with that?

Brian Florence: Yes

Councilor Ludtke: Where do they go with their stuff?

Brian Florence: I don't care really, Well, I can tell you the guy on Lincoln Road who apparently is back at it again had, I don't know, six or eight trucks over there, a tree guy, mowed down a bunch of the trees in his yard, put a bunch of stone in and we issued tickets until he moved to Yarmouth; apparently he's back here now, so we have to start enforcement again if we haven't already.

Jim Kupfer: So, when you're defining, we can take that back and discuss how to define things.

Councilor Ludtke: we need equipment, We need a definition for that, absolutely

Jim Kupfer: and as Steve mentioned, maybe materials and supplies. So, when we're referring to each of these, we're putting it in the context of, for by right, that they all shall be stored in an enclosed structure. Is that something that is feasible, you think? That would mean it's like in their garage, right, or in their shed? That's on page seven, we refer to number 11 is when you refer to equipment, materials, supplies for by right. We have more lenient stuff later on.

Steve Robichaud: I've always had an issue with that, only because there are folks that do a really, really good job screening items that aren't enclosed. If something isn't enclosed, but they've done a wonderful job screening it, then I think we should allow that. But to Jake's point, maybe we shouldn't allow that by right. Maybe we say If it's an informational packet, we list, hey, if you're going offer really good screening, you can go to the ZBA, and they can give you a special permit for not having to close. I feel like making everything having to be enclosed in a structure is restrictive.

Jake Dewey: But again, it's dealing with the different lots. Like in downtown Hyannis, it doesn't work. In Marstons Mills, it works.

Brian Florence: The problem we have is not this group, not even our Town Council. We have effectively outlawed being a contractor in Barnstable. We really have. There's no place where you can have a contractor's yard. You can have a contractor's yard light by having one truck and one trailer, but there's literally no place that you can go, except for the industrial district. You don't see a lot of land for sale in the industrial district, so we've outlawed it. My opinion doesn't matter here. I don't disagree with this idea that it can be screened, and that was the next point I had under this subheading here, is that screening is subjective; So, if you're going to allow more than the one truck and one trailer subject to Zoning Board of Appeals approval and screening, I just ask that you do a good job defining screening and what's adequate because right now, if you look at Chapter 228 in our General Ordinance, there's a lot of things that you can do. You can have more than one vehicle in your yard unregistered, and you just have to cover either some greens or a tarp, and you got five vehicles with blue tarps on it, or you put up a blue tarp fence in the neighborhood, and that's a problem for the neighbors, it is. I would recommend if you're going to do that, let's just be really clear on what screening...What you mean by screening.

Councilor Ludtke: I think as you suggested, I think screening is a good line, if you cross screening, you're in a special permit, because Steve, you're right. Some people do it beautifully. Other people say this is screened and no, not so much, right? So, I think that would be a special permit. What do you guys think? I mean, again, I have no problem with stuff inside.

Vice President Clark: Maybe Commissioner Florence has some suggestions since this is what he does. I don't mean to put you on the spot.

Brian Florence: I do everything I can not to write regulation. I have some suggestions, for example, your typical stockade fence is six feet. I think if you have heavy equipment that sticks up above that, maybe it should be an eight-foot fence. Screening by vegetation alone, I don't know that I would call that adequate, because unless they put really close evergreens, it's great in the summer, it's bad in the winter. Fencing makes good neighbors. You've heard that, and I think that helps, but I don't know. I leave it to you folks, the policy makers.

Jake Dewey: If you don't want to put Brian and his team in a position to have to decide if the screening is sufficient, right? We want to put that to the discretionary board.

Councilor Ludtke: That's why I don't want him dealing with screening. I think it's too subjective. I think it needs to go to a board. He mentioned the word neighbors. That's where the ZBA is genius, because you have a butters it can come in common.

Jake Dewey: If you're starting to screen, neighbors should be engaged in that process. It gives an easier decision for then Brian to enforce later on.

Steve Robichaud: I've seen lots of every size and shape do an effective job with screening with evergreens that screen year round there's been, in my prior job, I was going out and seeing homeowners and seeing houses over the Cape and you get to see a lot of really neat things. Sometimes you'd come around a corner behind a big evergreen Arborvitaes or Leland screen. You'd go, oh my gosh, this is back here? I had no idea. You drive by it a hundred times, you have no idea what's back there. So, it can be done very effectively. I just wanted to put an idea out there. I can't help but look at this from the perspective of the marketing side and the consumer side, meaning what I would love to see is if each one of these had, I mean, I love colors, right? So, you could have **red says by right**. So red is buy right. So, here's what's allowed by right. All materials and equipment shall be stored in an enclosed structure or in a commercial vehicle. Then below that in another color available by special permit screening. And then you talk about screening. If I'm an applicant, I can see very clearly that I have two paths here. If I want to screen with vegetation, then I know that I'm going to go see Jake and his board because some people may just read what's permitted and it may not ever trigger in their brain that I have another path. I know that legal probably doesn't like to organize it that way, but that's a way to organize it so that it's not a problem.

Jim Kupfer: Maybe we should do blue and purple. I don't know. We can absolutely put that one pager together once you guys nail down the ordinance itself. We can absolutely do that. We do dashboards and red, green.

Councilor Ludtke: Since we're talking about screening, perhaps we could take a slight detour and bring up the map of the setbacks and have Brian talk about it. Brian I won't mention addresses but I think you'll know what I'm talking about in my precinct there's two roads that are very close together and the houses front on both roads so when you tell the guy you can do everything your backyard that fronts on a different road than the address and the neighbors are irate because if you drive by there that entire back yard looks like a contractors yard and it's not screened at all it's you know it's wide open and so that that's why I brought this up you know it's not going to be out in the Marstons Mills but in Hyannis we're so tight and you know on these particular two roads, you know you drive down the road

all of a sudden you got the front of a house then you get the back of a house so that's what we wanted to talk about defining you know this may be a little bit better to deal with circumstances like that.

Brian Florence: I purposely didn't put the side street in there because there's so many scenarios that are going on and I don't know if you're familiar with that or if you're not familiar with that or if you're not familiar with that you can put in there we have properties that are surrounded by four streets we have properties are in a triangle so I just did that as a basic communication I don't mind how you regulate it I can enforce whatever you give us.

Councilor Ludtke: Do you have some suggestions you know you deal with the complaints you know and I know we've talked about this particular property, I'm not giving the address for but it continues to be an irritant because the backyard is kind of the front yard.

