

# FAIRFAX COUNTY



## ZONING ORDINANCE MODERNIZATION PROJECT

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### SUMMARY OF ADOPTED HOME-BASED BUSINESS PROVISIONS

APRIL 6, 2021

On March 23, 2021, the Board adopted a new and modernized Zoning Ordinance as a part of the Zoning Ordinance Modernization (zMOD) project which will be effective on July 1, 2021. As a part of this new Ordinance, changes were made to the permissions and standards for home-based businesses (HBB). This document provides an overview of the use and the changes to the process and standards.

### What is a Home-Based Business?

An HBB is an occupation, profession, or trade, that is conducted by a resident of the dwelling unit and is clearly incidental and subordinate to the residential purpose of the dwelling unit. Examples of home-based businesses include home offices, music lessons, art studios, home crafts, and home-based food production. A home-based business does not include any other accessory use defined in the Ordinance, including but not limited to, a home day care facility, short-term lodging, or horseback riding lessons (limited riding and boarding stable). A home-based business does not include teleworking.

### Overview of HBB Standards

The home-based business use replaces the previous means for approving home businesses under the Zoning Ordinance which included a home occupation permit (administrative permit), or a special permit for a home professional office or a barbershop or beauty parlor in the home. The adopted text is included as Attachment 1 and the standards are summarized below:

- **Types of Home-Based Businesses.** The adopted standards list the types of allowed HBBs. Only the listed uses will be permitted. See standard (2) in Attachment 1 below.
- **Administrative Permit.** All HBBs may be permitted with an administrative permit. However, except for teaching activities, no HBB may have customer or clients come to the home. Therefore, a barbershop or hair salon may not be conducted with an administrative permit. Teaching activities, such as tutoring or exercise, music, language, or art classes, may have up to four students at a time and eight in one day, and are limited to the hours of 8:00 AM to 9:00 PM. The HBB administrative permit application fee is \$100.
- **Special Permit.** Special permit approval by the Board of Zoning Appeals is required for certain other uses to have customers or clients come to the home. General retail sales and small-scale production uses cannot have on-site customers or clients, even with a special permit, as the sale and delivery of items must occur exclusively online or off-site. A special permit may also approve outdoor activities such as swimming or soccer lessons, more employees or different work hours,

and an increase in the allowable size. These standards are further discussed below. The HBB special permit application fee is \$435.

- **Outdoor Activities.** There must be no exterior evidence of the HBB other than permitted signage, which is discussed under Additional Standards below. No outdoor storage or display is allowed, and no aspect of the business may be conducted outdoors. However, as previously mentioned, a special permit may be approved to allow certain outdoor activities such as swimming or soccer lessons.
- **Employees.** One nonresidential employee is allowed in a single-family detached dwelling with an administrative permit. This is cumulative of all HBBs that may be conducted in the home and the employee's hours are limited to 7:00 AM to 6:00 PM. No employees are allowed in other dwelling unit types (e.g., townhouse, apartment) with an administrative permit. A special permit may be approved to allow more employees (in any dwelling unit type) or different work hours.
- **Size.** The maximum size of an HBB is 400 square feet, including all areas used for conducting the business and related storage.
- **Parking.** One parking space must be designated as available for any onsite customers or clients. In addition, as part of a special permit application, the BZA may require additional parking.

## Additional Standards

Other required standards are listed below:

- An HBB must be conducted on the lot (in the dwelling or an accessory structure) that is the HBB operator's primary residence.
- No signage is allowed, except yard signs that are allowed for any residence.
- Only one commercial vehicle is allowed per lot, in accordance with Zoning Ordinance standards.
- Deliveries or distribution vehicles must not exceed 28 feet in length and may not include semitrailers.
- Health Department approval is required if the property is served by a private well or septic system.
- Flammable or hazardous materials may not exceed the amounts that would require a permit under Chapter 62 of the County Code.

