

ORDINANCE NO. 2014-_____

**AN ORDINANCE TO AMEND CHAPTER 220 OF THE TOWN CODE, ENTITLED
“ZONING,” RELATING TO HOME OCCUPATIONS.**

WHEREAS, the Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, the Charter of the Town of Milton vests power in the Town Council to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material, and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code; and

WHEREAS, the Town Council of the Town of Milton has previously found it necessary for the aforementioned purposes to enact a zoning ordinance, codified as Chapter 220 of the Town Code; and

WHEREAS, pursuant to Chapter 220, the Town Council of the Town of Milton may, from time to time, on its own motion or on petition or upon recommendation by the Planning and Zoning Commission, amend, supplement or change the boundaries of the districts or the zoning regulations after public notice and hearing; and

WHEREAS, the Town of Milton Planning and Zoning Commission held a duly noticed hearing on February 26, 2014 the Commission voted 5-0 to recommend approval in the Advisory Report received by Town Council; and

WHEREAS, The Town Council held a public hearing on _____, as scheduled by prior resolution, with proper notice by publication and my mailing as required by Town Code Section 220-101; and

WHEREAS, the Town of Milton ordinances and Town Code, at Section 220-6, currently define a “home occupation” and place additional restrictions on a home occupation at Section 220-51, with home occupations as a special permitted use in various zoning districts;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring, that the following revisions hereby be incorporated into Chapter 220 of the Town Code, entitled “Zoning.”

Section 1. Amend Section 220-6 of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

220-6. Definitions.

HOME OCCUPATION

A. Any occupation, business, profession, enterprise or activity conducted entirely within either the dwelling or an enclosed accessory building, solely by one or more members of a family on the premises residents of the dwelling unit, which is incidental and secondary to the use of the premises for dwelling, ~~provided that no commodity is stored or sold, except such as it is made on the premises, and there shall be no group instruction, assembly or activity and no outside storage or display material on the premises.~~ No more than 49% of the total floor area of the dwelling unit or 500 square feet, whichever is less, shall be used for such use. Within the above requirements, a home occupation includes but is not limited to the following:

- (1) Art or crafts studio.
- (2) The practice of cosmetology or barbering, limited to one chair.
- (3) Dressmaking, custom baking, day care or baby-sitting.
- (4) Professional office of a physician, dentist, lawyer, engineer, architect, accountant, draftsperson, cartographer, counselor, realtor, broker, clergy member, insurance agent, editor, publisher, journalist, psychologist, contract manager, construction contractor, landscape designer, surveyor, cleaning service provider, repair service provider for small items such as watches and computers, manufacturer's representative, travel agent, caterer or salesperson ~~or salesman.~~
- (5) Private instruction limited to one or two pupils at a time.
- (6) Use of the address for licensing or receipt of mail related to the occupation, profession, enterprise or activity.

B. A home occupation, however, shall not ~~be interpreted to~~ include nursing homes, convalescent homes, rest homes, adult-care facilities, child-care facilities, businesses involved in the sale of any deadly weapon as defined in title 11, Chapter 2 of the Delaware Code, service/repair garages, kennels, stables, veterinary clinics or hospitals, clinics, funeral homes, undertaking establishments, bars, nightclubs, restaurants, tearooms, tourist homes, or similar establishments.

Section 2. Amend Section 220-51 of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

220-51. Home occupations.

~~Home~~ A. Permitted accessory use home occupation uses shall conform to the following standards which shall be minimum requirements:

- (1) The home occupation shall have only one customer, patron, or client on the premises at a time. The customer, patron or client visits shall be limited to the hours from 7:00 a.m. to 5:30 p.m. on weekdays, 8:00 a.m. to 3:00 p.m. on Saturdays, and no visits on Sundays.

- (2) For any home occupation that will involve on-premises customers, patrons, clients, or deliveries, the residence must meet the Town Code parking requirements and have one additional space.
- (3) No alteration shall be made in either the external structural form or the external appearance of either the dwelling or accessory building for purposes of any home occupation.
- (4) There shall be no signage.
- (5) No evidence of any home occupation shall be visible from off the lot where it is conducted, including an artist's artwork.
- (6) There shall be no displays of goods on the premises that are visible from a public street or adjacent properties.
- (7) Any vehicle used in conjunction with the occupation shall be in compliance with the provisions of Chapter 209 of this Code governing parking.
- (8) The occupation, business, profession, enterprise or activity is conducted entirely within either the dwelling or an enclosed accessory building. However, equipment or materials used in a home occupation may be stored in an enclosed accessory structure but then used in the dwelling.
- (9) All employees, independent contractors, workers and vendors of a home occupation shall be limited to permanent residents of the dwelling unit.
- (10) The operation of the home occupation, including equipment used therein, shall not create any noise, vibrations, heat, glare, electromechanical interference, dust, odors, or smoke discernible at any property line.
- (11) There shall be no use, storage, or creation of hazardous waste, including any highly flammable, poisonous, odorous or offensive-tasting material which would present a fire or chemical hazard or pollute the air or groundwater, such as gasoline, arsenic, phenol, etc.