Brian Florence: So, if it falls under the current regulations and it's enforceable if you get it to us we will get out there and see what we can do to enforce it. I would say for new permits that come because if this is grandfathered use we can't really do much about it, but if it's a new use coming in and somebody's coming in registering their home occupation we can certainly take the new regulations and apply them; so you know you need to screen from all streetways, if you're going to have a home occupation you're going to run a landscaping business or excavating business or something that requires multiple vehicles you'll need to screen that from every roadway.

Councilor Ludtke: Maybe this maybe this falls into the special permit thing because we're all talking screening and that way you know the ZBA would see the unique because they are you right triangles all sorts of shapes so that's so I've got it in my backyard I'm okay well no it's not okay at all so maybe it goes back to what we just talked about that that would solve this problem was that screening kicks you to the ZBA and you're going have to talk about all sides.

Brian Florence: Well, screening to increase beyond what's allowed as of right because if you're not going make somebody go to the Zoning Board for putting up a fence.

Councilor Ludtke: No, this is for Home Occupations where there are things that are not stored inside; didn't we just say that? If things are not inside if they are outside in the yard you're going to the ZBA and you're going to have to talk about how your yards line up and then that way we'll handle the unique situations because the lots will have to be shown for the permit.

Jim Kupfer: Real quick to further that discussion, so again looking back at that number 11 on page 7 when we talk about supplies materials equipment associated with home occupation shall be stored in an enclosed structure or in in or on a commercial vehicle or trailer allowed on the premises under this section and shall not be visible or I guess maybe it's the secondary or an additional statement that none of which shall be visible from a public way because I think that's important but Brian correct me if I'm wrong if so we have like a front yard or rear yard and I know Councilor Ludtke's example she's referring to but that's probably somewhat rare circumstance. I don't think anything captures if someone has something in their backyard and they're doing something in their backyard that is not visible from a public way, and you have no way of providing evidence of somebody doing something in their backyard. I don't think any of this, I don't think you would, I don't think you'd be able to go and say hey what you got back there, you know it needs to be I think your enforcement's coming from the public view right?

Brian Florence: Yes, for the most part, so let's say you're the neighbor and you're the one that called it in it's lawful for me to go to your property and stand on your deck or look out your second floor window at the problem you're seeing but if it's just hearsay this guy's creating a problem or this woman's creating a problem, we go look. If we have, we're subject to probable cause rights of entry rules and regulations we don't have just unfettered authority to go on people's property so you're 100% right that if it's not a visible thing and it's not anything we can confirm we can't enforce but that's not that often.

Jake Dewey: One question on maybe another definition enclosed structure so if someone has a temporary structure with that like again. Maybe we need to have a definition here because like a hoop house right would be a temporary structure, so someone sets that up are they in violation?

Brian Florence: Director Kupfer is going to be giving you folks an Accessory Structures document, and you can tie it right into that. We wrote that a long time ago and it's just waiting to see the light, but you can if you want to define it it's an accessory structure.

Jake Dewey: Again, is it just a roof over a four poster with a roof is that a structure? It's in there okay it's fine or is it a fully enclosed all four sides, again so it's not visible from the road.

Brian Florence: You take your carport and wrap blue tarps around the walls.

Vice President Clark: I have a scenario, what if you have fencing up but you're running a pressure washer that's running for hours or something like that. you're talking about noise.

Brian Florence: Your referring to noise, that's different we only have one regulation for noise and it pertains to music.

Jim Kupfer: That would be Chapter 133, so this wouldn't refer to you do doing the act of your business, this is your Home Occupation headquarters essentially so if you're saying that there's a pressure washer business you own and operate that would be different that wouldn't be caught into this. It would be, you need to store your pressure washer in an enclosed structure essentially not while it's being operated though.

Brian Florence: I do have an example it may be helpful for you though, let's say somebody was an artist and they were welding and the smoke and the light from the welding company the business was going across into people's homes into the yards, so if you look at the preamble to Zoning, it says not offensive noise noxious gases or undue lights. It has those qualities in there so if somebody is welding, we had a guy who makes knives, he's a Blacksmith and he makes knives. He is making knives in his garage. We got complaints that there was a tremendous amount of noise which we didn't enforce but the light and the smoke coming from his charcoal forge we did enforce and he did what he was supposed to do he pulled it inside he put ventilation in and he makes his noise and his smoke and light in his garage now.

Brian Florence: Would you like me to go through the bullet points on this document and just breeze through them really quick?

Councilor Ludtke: Yes, why don't you? Because again, two of us here did not go and watch your process, so that would be helpful.

Brian Florence: As I said when I first came, the Home Occupations and Business Licenses are reviewed every Friday. The participants of that are me as a Zoning Enforcement Officer, Jeff Carter, our Deputy Director of Inspectional Services, and Maggie who is our Permit Coordinator and Site Plan Review Coordinator. If we identify something that needs to be referred out to another agency, let's say for example, somebody was baking cupcakes in their home, we will refer that over to the Health Department. We'd also put restrictions on it, which I'll talk about in a moment. So those are the participants.

The applications, Home Occupation, regulation under 240-46; then business license, as we talked about already, is under Mass General Law 110-5. Applications that trigger this type of review are Home Occupations, Business Licenses, and Building Permits. You probably noticed when you were reviewing our processes that there were a couple of building permits that came up; so that's an additional process that gets triggered, that triggers this review. The zoning reviews take place on Fridays. We look for the zoning district, the water protection overlay district, the type of use that's being proposed, and the

description of the proposed use. If a description comes in and it's vague, we kick it back for more explanation.

Councilor Ludtke: Do you ever, are you welcome to have the actual applicants there, or they're not welcome?

Brian Florence: We don't need them. It's really an Administrative function. If we did need to communicate with the applicant, we do. I'll call them. Maggie will call them. We'll have a conversation. We don't really need them to see how the sausage is made.

Councilor Ludtke: Do you call them during the review process, or after you just take a note or something?

Brian Florence: After we take a note. If we need more explanation, usually that's done, remember, they submit an application to us. If the application is light, we have them expound on what it is they're trying to tell us. For example, using the baker, if the baker says I'm going to be baking cupcakes in my kitchen, we want to know, okay, are you going to have people come to the house? Are you selling this product from the house? Will you have delivery trucks dropping things off and picking things up? Well, you know, the good, the Wonder Bread truck come and pick up 16 dozen cupcakes and bring them to wholesale, for wholesale. We want to know that information, and typically it's just an administrative function to get them to go into the application and complete it. Because you can tell us anything you want, unless you write it down, we can't enforce it.

Councilor Ludtke: Just one follow-up, because you know I have a building permit open, and I find it very helpful, because you go back and forth and if you guys have a question for me, it pops up in my email, and then I go and I upload a document it's a similar thing, that you have a go back and forth with these folks, and then when you feel like they're ready, then you do the review. That's the exact process?

