

**MARION TOWNSHIP PLANNING COMMISSION
AGENDA**

SPECIAL JOINT MEETING
May 22, 2019
7:30 p.m.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF MEMBERS:

CALL TO THE PUBLIC:

APPROVAL OF AGENDA FOR: May 22, 2019 Special Joint Meeting

Home Occupation Workshop Lead by Planner John Enos

CALL TO THE PUBLIC:

ADJOURNMENT:

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4. OFF-SITE SIGNS may only be permitted on unoccupied lots.

Sec. 3.22 HOME OCCUPATION: A HOME OCCUPATION may be permitted within a single family residential dwelling subject to the following conditions:

A. No person other than members of the family residing on the premises shall be engaged in such occupation.

B. The use of the DWELLING UNIT for the HOME OCCUPATION shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the FLOOR AREA of the DWELLING UNIT shall be used for the purposes of the HOME OCCUPATION, and shall be carried out completely within such dwelling.

C. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such HOME OCCUPATION, other than one (1) sign not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the DWELLING.

D. No HOME OCCUPATION shall be conducted in any ACCESSORY STRUCTURE.

E. There shall be no sale of any goods manufactured elsewhere in connection with such HOME OCCUPATION.

F. No traffic shall be generated by such HOME OCCUPATION in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of

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such HOME OCCUPATION shall be provided by an off-street area, located other than in a required FRONT YARD.

G. No equipment or process shall be used in such HOME OCCUPATION which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Sec. 3.23 TEMPORARY USES:

A. Nothing in this Ordinance shall prevent the use of a TRAVEL TRAILER, a MOBILE HOME, or other similar STRUCTURE, in any DISTRICT as a temporary construction field office for a period not to exceed the period of construction; provided, however, such STRUCTURE is not used for overnight sleeping accommodations and adequate arrangements for sanitary facilities are made, and provided further, that the temporary field office has been certified as such and conforming to this Ordinance by the Building Inspector.

B. Circuses, carnivals, or other transient amusement enterprises may be permitted in any district, upon approval by the TOWNSHIP PLANNING COMMISSION and upon a finding that the location of such an activity will not adversely affect adjoining

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Article VI: General Provisions

Section 6.14 Home Occupations

The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home occupations shall satisfy the following conditions:

- A. The nonresidential use shall be incidental to the primary use of the property as a residence.
- B. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors or electrical interference detectable outside the lot, by normal senses.
- C. The home occupation shall not employ more than two (2) persons, one of whom must reside on the premises.
- D. No visible outdoor storage shall be permitted.
- E. There shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign which conforms to the standards of Section 15.02.D.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
- G. Limited retail sales may be permitted on the premises, as an incidental, rather than principal part of a home occupation. No advertising of the retail sale of goods or services produced or sold on the premises is permitted in newspaper, radio or television media.
- H. The home occupation may be conducted within the dwelling unit or an accessory building. However, the home occupation shall not occupy more than twenty-five (25) percent of the gross floor area of one floor of said dwelling unit.
- I. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous waste.
- J. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.

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Article VI: General Provisions

K. No small or large engine repair, metal grinding or firearms sales are permitted.

Section 6.15 Conditional Approvals

A. **Criteria for Discretionary Decisions:** The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, planned unit development, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

1. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Protect the natural environment and conserve natural resources and energy.
3. Ensure compatibility with adjacent uses of land.
4. Promote the use of land in a socially and economically desirable manner.

B. **Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

C. **Record of Conditions:** Any conditions imposed shall be recorded in the record of the approval action.

D. **Subsequent Change of Required Conditions:** These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

E. **Performance Guarantees:** Performance guarantees may be required to insure compliance with conditions on discretionary decisions pursuant to the requirements of Section 4.06.

MARION TOWNSHIP
ADOPTION NOTICE OF ZONING AMENDMENT

Notice is hereby given that the Marion Township Board of Trustees at its regular meeting of July 24, 2008 approved the adoption of the following zoning amendments:

Section 3.02 Definition for Home Occupation and Home Occupation Class I & II

Section 6.07 Accessory Uses and Structures

Section 6.14 Home Occupation Class I

Section 8.01 C #3 Rural Residential - Permitted Accessory Uses

Section 8.01 E #20 Rural Residential - Uses Permitted by Special Use Permit

Section 8.02 C #2 Suburban Residential - Permitted Accessory Uses

Section 8.02 E #14 Suburban Residential - Uses Permitted by Special Use Permit

Section 8.03 C #2 Urban Residential - Permitted Accessory Uses

Section 8.04 C #2 Existing Residential Subdivision District - Permitted Accessory Uses

Section 8.05 B #5 Manufactured Home Park - Principal Uses Permitted

Section 15.02 D Signs in Residential Districts

Section 17.32 Home Occupation Class II

The **effective date of the adopted amendment will be August 8, 2008**, in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006.