B. Any home occupation that meets the definitional requirements of this Chapter but does not meet the requirements of Subsection A of this Section shall be a special permitted use.

~~A. No more than 25% of the total floor area of a dwelling unit or 500 square feet, whichever is less, shall be used for such use.~~

~~B. The use shall be carried on wholly within the enclosed walls of the dwelling unit or an accessory building.~~

~~C. No stock, merchandise, equipment or displays of any kind shall be visible from outside the dwelling unit or accessory building.~~

~~D. No external structural alternations which are not customary to a residential building shall be allowed.~~

~~E. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the character of the neighborhood.~~

~~F. No article is sold or offered for sale except such as may be produced by members of the family residing on the premises. Any form of business, the primary function of which is the wholesale or retail sale of goods or articles at the premises, shall be deemed a commercial use and shall not be permitted as a home occupation.~~

~~G. Professional offices of a physician, dentist, lawyer, engineer, architect, surveyor or other like profession shall be subject to the following special conditions:~~

~~(1) The professional use is clearly incidental to the residential use of the dwelling and does not change its basic residential character.~~
~~(2) The occupation is practiced at home.~~
~~(3) There shall be no display of products visible from outside of the dwelling.~~
~~(4) There shall be no external alterations inconsistent with the residential character of the dwelling.~~
~~(5) There shall be no storage of materials or products outside of the dwelling unless completely housed.~~
~~H. No manufacturing, repairing or other mechanical work shall be performed outside of the dwelling. Such activity conducted inside the dwelling shall be conducted so that no noise, odor, glare, vibration, electromechanical interference or dust and smoke are perceptible beyond the property line.~~

Section 3. Amend Section 220-13(B) of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

B. Permitted uses. Within the R-1 District, permitted principal, accessory and special uses shall be as specified in the following sections.

(1) Permitted principal uses.

- (a) Agricultural uses.
- (b) Detached single-family dwellings.
- (c) Governmental uses.
- (d) Public parks and noncommercial recreational uses.

(2) Permitted accessory uses, buildings and structures.

- (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district and on the same lot.
- (b) Antennas, minor.
- (c) Home occupations within Section 220-51A of this Chapter.
- (d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the R-1 Residential Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the ~~Planning and Zoning Commission~~ Board of Adjustment:

- (a) Adult-care facilities.
- (b) Bed-and-breakfasts.
- (c) Cemeteries.
- (d) Churches or places of worship.
- (e) Funeral homes.
- (f) Home occupations not within Section 220-51A of this Chapter.
- (g) Libraries.
- (h) Museums.
- (i) Nonprofit membership clubs.
- (j) Golf courses.
- (k) Public or private schools.

(4) Public utilities or essential uses.

Section 4. Amend Section 220-14(B) of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

B. Permitted uses. Within the R-2 District, permitted principal, accessory and special uses shall be as specified in the following sections.

(1) Permitted principal uses.

- (a) Detached single-family dwellings.
- (b) Semidetached single-family dwelling.
- (c) Governmental uses.
- (d) Public parks and noncommercial recreational uses.

(2) Permitted accessory uses, buildings and structures.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

- (b) Antennas, minor.
- (c) Home occupations within Section 220-51A of this Chapter.
- (d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the R-2 Residential Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the ~~Planning and Zoning Commission~~ Board of Adjustment:

- (a) Bed-and-breakfasts.
- (b) Cemeteries.
- (c) Churches or places of worship.
- (d) Cluster housing.
- (e) Funeral homes.
- (f) Golf courses.
- (g) Home occupations not within Section 220-51A of this Chapter.
- (h) Libraries.
- (i) Museums.
- (j) Public utilities or essential uses.
- (k) Public and private schools.
- (l) Townhouses.

Section 5. Amend Section 220-15(B) of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

B. Permitted uses. Within the R-3 District, permitted principal, special and accessory uses shall be as specified in the following sections.

(1) Permitted principal uses.

- (a) Detached single-family dwellings.
- (b) Governmental uses.
- (c) Multifamily dwellings.
- (d) Public parks and noncommercial recreational uses.
- (e) Semidetached single-family dwellings.
- (f) Townhouses.
- (g) Two-family dwellings.

(2) Permitted accessory uses, buildings and structures.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

(b) Antennas, minor.

(c) Home occupations within Section 220-51A of this Chapter.

(d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the R-3 Residential Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the ~~Planning and Zoning Commission~~ Board of Adjustment:

(a) Adult-care facilities.

(b) Bed-and-breakfasts.

(c) Cemeteries.

(d) Churches or places of worship.

(e) Cluster housing.

(f) Day-care center.

(g) Golf courses.

(h) Home occupations not within Section 220-51A of this Chapter.

(i) Libraries.

(j) Museums.