Brian Florence: You're 100% right.

Councilor Ludtke: Then that's a very good process.

Brian Florence: As I said, Business Licenses that, or applications for a Business License that don't comply with Zoning, are denied. They'll either get moved to site plan review, or referred to a multi-management application, or referred to a multi-member board, such as the Zoning Board of Appeals, or the Planning Board, or ConCom, or Historic District, many of those things.

Councilor Ludtke: What you just said is kind of the heart of why we're here, I think a big piece. They do not comply with Zoning Ordinance, because you got the ZBA there, Site Plan Review. So, can you give an example of maybe one recently that came through that you had to kick out? It's such a broad statement there.

Brian Florence: Given an opportunity, I could give you dozens of them, Let me see.

Councilor Ludtke: Because we're trying to put certain triggers in.

Brian Florence: I don't know that it actually came through this process, although I think it did. If you go down Yarmouth Road, Willow Street and you see the fenced in area that had a bunch of homes on it and those homes were torn down and they put boat trailer, boat storage in there. We caught them through this process and said, you need to go to site plan review.

Councilor Ludtke: What do you mean you caught them?

Brian Florence: Well, they were referred to a Multi-Member Board.

Councilor Ludtke: Oh, so they came through this process?

Brian Florence: Yes. It was the Business License that started it. When that came through for a Business License, I said, "Well, we have a bunch of demolitions for house demos here. What's the fence doing there? Why? Is there stone? Why? Is there boats in that yard? If they haven't done this process already. They were caught and had to go through the permitting process. We sent it to site plan review. When we catch something, that's what happens. It gets referred out, whether it's site plan review, zoning board, planning board, ConCom. And at site plan review, we'll review zoning together, and if it's an allowed use, then great.

Jim Kupfer: For that one, it wasn't an allowed use but if it triggers Zoning Board, then it says it could be approvable based on going to whichever board, which would then send it to Jake or Steve or whomever.

Brian Florence: That was the point of my inviting you to look at our process, because we do this already.

Councilor Ludtke: We're going to put some additional triggers, like we just said, screening. That's an automatic trigger to the ZBA.

Jake Dewey: So that one triggered there, and then where'd it go? Because it never came to the ZBA.

Brian Florence: It was an as of right use. You know how there's car lots all over down the street?

Jake Dewey: Yes

Brian Florence: It's a retail

Jake Dewey: So, it came back to you with proper permitting, and you approved it.

Brian Florence: That's right. Administratively. One thing I jumped over, and I didn't mean to. I would like to talk about this section right here. This section, it's the restrictions part of ... So, it's 246 ... What's the subsection, Jim? Do you know offhand? I think 46 is the subsection. It would be very helpful, as your Zoning Enforcement Officer, if we took subjectiveness out of this list of restrictions, and maybe just found a different word;

It's objective to say that the activity must be conducted by residents of the dwelling. I can figure that out. That's easy for me to do.

Subjective would be something like, the use may not be objectionable or detrimental to the neighborhood. You got people in neighborhoods that want to live next to a graveyard. They don't want to hear anything except birds chirping.

Then you have others that don't mind the fact that you got a welder over there making a bunch of noise and smoke. It would be good if you could take the subjective ones there and try to tighten those up.

Then the subjective objective ones. Traffic generated shall not be more disruptive to the neighborhood than normal residential district traffic; these days you see Amazon come through the neighborhood five times a day. You see UPS rolling through the postal trucks, garbage trucks, tree trucks, you name it. It would be helpful if you could try to tighten those subjective objective things up. But especially the subjective.

So, I appreciate if you look at those, and then getting down to the last few things under the approvals heading, Business Licenses that comply with zoning are given a Business License by the Town Clerk.

Home Occupations that comply with zoning are given a certificate of registration along with their business and license and both of them get whatever the restrictions are that apply.

- You may not use more than 200 square feet of your property.
- You may not exceed 200 square feet in an accessory building.
- You may not store materials outside.
- We'll say very specifically, this is not a contractor's yard.
- You may have one vehicle, one trailer, no outdoor storage of materials.

So, we put a lot of restrictions on that, and we take the restrictions right out of the ordinance. The Zoning Officer identifies unless any conditions for approval and that's the restrictions. That's the first part I was just talking about.

Rejected applications: Business license and Home Occupations don't comply with zoning but might be able to comply if they modify their plans. We'll give them options to do so. That's the back and forth in the system that you talked about a moment ago, Councilor Ludtke, where if we find something, identify something that needs to be addressed, we'll send it out. You get an email and you come back. So, we try to give them their options to do that. And we try to work with applicants to help them. If they get to an approved condition, but those that simply can't get there, we're going to refer out to a Multi-Member Board.

Councilor Ludtke: Now, what's your review process? because I've seen a lot of other Towns looking at them, like they have an annual fee and kind of an annual check-in. Do you have anything like that or off you go?

Brian Florence: So for the individual or for the regulation itself?

Councilor Ludtke: For the individual. They've got their home occupation and off they go. Do they have any kind of annual review? Annual submission? Because I have heard from people that it's tough for you to go out and inspect a lot of these because it requires overtime. I'm just trying to get to some revenue that could support some of the enforcement. I'm wondering, because I see it in so many other towns, like an annual re-upping, if you will. Do we have anything like that or it's one and done?

Brian Florence: That's a really good question. We don't. In fact, before I came to Barnstable, the only way you could find if a piece of property that had a home occupation is to literally ask for the folder and look in it. There was no way to get a report or try to understand who had home occupations, what they were, and where they were in town. Several years ago, Maggie and I, we started, we put this process in, we put the application in. So, into the OpenGov. We got the business and Home Occupations; Building Permits were already there. So now we are able to keep and track and understand what we're doing and we're improving that as we go, but there's no annual review. We had proposed a license scheme, if you will, in this Home Occupation regulation and I still suggest it's a good idea. It's a good idea for a lot of reasons: We have properties that have 5 home occupations associated with them and none of them are still existing or one of them is existing and the others have gone by because the business stopped for whatever reason. It would be good to know that the ones that are done are cleared out and we can do that with an annual review.

Councilor Ludtke: No, I really liked it. I don't know if other people have looked. I really like that, that a lot of towns have adopted that and it's a minimal fee. It's like 25 bucks, but that would be enough for Brian to pay some of his overtime because, again, he usually needs to send somebody out at odd hours when there's stuff going on.