A copy of the ordinances may be inspected or purchased at Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI, Monday through Thursday, 9:00 a.m. - 5:00 p.m.



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: Marion Township Board of Trustees and Planning Commission
FROM: John L. Enos, AICP, Township Planner
DATE: May 7, 2019
RE: Home Occupations

As a discussion primer for our meeting on May 22nd I wanted to give you an overview of issues we are facing and some thoughts and alternatives. It not unusual for a community like Marion, primarily rural but wrestling with growth issues to be burdened in some cases with either long standing home based businesses that were never approved or those that may have been approved but due to their success have grown into something that becomes a nuisance to their neighbors and perhaps the community as a whole.

There has been some discussion on prohibiting home based business entirely. I would suggest that with the changing economy and telecommunication access that this would be a mistake. The key to success as I have commented on several occasions is clear and concise language, a process for review and approval followed by, probably the most important of all, uniform and fair enforcement.

Let's start with the current definitions and regulations within our Zoning Ordinance:

1. **Home Occupation:** *An occupation, profession, activity or use that is incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. A Home Occupation is conducted within a dwelling including an attached garage, or a building accessory to the dwelling, and complies with the standards of Section 6.14.*
2. **Home Occupation – Class I:** *An occupation or profession conducted within a dwelling including an attached garage, and complies with the standards of Section 6.14.*
3. **Home Occupation - Class II:** *An occupation that is conducted wholly or in part in an accessory building which exceeds the standards for Home Occupation Class I and complies with the standards in Article XVI Special Use Permits and Section 17.32. Examples of a Class II home occupation include, but are not limited to, occupations involving a **building accessory to a residence which is used as an office of a contractor or landscaping service or used to store earth moving or other excavation or construction vehicles used in association with such business** and driven or transported by employees arriving at the building to the work site, used for providing appliance or other equipment repairs, or used to provide educational services such as in the area of hand crafts, musical instruments, and self-defense.*

Section 6.14 Home Occupations Class I

*The regulation of Home Occupations Class I as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance. Home Occupations Class I is permitted as an accessory use to the principal residential use of a lot, a zoning permit for such an occupation is not required. **Such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities.** Home Occupations Class I shall satisfy the following conditions. These regulations do not apply to farms.*

A. The Home Occupation Class I shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.

B. Refuse generated by the Home Occupation Class I shall be safely and properly disposed of.

C. Home Occupation Class I shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation Class I based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.

D. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all Home Occupation operations. No employees shall be permitted, other than members of the immediate family residing in the dwelling unit.

E. All of the activities on the property related to the occupation, except horticultural, shall be carried on indoors including the storage of materials, goods, supplies, refuse and waste materials, equipment or products related to the occupation.

F. Traffic generated by the combined home and Home Occupation Class I shall be no greater in volumes than would normally be expected in a residential district, and such traffic shall be limited to passenger vehicles, delivery vans and similarly sized vehicles. Any need for parking used by such Home Occupation Class I shall be met off the street and motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.

G. The Home Occupation Class I shall be conducted within the dwelling unit. However, the Home Occupation Class I shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement.

H. No hazardous chemicals shall be stored on site. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws.

I. The Home Occupation Class I shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.

J. Home Occupation Class I approval is not transferable with the sale, rental or lease of the dwelling unit.

K. Traffic and delivery or pickup of goods shall not create a nuisance.

L. Home Occupation Class I are allowed signage. See Article XV Signage.

What's clear above is that the Ordinance makes it a point to make sure the use is **not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities**. As we discuss the current language and perhaps new language, keeping this thought in mind should be first and foremost.

Prior to our meeting please think about the following questions and how the Township and how they currently are regulated or how you may want them regulated in the future.

1. Does the Township want to allow outdoor storage of any materials and vehicles used in a Class II Home Occupation?
2. Does the Township want to regulate the number of non-family member employees working on the property or the number of employees parking their vehicles on the property and leaving for the day?
3. Does the Township want to regulate the size of property used for a Class II Home Occupation?
4. Does the Township want to prohibit specific uses that would be permitted as a Class II Home Occupation?
5. Does the Township want to enforce and/or prohibit current existing intensive commercial uses that contend that they are home occupations?

Prior to our meeting please consider the following examples of home occupations that either exist or could exist in the Township and how they can/should be regulated.

- A. A stay at home parent purchases vintage clothing online and at local resale shops. There are no employees but a full bedroom of clothes and area for photographing them exist in the home. All business is done online and customers visit the home. A UPS or other delivery truck visits the home once or twice a day.

Recommendation: Permit as a home occupation, no permit or notification to the Township is required.