(k) Nursery schools.

(l) Nursing and convalescent homes.

(m) Public or private schools.

(n) Public utilities or essential uses.

Section 6. Amend Section 220-16(B) of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

B. Permitted uses. Within the T-C Town Center Use District, permitted principal, special and accessory uses shall be as specified in the following sections.

(1) Permitted principal uses.

(a) Antique and craft shops.

(b) Art galleries.

(c) Banks and financial institutions.

(d) Barber- and beauty shops.

(e) Colleges and institutions of higher education.

(f) Day-care centers.

(g) Detached single-family dwellings.

(h) Dry-cleaning businesses, dropoff and pickup service only.

(i) Dwelling units above first-floor businesses.

(j) General merchandise stores.

(k) General business offices.

(l) Governmental uses.

(m) Libraries.

(n) Museums.

(o) Newspaper and publishing facilities.

(p) Nonprofit membership clubs.

(q) Nursery schools.

- (r) Personal service establishments.
 - (s) Photographic studios.
 - (t) Professional offices.
 - (u) Public or private schools.
 - (v) Public parks and recreational uses.
 - (w) Repair shops, nonvehicle.
 - (x) Retail businesses and commercial uses of a convenience and pedestrian-oriented nature.
 - (y) Theaters.
- (2) Permitted accessory uses.
- (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
 - (b) Home occupations within Section 220-51A of this Chapter.
- (3) Special permitted uses. The following uses may be permitted in the T-C Town Center Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the ~~Planning and Zoning Commission~~ Board of Adjustment:
- (a) Adult-care facilities.
 - (b) Amusement game centers.
 - (c) Antennas, minor.
 - (d) Bars and night clubs.
 - (e) Bed-and-breakfasts.
 - (f) Churches or places of worship.
 - (g) Convenience/mini-markets.
 - (h) Drive-in uses.
 - (i) Food stores.
 - (j) Funeral homes.
 - (k) Home occupations not within Section 220-51A of this Chapter.
 - (l) Hotels.
 - (m) Inns.
 - (n) Medical clinics.
 - (o) Parking lots, public and private.
 - (p) Parking structures.
 - (q) Public utilities or essential uses.
 - (r) Recreation areas, private.
 - (s) Research laboratories.
 - (t) Restaurants, standard and fast-food.
 - (u) Self-service laundries.
 - (v) Swimming pools.

Section 7. Amend Section 220-17(B)(2) and (3) of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

- (2) Permitted accessory uses, buildings and structures.
 - (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

- (b) Antennas, minor.
- (c) Private parking lot.
- (d) Home occupations within Section 220-51A of this Chapter.
- (e) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the C-1 General Commercial Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the ~~Planning and Zoning Commission~~ Board of Adjustment:

- (a) Bars and nightclubs.
- (b) Bed-and-breakfasts.
- (c) Cemeteries.
- (d) Contractor yard.
- (e) Dwelling units above first-floor businesses.
- (f) Home occupation not within Section 220-51A of this Chapter
- (g) Garage service and repair uses.
- (h) Gasoline filling stations.
- (i) Gasoline/convenience/mini-markets.
- (j) Parking lots, public.
- (k) Parking structure.
- (l) Golf courses.
- (m) Mining and quarrying.
- (n) Public utilities or essential uses.
- (o) Retail businesses and commercial uses other than those listed above.
- (p) Self-service storage facilities.
- (q) Trucking terminal.

Section 8. Amend Section 220-18(B)(2) and (3) of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

(2) Permitted accessory uses, buildings and structures.

- (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
- (b) Antennas, minor.
- (c) Home occupations within Section 220-51A of this Chapter.
- (d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the M-R Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the ~~Planning and Zoning Commission~~ Board of Adjustment:

- (a) Antenna and towers.
- (b) Aquarium, commercial.
- (c) Antennas.
- (d) Bed-and-breakfasts.
- (e) Churches or places of worship.
- (f) Colleges and institutions.
- (g) Dwelling units above first-floor business.
- (h) Fabrication, maintenance and repair of watercraft.
- (i) Golf course.

- (j) Government uses.
- (k) Home occupation not within Section 220-51A of this Chapter.
- (l) Inns.
- (m) Hunting and Fishing supply sales.
- (n) Marine research facilities.
- (o) Marine fueling facilities.
- (p) Museums.
- (q) Public utilities or essential uses.

I, MARION JONES, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the ____ day of _____, **2014**, following a duly noticed public hearing, at which a quorum was present and voting throughout and that the same is still in full force and effect.

MAYOR

SYNOPSIS

This Ordinance amends the Town Code's zoning to allow for certain home occupations as a permitted accessory use, rather than as a special permitted use. There are requirements within the definition of "home occupation" in Section 220-6. If, after meeting the definitional requirements, a home occupation fits the requirements of Section 220-51A, then the home occupation is a permitted accessory use. If the home occupation does not meet the additional requirements, then it remains subject to special permitted use approval.