Brian Florence: Well, I don't want to suggest that, so we don't, overtime is the exception rather than a rule. We, I have never not authorized it, and my inspectors are very good about telling me when they need it. The narrative you hear out in the community that nothing's being done because it happens

after hours. That's not true and I'm sure our Finance Director would be happy to tell you that we do. We pay overtime for that stuff. My request for funding behind the licensing part of it is twofold. It is for enforcement, it's for staffing to do that, and also for the equipment needed to do it. We need to buy a machine that prints out licenses and that sort of thing. I know Mr. Robichaud was not a fan of that at the Planning Board but it's something that would be a helpful tool to us for enforcement.

Steve Robichaud: I'm coming around. This isn't a Business License. You're talking about a Home Occupation license?

Brian Florence: Right.

Steve Robichaud: Okay. Which would be in addition to a business license? Right?

Brian Florence: Yes

Steve Robichaud: And the conversation that just took place is just kind of about how a renewal would take place and what it would cost and all that good stuff. And the renewal, there is an opportunity to take another look at the site, maybe have someone do a drive-by to make sure that they're in compliance. Look to see if there was complaints and all that.

Brian Florence: Yes.

Steve Robichaud: The aspect that I really did not like would be the just harsh, brutal reality of somebody trying to earn a living basically learning that they are not doing something properly and something's not in place and your renewal application has been denied. So, I wanted to see like you've got a six-month probation. So it's really, really, gentle, really, easy. Let's make it a partnership. Let's work with them. If they're not in compliance, what can we do to help them? Just being as kind and gentle as possible with that and not being too strict if we've got somebody that is not in compliance.

Brian Florence: I challenge you to talk to anybody that I've enforced against, and you will hear that I'm fair.

Steve Robichaud: And I have heard that for sure.

Brian Florence: We always give people time to correct. We give them options to correct but if you wanted to, as this committee wanted to codify that. I have no issue with that.

Councilor Ludtke: I think it might be a more proactive. Right now, you're very reactive as we know, the Town is complaint-based, which I've always hated. It pits neighbor against neighbor and creates ugly situations. So, if we had this, and I like what Steve said, the gentle approach, because that's what it should be. Again, overarching. We're trying to allow people to pursue businesses and make money, okay? But I think it might be nice. There's some good examples already out there in other municipalities that we could just steal from and take a look at those and adjust them but if that sounds like something you've thought about too, and I think about, you brought to the Council about the apartments, the fee went up there because you want to do the annual inspection. So, I'm kind of thinking this too. This is an opportunity to take the burden off the neighbors, I think, a little bit.

Jake Dewey: What's the current fee structure right now?

Brian Florence: I don't know what the Clerk charges for a Business License. I think home occupations, \$35 or something. I don't know, don't quote me on that.

Jake Dewey: Jim, do you know the business license fee?

Jim Kupfer: I do not know. I'm sure we could look it up.

Jake Dewey: Would you think annual review or every two years or every three years?

Brian Florence: I like annually because I know it's a little extra work on our end, but the thing I like about it is so many of these things fall off year over year. The attrition rate is huge and then people move, a lot of the businesses start up in rentals. We have Cape Crossroads, there's got to be 30 businesses in there, but those folks aren't there next year. So that apartment is still listed as a home occupant.

Steve Robichaud: Have you given thought to the number in terms of the initial Home Occupation License and then the renewal cost?

Brian Florence: We're talking about adding a staff member for enforcement. So, it's not insignificant. But we have. We do probably 500 Business Licenses a year somewhere in that vicinity.

Jim Kupfer: Just to follow up, \$40 for every four years, a Business Certificate.

Brian Florence: That's for the Mass General Law 110, Section 5, the Town Clerks. That revenue does not go to the Building Division.

Councilor Ludtke: And do you have a fee in mind for the annual review? Or have you thought-

Brian Florence: For the renewal? I have put some thought to that? I think what I'd like to do is, we're coming before the Town Council this fall with fee recommendations. If a License Provision was going to be added to this before I can start thinking about what I need for staffing. If I had to guess, I would figure one staff and then there's probably 10,000 businesses in Barnstable, 8,000 businesses in Barnstable, you divide that one staff member up by that many businesses and that's what you get. It probably won't change much is what I'm telling you.

Vice President Clark: I do like the idea of a Home Occupation review, but perhaps maybe you can lessen the workload if it wasn't annual, if it was a two-year, not the frequency at this time. I know that we're due to reevaluate the fee structure, so perhaps if there is a recommendation that came from this group, or this Committee, to the Town Hall, we could do that. If there is a recommendation from the Town Council that we initiate a two-year review of the Home Occupancy, then that can be wrapped into the upcoming fee structure.

Brian Florence: Please don't list the fee amount though.

Vice President Clark: I understand, but I'm just saying that to lighten the load. I understand it's making another task times 8,000.

Jim Kupfer: Just to add to that, so right now in your draft, as by right, it's every three years. We could reduce that if you wished, and to Brian's point about don't put the fee in the ordinance because then we've got to change the ordinance every time as opposed to going through the fee structure, which is a somewhat easier process.

Brian Florence: That's everything I had on the two documents, one, the one I wrote for Mr. Robichaud, and then the subsequent follow-up to your questions. Do you have any other questions for me?

Councilor Ludtke: Well, just what Jim read, I have a question on that. If you do give it for 3 years, does that mean you have to start all over on year number 4?

Brian Florence: Yes, If you're going to issue a license or a registration, and you give it a sunset, and you will start over again at the end of that.

Councilor Ludtke: I would think you'd just issue it, and then the annual review would capture if

it's still going or not. I just wonder why, and then, like I've said, if they're exactly the same or slightly year number 4, is that working for you, this every 3 years that people have to come all the way through again?

Brian Florence: Well, this is proposed. This is what's proposed right now. You guys proposed that.

Councilor Ludtke: What do you have now? Indefinite?

Brian Florence: We have one and done, which is no good for us. No review.

Jake Dewey: Brian would recommend an annual review instead of the three years that we currently have in the draft. Do you think that's like a ... I mean, does the applicant or the operator or permit holder, they have to do something, or they just pay the fee, and then you guys review it internally, and then that's that?

Brian Florence: In our software system, we have what's called a renewal campaign, and so those folks would just get a letter, an email saying, come on in by this date and renew your license or registration and then we would have a list of people that didn't, and then we would be able to communicate with them through a second notice and or a visit to the site. I'm okay with two years. I think one's probably a lot. Three is probably not enough. I think two years sounds like it would be okay.

Jake Dewey: I don't think it needs to be every year a business- Still needs to establish and figure out its footings and stuff.

Councilor Ludtke: And where is the list? Do you have to look up each property to see, You said you created a list of these businesses. Is that accessible?