- B. A retired shop teacher has woodworking equipment in their detached garage and crafts different items for sale at local festivals and other events. No employees and all wood used in the crafts are stored within the detached garage.

Recommendation : Permit as a home occupation, no permit or notification to the Township is required.

- C. A recent graduate has several customers that she mows their lawn in the summer and plows their snow in the winter. She has no employees and parks her trailer carrying a zero turn mower and other equipment in her garage each evening. Her truck with a plow is parked outside year round.

Recommendation : Permit as a home occupation, no permit or notification to the Township is required.

- D. The business of the same person a few years later grows significantly. Three employees drop off their cars in the morning in the driveway and use company logo trucks and trailers. As before trailers are kept in a new pole barn as are all the trucks but one. customer location. No purchase is permitted on site.

Recommendation: Allow as a Class II home occupation following a public hearing and approval by the Township Board as a special use.

- E. A resident with significant acreage has several semi-trucks leave in the morning and return at night being parked behind a large pole barn. The vehicles are stored outside however, when needing repair they are brought in the garage. Drivers, park in the driveway in the morning and leave for the day including the property owner. Construction material is stored behind the pole barn and loaded in the trucks on occasion. The use is advertised as a trucking facility and a sign along the road also advertises the use.

Recommendation: Prohibit as a special land use due to outside storage of vehicles and material and use is industrial in nature.

- F. The use of the dwelling unit and/or accessory structure for a Licensed Home Based Occupation shall be clearly incidental and subordinate to its residential use. The total floor area used by the Licensed Home Based Occupation, excluding any proposed accessory buildings, shall not exceed 25 percent of the floor area of the dwelling unit.

No equipment or process associated with the occupation shall create noise, vibration, glare, fumes, odor, or visual or audio electrical interference beyond the property.

Lastly please review the below suggested additional regulations that could be incorporated into our existing language for Class I and II Home Occupations

- A. Parking spaces for no more than two (2) non-resident employees and two (2) customer vehicles shall be provided on the property. The spaces shall not be located in the area between the front of the dwelling unit and the street, and, where possible, located so as not to be visible from a neighboring dwelling.

- B. In addition to the two (2) non-resident employee vehicles, no more than two customer/delivery vehicles may be present on the site at one time. In no event shall more than four (4) vehicles be placed outside at any one time. All vehicles and equipment used in the activity must be services and stored inside an approved accessory structure.

- C. If the Township wants to consider any outdoor storage, the following is suggested:

- D. Outdoor storage of materials and equipment involved in the business is permitted provided it is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the approval of the Planning Commission and shall include but are not limited to one or more of the following: a solid fence no more than six feet in height; plantings which are at least five feet in height at planting and which will provide an adequate year-round screen; the topography of the site; existing vegetation on the site or the screening is provided by existing buildings.

- E. The scope and character of manufacturing and warehousing activities customarily located in any commercial or industrial districts dedicated to those uses are prohibited.

- F. The number of non-resident employees who can be employed by a Home-Based Business shall be regulated by the size of the parcel containing the business as
- G. follows:

- H. Minimum Lot Size Maximum Number of Non-Resident Employees
 - 3 or more acres and less than 6 acres 1 Employee
 - 6 or more acres and less than 9 acres 2 Employees
 - 9 or more acres and less than 12 acres 3 Employees
 - 12 or more acres 4 Employees


The Planning Commission may, in its discretion, allow a greater number of Non-Resident Employees than those shown in the table above, where the Operator of the business can provide clear and convincing evidence that doing so will not interfere with the principal single family residential use of the premises and also the surrounding area, and further, only where the Non-Resident Employees travel to the premises to pick up business vehicles or equipment for use off the premises. In the event the Home-Based Business premises are split or otherwise reduced in acreage, the Operator will immediately be limited to the number of Non-Resident Employees allowed on the remaining Home-Based Business premises as shown in the table above, unless the Operator seeks a new Special Land Use Permit on the remaining premises within 90 days of the split or reduction in acreage. In the new Special Land Use Permit, the Planning Commission may in its discretion reduce the number of Non-Resident Employees allowed on the remaining premises.

- I. No exterior storage, parking or standing of equipment. No exterior storage of materials or refuse associated with the business. Storage of equipment or materials must be within the primary residence or an approved accessory structure.

- J. No more than two (2) vehicles or boats may be on the property for repair, restoration, or body work at any one time and then only in a completely enclosed structure.

- K. Hours of operation shall be such as to not disturb persons residing in the vicinity of the occupation, or as set by the Planning Commission.

Thank you for taking the time to review this information we look forward to a productive conversation on the future of home occupations in Marion Township.



CARLISLE/WORTMAN ASSOC., INC.
John L. Enos, AICP
Principal

cc: Mike Kehoe, Township Attorney