## Questions?

If you have additional questions, please visit our [HBB Frequently Asked Questions](#) page. You can also email any additional questions to [OrdAdmin@fairfaxcounty.gov](mailto:OrdAdmin@fairfaxcounty.gov).

## Home-Based Business

### Standards when permitted by administrative permit:

- (1) A home-based business must be conducted by the person to whom the home-based business permit is issued and must be located within the dwelling that is their primary residence or in an accessory structure located on that same lot.
- (2) A home-based business may only include the following uses:
  - (a) General retail sales, where the sale and delivery of items occurs exclusively online or off-site;
  - (b) Health and exercise facility, small;
  - (c) Household repair and rental service, limited to repairing small household items such as musical instruments, sewing machines, radios, and watches;
  - (d) Office;
  - (e) Personal service, limited to sewing or tailoring. A barbershop or hair salon is only allowed with special permit approval;
  - (f) Music, photography, and art studios;
  - (g) Small-scale production, limited to items created on-site and home-based food production, where the sale and delivery of items occurs exclusively online or off-site; and
  - (h) Specialized instruction center.
- (3) The premises must have the exterior appearance of a dwelling or residential accessory structure. There must be no exterior evidence that the property is used in any way other than for a dwelling. No sign is allowed, other than yard signs as permitted under subsection 7100.4.D. The home-based business must take place entirely within enclosed structures.
- (4) Outside display or storage of goods, equipment, or materials used in connection with the home-based business is not allowed.
- (5) The total area used for the home-based business, including storage, is limited to a maximum size of 400 square feet.
- (6) Only one commercial vehicle is permitted per dwelling unit, subject to subsection 4102.1.B(2).
- (7) The delivery or distribution of products or materials related to the home-based business must be from vehicles that do not exceed a maximum length of 28 feet. The use of semitrailers, including tractor or trailer units, for delivery or distribution is not permitted.
- (8) **Employees:**

Employees on-site are limited to persons who occupy the dwelling as their primary residence, except that in a single-family detached dwelling, one employee who does not occupy the dwelling as their primary residence is also allowed. The limitation on the number of employees applies regardless of the number of home-based businesses or home day care facilities operating on the lot. A nonresident employee, whether paid or not, may work on-site only between the hours of 7:00 AM to 6:00 PM.
- (9) **Customers or clients:**
  - (a) On-site customers or clients are not allowed without approval of a special permit, except for instructional activities with a health and exercise facility or specialized instruction center, where up to four students at a time and eight in a day are allowed. If a home day

care facility is established on-site, visits to the site by customers or clients of the home-based business are not allowed.

- (b) If the home-based business has on-site customers or clients, one designated off-street parking space must be made available for the customer or client parking.
  - (c) The hours during which customers or clients may visit the premises are limited to 8:00 AM to 9:00 PM.
- (10) A permit for a home-based business is valid for the original applicant only and is not transferable to any other resident, address, or occupation. Upon termination of the applicant's residency, the home-based business permit becomes null and void.
  - (11) If the dwelling is served by a well or septic system, the applicant must obtain Health Department approval prior administrative or special permit approval.
  - (12) A home-based business may not use, store, or generate flammable or combustible liquids, explosives, or hazardous materials in an amount that requires a permit under Chapter 62 of the County Code (Fairfax County Fire Prevention Code).

#### **Standards when permitted by special permit:**

- (13) The home-based business must conform to all applicable standards above, except that the BZA may approve a special permit for a home-based business to modify one or more of the standards as identified in the subsections below:
  - (a) Subsection (3) to allow outdoor activities such as swimming or soccer lessons;
  - (b) Subsection (5) to allow a larger area;
  - (c) Subsection (8) to allow more employees or different work hours; and
  - (d) Subsection (9) to allow more customers or clients.
- (14) The BZA may require the provision of off-street parking spaces in addition to the requirements specified in Article 6.
- (15) The BZA must determine that the proposed business, together with all other nonresidential uses in the area, will not modify or disrupt the predominantly residential character of the area.
- (16) A barbershop or hair salon may not include other services such as nail, facial, or massage services.