Brian Florence: We can print a report for that, but what you'll find, though, is that we only started using OpenGov to document these about three years ago. Prior to that, it was just done with a piece of paper that got put in a file so you would have to go to the individual file. I'd have to know that there was a complaint, go in the file, and look and see if there was a Home Occupation there. I can give you the report for the last three years or so that we've been doing it, but I couldn't give you the list of 8 to 10,000 businesses we have in town.

Jim Kupfer: That's the purpose, again, for Home Occupation, for the license. It's the Building Department, an opportunity to say, hey, you guys are still active. That's great.

Councilor Ludtke: Anyone have anything else for Brian?

Steve Robichaud: Well, I think we should get back into the red line document and have Brian stay right where he is, because I think we're going to need him, and I just want to lean heavily into the marketing. In my line of work, and for a lot of us, you never want somebody to say, well, I wish somebody had told me that. I wish I knew that. So, if you do a really, really good job marketing, saying:

- if you're coming on as a new business, here's everything you need to know, here's everything you need to do,
- and then at your renewal process, here's what your renewal process looks like, and here's what we're going to be looking at so make sure you get all your ducks in a row, because this is what we're going to be looking at.

So nobody ever says, I didn't know I was supposed to do that. It's like, well, look at our beautiful, visually appealing marketing materials, get the design team involved, make it so that every type of person can understand it.

Brian Florence: I have no problem with that.

Councilor Ludtke: Lets continue for about 30 minutes, that will take us to 5pm

Steve Robichaud: I think we're working down to number 3 the license. Perfect segue. I think we all like that.

Jake Dewey: I mean, I think four is sort of what Brian was saying. He doesn't want to be enforcing the plate. I think that the requirement of the plate. That's the RMV. Right?

Brian Florence: I think this section here, I think it's somewhere else that in Chapter 245, that that causes a little bit of a problem for me. In here, it doesn't cause a problem. What this is saying is that any vehicle. It means that if your vehicle is supposed to be registered commercially, according to 540, it better be registered commercially. So, for example, if 540 is supposed to be registered commercially, that's what we're looking at if your vehicle is supposed to be registered commercially, according to 540, it better be registered commercially For example, if Mr. Robichaud had a vehicle that I thought needed to be registered commercially, he can look to 540 and say, well, it doesn't because of this here or I look and say, it does because this says it here.

Councilor Ludtke: Does everybody want to look at the subsection E. About the vehicles? Because we start to get into what caused the uproar at the Planning Board, which is the 20 feet in length, right?

Brian Florence: E1? That is a tough one.

Councilor Ludtke: Where did this come from, Brian?

Brian Florence: 20 feet in length. It is a historical provision in this ordinance.

Councilor Ludtke: But it caused quite a stir at the Planning Board.

Steve Robichaud: A lot of that, I will say, did come from the boat trailers.

Jake Dewey: That was a normal occupation, wasn't that commercial vehicle?

Steve Robichaud: It was really both, but yeah, more commercial vehicles.

Councilor Ludtke: I just want to make sure we understand what we're talking about here because we're going to tackle that next. But are we comfortable if a home occupation, 20 feet, it sounds arbitrary to me, but I'm not, I don't live in this space. I don't know trailers and vehicles.

Brian Florence: The uproar was caused by a misunderstanding of what was happening, plain and simple. In the process that the quality of life team took on, we had separated the vehicle provisions in 240-46 and moved them over to 240-45. It seemed like we were creating new regulation. We were not. We were just taking the same exact language as was written, 240-46, and moving it over to this other section. So that's what created the uproar. The 20 feet and the one ton and 20 feet in length and no more than four tires has been in our ordinance since the 1980s when they moved home occupation over to the Building Inspectors per view. It was not a new provision. It's just that the light got shown on it when it was moved to another section of the ordinance. I don't disagree with the objections of 20 feet when the citizens were here saying it, because that's like a rowboat. You can't, a rowboat will fit on a 20 foot trailer. Likewise, a Bobcat could fit on it. You couldn't get anything bigger than, than either of those on a 20 foot trailer. I understand what their concern was for enforcement purposes all I can say is put a number on it. If you put a number on it, I can enforce it.

Jake Dewey: So, it's 20 when you say again, I'm going back to sort of definition, 20 foot in length, that's you're measuring from the tongue of the trailer to the back for the taillight.

Brian Florence: I measure from the winch. I don't include the tongue in the trailer.

Jake Dewey: I'm just, again, trying to avoid anything.

Brian Florence: But if you want to clarify it, you'll never get me complaining if you put a definition in there.

Jake Dewey: So, I think we should just make it clear, cause again, people start getting creative. They'll put the, you know, if you hear you say they measure at the winch, they'll put a winch in the middle of the trailer and say, well, this thing's only, you know, and then they'll have a boat or whatever hanging 10 feet off the back of it. Or they'll have a 30 foot trailer. I think we need maybe a definition,

Councilor Ludtke: So we're saying we'd like this definition? For Home Occupations and that means that if you exceed this, you're going to the ZBA, right?

Jake Dewey: I'm trying to just make sure we put clarity here so there's no discretionary for Brian and his team to have to deal with, right? Because a 20 foot boat is a 30 foot trailer or whatever.

Councilor Ludtke: So, what are you proposing? Jake, you think this is okay?

Jake Dewey: I think we should say a length from tongue to tip or whatever, from the front edge where it attaches to the vehicle to the back end of the metal and just decide what that is. I don't know what the right number is, but I think we should just say that. So, Brian and his team could go out with a tape measure. Nope. You're not in compliance or yes you are.

Brian Florence: All I ask is just assign a number to it. I don't care how big or how small it is. You want to make it.

Councilor Ludtke: All right, well, Jake, you work in this space, you know, trailers, what's a reasonable size.

Jake Dewey: I think if we're we're saying that the measurement, the way it's being measured is from the tongue, attach it to the truck, to the back of it. I think, to the taillights, it's not in the tail. It's on the wheel. So again, there's a lot of gray area here is maybe 30 feet, but I don't know what, you know, what a length of a garage, if the, if the vision here is that the trailer ideally is parked next to the garage, You know, and the tongue is kind of in line with the garage and the back of it. So, the back of the garage, that's usually 25, I think 24 to 30 feet. I think maybe 30 feet. If someone's like, think of someone as a landscape box trailer and all their stuff is fitting inside it. I want it to fit kind of next to the garage and be incidental to the residents.

Councilor Ludtke: Jim, are you going to take a note and put that definition that 30 feet with a definition that Jake mentioned.

Brian Florence: May I suggest that you look at the, the manufacturer rating on it? So, the reason I like the one ton rating for vehicles so much is that there's a standard in the industry. You can look to the Department of Transportation standard and say, this is what a one ton vehicle is the same thing with a trailer. If we use a standard in the industry, as opposed to a, you know, all due respect, the length of a garage, If you use a standard in the industry and say, Oh, 30 feet is going to be it. Then I think you can look at the manufacturer's space.

Jake Dewey: I will say particularly in our community, we have a lot of homemade trailers or dealers that are registered as homemade trailers.

Brian Florence: We have plenty of tape measures.

Vice President Clark: And is it my, am I correct in understanding that if the boat is used for aquaculture, it's exempt?

Brian Florence: Well, this is something else. I think you folks may want to consider to include fishing with aquaculture because yeah, any of these boat trailers can get pretty sizable and aquaculture viticulture, horticulture, agriculture. They're all exempt under zoning, but fishing is not one of them. It's not listed there. So, if you want to, if you want to take care of the folks that were in here during the Planning Board meeting with a legitimate complaint, you may want to include fishing. We don't enforce against fishing boats. We never have. It's just a boat on a trailer and they don't have to do a Home Occupation.

Jake Dewey: I think we will deal with that, I think we need to address fishing and aquaculture and stuff when we deal with Commercial Parking.

Vice President Clark: I guess what I was wondering is, I don't know if it would be helpful to the public if there was, if all the farming, the suite of farming industries would, if there should be a statement that says fishing, Vivaculture, Mariculture are, exempt under zoning. If that would be helpful to insert. If you put a definition in there that said, whatever that may be that might be helpful to the fishing industry.

Jim Kupfer I thought a one really good use of time with Brian here especially since we have on the screen we're talking E 1; E 2; and E which refers to Site Plan and I know we've had some back and forth and I think it would be good to have some dialogue about whether or not we're recommending three tiers or if we want to tighten this up for two tiers to being by right and special permit to where we kind of left off last time, but we're diving into site plan again and I just want to see where we want to go with it.

Councilor Ludtke: That's a great suggestion. We'll stick out, stay right. We're back at E here, how about, Jake, do you want to talk about this?

Jake Dewey: I think Brian's memo that it made sense to remove the middle, tighten up the by right really clear, and then go to the special permit again with some language. I mean again for us on the board, it's always helpful to have guidance of intent.

Councilor Ludtke: We still want to have the three tiers.

- We want to have site plan.
- We want it to go to ZBA,
- They'd be required to go to site plan, right?

Which I think currently that's how it would, they need a special permit. They have to go to site plan review.

Jim Kupfer: That's how we have it written for this draft here, is if you are, if you're not meeting the by right, and you have to be referred to the Zoning Board, you will have to go to the Site Plan first. That's how it's drafted at least.

Brian Florence: I'm going to ask you to not use Site Plan as a tool here. The reason I wrote this because I understood that you folks are trying to include Site Plan because you didn't think that there was oversight of home occupations. Now, you know, there's pretty significant oversight of Home Occupations. We do it every Friday. We go through and through. People get denied. We ask for additional information. This is not a pass for anybody like you've been told in the public that it's not so to require Site Plan approval is not about the use of the property. It's not about the buildings on the property. It's not about any of those things. It's about the dirt. The site plan is about what is the access

onto the lot worth? What are you putting for vegetation and screening? How are you hooking up to sewer? It's all of the earthworks and dirt works. If you read Site Plan Review, that's what it says. If you add this into this part of the ordinance, you're going to have to change Site Plan Review. I really don't want you to do that.

Councilor Ludtke: You just mentioned that magic word screening, but that screening could be done at the ZBA.

Brian Florence: That's right.

Councilor Ludtke: It's not exclusive to Site Plan Review, right? Would that confuse people?

Brian Florence: No, not at all.

Jake Dewey: So, so I think the objective here is to tighten up the by right? And then, everything will kick to the special permit. Brian will be able to decide pretty much right through. And if there's something that doesn't comply, that's discretionary, it goes to the discretionary board to handle.

Brian Florence: Just like we already do.

Steve Robichaud: You've got your Zoning review, which you've just gone over with us, which I saw in person, which I was pleased with. I just would say, I guess two things.

- Is the result of that zoning review, is there a report that's generated?
- And if so, somebody is going to be kicked to ZBA, could ZBA have a copy of that report so that they could see, your review and what you looked at and what you found and what your findings were?

Brian Florence: That's a great suggestion.

Steve Robichaud: That could help your team be prepared to review the application.

Jake Dewey: Then you would also send them to any other boards that you felt were necessary. If it was a baker that they had already been to Health and we have a letter from Health saying this is in compliance or whatever.

Steve Robichaud: I'm satisfied that the combination of Brian's team and their Zoning review, plus Jake being privy to that report, and doing his analysis with his discretionary board, I'm comfortable that that is an exhaustive thorough process.

Jake Dewey: I do still think that for the special permit, we need to create a list of what's required. Like with this whole screening discussion, I don't think we need to have a landscape architect do it, but there needs to be a landscape plan of some kind. I don't want to make it crazy, but some sort of, here's the site. They could use GIS, we're going to put a fence here, we're going to put trees here and they're going to be X height, So we have a reference and then it can go back to Brian, they can make sure it gets enforced.

Councilor Ludtke: I think we're really close here. I think we just need to, eliminate the Site Plan review. Going on what Jim said, which is great idea, Jim, if you could bring that up on the screen, about the license, is this pretty much just what's going on right now? It looks pretty black and white, you know, the license has a photo. Is this what is used? Can you scan it,

Brian Florence: I'm not sure I understand the question.

Councilor Ludtke: I'm saying we're trying to, you know, edit this, to me, this looks pretty objective and just a statement of fact. If you could review it with us and let us know that, or if we all could kind of look at it, Section D yes.

Brian Florence: Right now we have a registration process. It's a one and done process by doing the license. As we talked about earlier, it would fall under these categories. So, they'd be required to receive a license for each home occupation allowed in a residence. Responsible parties will need to renew their home occupation every three or two years, or whatever you decide and their subject and are subject to approval. It may be withheld for violations of the code, not limited to the requirements. So, they will be required to issue a license, whether it's for home occupation or an individual occupation. So that's part of the reason why this is set forth here. And that's when, if we go out, we've had some complaints and we go out and look and they've abated the complaints and we'll, you know, then they're all set. If their complaints are still active, this is where we work with the, the resident and have them abate those violations before we reissue the permit, reissue the license. The home occupation license shall be for a term of whatever term you folks decide minimum and I was pretty responsible for this list:

- the license number
- the name and photo of the party
- location of the home occupation
- the plate numbers of the vehicles so that when we go out there and are looking to make sure that that one ton vehicle in that trailer are the ones that we have listed associated with the Home Occupation
- a telephone number so that we can call

right now, you'd be interested to know that a lot of times we don't have telephone numbers for the people that we are enforcing. With doing enforcement action we call the Water Department because they have to have a phone number there so that. That's the only way we can get it the email address of the responsible party and location of the off-premises park and so if somebody says like the guy on Lincoln Road, look at I'm going have my ten vehicles, we're going move them now; well where you're going to move them too so that we can at least confirm that and if they start putting them back like is happening on Lincoln Road again we could say what happened to the spot you had over on Independence Drive and you know we can work with the people to get it figured out. That list I thought that it was a pretty important list to be on the license.

Jake Dewey: I would maybe add in there just like a description like a short description of the business like landscaping business or landscape contractor.

Brian Florence: You can put that in, that's okay. The next one number 4 was Home Occupation so the license may be revoked by the Building Commissioner or his designee for cause. There's that section Mr. Robichaud, where I mean there has to be cause, we're not going to just go tearing somebody's license away from them and ruining their business and their lives because you know they had an extra trailer there for a day; we're going ask them to move it and then if they provide false information on the application, parking, business associated vehicles in violation what's allowed, failing to register the vehicles what the home occupation as required by such in C4 that means that if you have a commercial vehicle and it's required under that 540 to be registered as a commercial vehicle and have a commercial plate you're required to do that. Failure to timely communicate with the Commissioner or his designee and that's really for the people that just want to ignore us and that happens it's not it's not often but it does happen and then the most important part is that a person aggrieved can appeal to the Zoning Board of Appeals so they have an avenue out if for some reason they think that we made an incorrect decision.

Councilor Ludtke: This is where we may need to work on this because what you've just

Read, it sounds like by right because the ZBA piece would have to be addressed in this I mean you've now kicked it to the ZBA here, but appealing, if Brian's team had decided they were in violation and they say no, we're not, they could go to the ZBA but we have to be able to explain both of these. I think what you read, what we were seeing here, I think when people could chime in is by right will there be an extra piece of this if you've gone through the ZBA? Everything in here is from you, I'm saying what is missing in this piece doesn't have our second aspect.

Brian Florence: It does though if you think about it, this is as of right, unless you violate these provisions and if you violated these provisions I'm going to take an enforcement action. The number 5 is basically saying the Building Commissioners take an enforcement action because I didn't do what I was supposed to do and therefore I have a right to say that the Building Commissioner is wrong and tell the Zoning Board all about it in an appeal.

Councilor Ludtke: Are we saying that the license if it came through by right or if it went through our special permit is identical. Is there any identification on this that it went through the secondary process that being the ZBA? that's all I'm getting on the license itself.

Jake Dewey: They could, I guess they could have better things listed, so you know there's a file that's maybe more extensive if you're an abutter to go look at.

Brian Florence: If you want the license itself or the registration document itself to say that this has gone to the Zoning Board of Appeals, we can put that on there. I don't see why not. Jim, I mean, I don't know how much it'd probably be on you guys to let us know if it was approved.

Jim Kupfer: That wouldn't be a problem, and yes, I mean, Brian's team receives every special permit that's granted anyway. So, it could be on file. It could be cited that it went to the Zoning Board and Brian's team is the enforcement agent for the special permits that come out of the Zoning Board anyway. So, if there's strict conditions, they would be aware of that. And it would be the same process if they violated a special permit, they would be sent to the Zoning Board as well.

Brian Florence: We would put just a little ZBA on there or a red dot. There's only so much space on a 2X3 card.

Steve Robichaud: It could just say special permit issued January 2027.

Vice President Clark: Yes, I like that idea because that way you can reference when the conditions were voted on.

Jake Dewey: Someone can go see the conditions. They can go look them up or call the town.

Brian Florence: **If a date is what triggers somebody to look it up, If it was 10 years ago or, If you include that on number 3, the Home Occupation License shall include at a minimum and then you say any relief granted by the Zoning Board of Appeals.**

Jake Dewey: So we've talked, we've sort of said the words license, permit, or registration. Is there a reason to go to license, like, is there a reason why one or the other is a better way of doing it?

Brian Florence: The little secret is registration and license are interchangeable when you look at the term, the terms are interchangeable when you look them up in the regulations. It doesn't matter which one. We register somebody already right now. I thought since we were doing this, we'd give it a fresh new look with an actual plastic card and, you know, something that somebody would realize you could lose this if you aren't behaving and that sort of a thing. So that's why I did it.

Jake Dewey: Calling it a license isn't like a legal difference thing that's necessary or, needed?

Brian Florence: Well, it does in one sense. You have to have cause to revoke it. Zoning violation is cause.

Jake Dewey: And it would never drag in the licensing board in any way, shape, or form because it's a license, right?

Brian Florence: No

Steve Robichaud: Can I ask about section 4? I feel like it says, okay, so including but not limited to violation of any of the provisions of this section, shouldn't that be A? Why is that up top? Violation of any of the, and shouldn't say a home occupation license may be revoked by the Building Commissioner or his designee for cause including but not limited to, shouldn't the first one be A? Violation of any of the provisions of this section. Shouldn't that be A? of any of the provisions within the Home Occupation Ordinance.

Brian Florence: You could literally put a period after cause and then bump that down to another bullet point.

Steve Robichaud: That's what I would do, I would have A be listed as violation of any of the provisions of the Home Occupation Ordinance, not just this section, but the entire Home Occupation Ordinance. Then I would do another one, E, violation of any special permit conditions. I just have to ask a more general question. If you wrote A, violation of any of the provisions of the Home Occupation Ordinance, and then B, violation of any special permit conditions, you don't need to say anything else. You've covered everything. So why include the other ones?

Brian Florence: Some of them are not listed, false information.

Steve Robichaud: Oh, that's not listed elsewhere?

Brian Florence: No, it's not. Failure to timely communicate.

Steve Robichaud: Okay. I would just say the B, like parking, that's listed elsewhere. I would get rid of that because it's listed elsewhere.

Brian Florence: C is probably, too.

Steve Robichaud: Yes.

Councilor Ludtke: You want to try that, Jim, to tighten that up there?

Jim Kupfer: Yes, not a problem.

Councilor Ludtke: We're getting close to our hard stop here. Brian, before you came, we were talking about if you go to the next section, where we were, E, E3. We were talking about, you know, we started in the front of this ordinance talking about you can only have one per dwelling and then Jake brought up a great example. What if a couple of folks married or whatever, one of them is a house cleaner and the other one is a landscaper. They're both using that address. How do you handle this?

Brian Florence: I agree with him 100%. You have husband and wife that operate two different businesses quite a bit.

Councilor Ludtke: I think we were wanting to make sure we allow for that and don't restrict it to one, but we saw that language up front.

Brian Florence: So, if you're asking me if that's enforceable, it's enforceable. Yes.

Councilor Ludtke: Because it says in here, no more than two. What if they have a teenager who's doing something?

Brian Florence: Yeah, making jewelry. You have that in Hyannis. You have a husband and wife each with individual businesses and a teenager with his own. He's not a teenager anymore.

Councilor Ludtke: But should we take this out but in no event? I mean, aren't we looking at the impact?

Jake Dewey: I think we agreed that we would say without approval from ZBA. So, we can just look at them individually because, again, like the jewelry, the cleaner and the landscaper work, but the two landscapers.

Councilor Ludtke: Clean it up and take these quantities out and have it based on impact.

Jake Dewey: Aren't we taking this whole section out of the By Right? Right?

Jim Kupfer: So, this right now what you're referencing is that Site Plan. So, this would be moved to special permit very likely for if it's more than two. Well, that will be your discussion. What is By Right? What is special permit?

Councilor Ludtke: There's good language, but it could move to the Special Permit.

Vice President Clark: She wants to take out in no event.

Councilor Ludtke: Yes, make it less harsh.

Steve Robichaud: Basically, saying that if you want more than one, you've got to go talk to the ZBA, get a special permit.

Councilor Ludtke: Well, there we are respectfully unless anybody else has anything pressing for Brian?

Steve Robichaud: Those were the key sections.

Brian Florence: One comment before I go, I think that if you do only one Home Occupation, not disenfranchised, but you will hurt the people that have a husband and wife. I can understand more than two should go to the Zoning Board, but whatever you folks think is best, we can enforce it either way.

Jake Dewey: Does that leave it too discretionary for you though? If dad has a landscape company and son wants to have a landscape company there, the ZBA might say, no, that's too much, but are you going to be in a position if it's two, well, you have to allow it.

Brian Florence: You make a valid point. So now you have two one-ton vehicles and two trailers.

Jake Dewey: Yeah.

Brian Florence no, that's a good point.

Jake Dewey: I mean, again, we have to sort of work through what the special permit package and process looks like here and hopefully don't make it too difficult.

Brian Florence: I think that's kind of how we'll do it now, but it's a problem now. So in other words, there's no limit to the number of home occupations that you can have and therefore we've had, and again, it's very rare, but we've had instances where you've had just that two one-ton trucks, two trailers,

and now it doesn't meet the intent of the ordinance on one part of the project, but it does meet that's the objective subjective stuff we're talking about.

Vice President Clark: If you don't mind for Brian, if you were going to execute this license and bring on another employee to, take care of this task, is it something they can do every two years or three years? Cause if you do it every two years, it's your temp from your stats, 5,000 inspections a year, or if it's every three years, it's 3,300. I'm just saying that doing the short math, it looks like that's going to be the burden going to your department.

Brian Florence: It will be a burden no question about it. I think if you do it every two years, I don't think it's, it's cumbersome. Remember a lot of this is administrative. It's really just paperwork coming through on a permit application and if there's no change, it's a renewal, if there's been violations, we'll go out and look. I think that the way we've proposed it is workable, if the ordinance comes out in a way that it requires us to do much more than what we've proposed, we'd have to look at additional staff.

Vice President Clark: We proposed meaning this originally every three years.

Brian Florence: If you say we're going to do it every year and, and it requires an inspection if you get into that kind of, regulatory, I think maybe the special permit one has a different inspection requirement than the By Right. I don't know. I don't have a problem if you put it there. I'm not sure how that's going to look in terms of managing that,

Jake Dewey: The ZBA potentially could condition it differently because it's an intensive use. We want it to be inspected annually because it's a concrete company that we you know, have concerns about or whatever. I don't know.

Brian Florence: If you are going to put a number of years in order to change it, if we find a problem, you're going to have to come back to this process. You could put a provision of Jim's willing to write it that says these rules can be, like the timely, the timing can be changed from time to time, with notice to the Planning Board or whatever board is involved.

Vice President Clark: I don't know if that's fair to the Home Occupation businesses. Are you going to intensify their, inspection or, or relax it?

Brian Florence: I guess it'd be, it would relax it, but you're right. It could go either way.

Vice President Clark: Quite frankly, I, received some complaints when the fee for the rental inspections went up and the complaint or the suggestion I was getting is that wasn't noticed to us, the ones affected, so I'm just saying that frequency is predictable if you, especially if you go on a rotating basis.

Brian Florence: Are we talking fee instead of inspection? So, the fees, it's my understanding that's going to be an annual review now. I totally agree that the fee was a lot, but if you had done it over time for the past 20 years, it perfectly in line with the consumer price index. We did nothing draconian there. It just felt that way because it was a big fee. That hadn't been addressed in a long, long time. But the review thing and the inspection part of it, I think it's important to be able to have that flexibility because what you saw with the health regulations under the, the rental regulation things, when too many apartments came on, we reduced the number of inspections to be able to try to keep up with it. We were on the verge. If that hadn't gone past, we were going to have to go to a 5 or 7 year inspection rate, which, why even have the program at that point? Right? So, we went from 1 year to 2 years to 3 years, and we're on the verge of going to who knows how many years. So, I don't think those will ever get more restrictive. I think they'll probably get less restrictive as the workload increases.

Councilor Ludtke: Jim, you've captured this. We can tighten this up for our next review. Keep the red lines. Then next time we're going to focus on:

- the By Right and tighten that up.
- then we're going to focus on the ZBA review.

And then I think we're pretty darn close to having a final draft. I really think so, everybody else?

Jake Dewey: Of the By Right portion. Right? We still kind of have to tackle, because I think we need to keep it together, the special permit.

Councilor Ludtke: Well, that's what I was saying. We're going to focus on those two, tighten up the By Right, which I think we're pretty close on, and then look at the special permit and we won't do the Site Plan Review, but it was good to review these other sections here.

Jim Kupfer: My only question, will you be requiring the services of our Building Commissioner at the next meeting? I just would like to give him proper notice if that's the case.

Councilor Ludtke: I think it's very helpful. I think we have to. Yeah.

Brian Florence: That's okay.

Councilor Ludtke: Our next meeting date, August 27th. Okay? Brian, are you in town or?

Brian Florence: I've already told Jim I will make it a point.

Councilor Ludtke: Okay. Thank you for that. Vice President Clark is saying 530. That's when it is. She said she will never come again at 3pm. You want 530?

Brian Florence: 5:30 is better for me. Yeah, that works for me.

Councilor Ludtke: All right. August 27th. 5:30pm

Chair of Committee asked for a motion to adjourn: Councilor Bloom made the motion, this was seconded by Steve Robichaud, a roll call vote was taken:

All Committee members voted to adjourn:

You are adjourned at 5:22 pm.