

WEBSTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN
ORDINANCE NO. 2006-3

[AN ORDINANCE TO LICENSE HOME BASED OCCUPATION; TO PROVIDE FOR THE PROCESSING OF APPLICATIONS AND ADMINISTRATION OF LICENSES; TO PROVIDE FOR FEES; TO PROVIDE STANDARDS; TO PROVIDE FOR VARIANCES; TO PROVIDE PENALTIES]

WEBSTER TOWNSHIP, WASHTENAW COUNTY, MICHIGAN ORDAINS:

SECTION 1. SHORT TITLE

This Ordinance shall be known and may be cited as the Webster Township Licensed Home Based Occupation Ordinance.

SECTION 2. INTENT

The Township Board recognizes that certain small business activities with a limited number of employees and on-site customers can be conducted on adequately sized lands zoned Agriculture District (A-1) in a manner which enhances the enjoyment and beneficial use of the property, while not adversely affecting other lands or the intended rural character of the area.

SECTION 3. AUTHORITY

- 3.01** This Ordinance is adopted under the authority of the Township Board of Webster Township to adopt ordinances regulating the public health, safety, and general welfare of persons and property, including the licensing of business establishments, pursuant to Public Act 246 of 1945, as amended (MCL §41.181 et seq.).
- 3.02** The Webster Township Planning Commission has the authority to administer, review, deny, approve or approve with conditions licenses issued under this Ordinance. The Webster Township Zoning Inspector, under the direction of the Planning Commission, shall assist in the administration and enforcement of this Ordinance and is authorized to conduct inspections, issue notices of violation and citations for violations of this Ordinance.

SECTION 4. DEFINITIONS

- 4.01** **Accessory Building** means a structure on the same lot with, and of a nature customarily incidental and subordinate to the principal residential or agricultural structure.
- 4.02** **Agriculture District** means lands zoned Agriculture District (A-1) under the Webster Township Zoning Ordinance.
- 4.03** **Applicant** means the owner(s), leaseholder(s), or person(s) in charge of a parcel of land to whom a Home Based Occupation license is issued.

- 4.04 Application Fee (Fixed Costs and Expenses)** means a fee paid by an applicant to cover the costs and expenses incurred by the Township which are generally shared by all functions performed under this Ordinance and include (but not limited to) such items as facilities, utilities, copying, supplies, equipment, per diem expenses for regular meetings, annual inspections, postage and staff time.
- 4.05 Dwelling Unit** means a structure occupied by one family.
- 4.06 Family** means an individual or group of two (2) or more persons related by blood, marriage, adoption, or guardianship living together as a single housekeeping unit. A family shall also be defined as not more than two (2) persons living together as a single housekeeping unit who are not related by blood, marriage, guardianship or adoption.
- 4.07 Licensed Home Based Occupation** An occupation or business carried on within a dwelling unit and its accessory buildings by only resident members of the family and no more than two (2) non-resident persons which is clearly incidental and subordinate to the residential use and is licensed under the Webster Township Licensed Home Based Occupation Ordinance
- 4.08 Home Occupation** means an occupation carried on within a dwelling unit and its accessory buildings by only resident members of the family which is clearly incidental and secondary to the principal residential use.
- 4.09 Planning Commission** means the Webster Township Planning Commission.
- 4.10 Township** means Webster Township, Washtenaw County, Michigan.
- 4.11 Township Board** means Webster Township Board of Trustees.
- 4.12 Variable Fee (Variable Costs And Expenses)** means a fee paid by an applicant for costs and expenses incurred by the Township which are not generally shared by all applicants and include (but not limited to) costs of enforcement; inspections; hearings; and engineering, land use planning, legal and other expert assistance.
- 4.13 Zoning Inspector or Zoning Administrator** refers to the person designated by resolution of the Township Board to administer and enforce the provisions of the Webster Township Zoning Ordinance.

SECTION 5. PROHIBITION

- 5.01** It shall be unlawful for the owner, leaseholder, or person in control of land situated in the Township to conduct or allow a Home Based Occupation without a license issued under this Ordinance.
- 5.02** It shall be unlawful for the person(s) to whom a license is issued under this Ordinance to allow a Home Based Occupation to be conducted in a manner which is contrary to the provisions of this Ordinance or the terms of the license.

SECTION 6. PROCEDURE

6.01 Webster Township Clerk

1. Application.

All applications shall be on a form approved by the Planning Commission. All applications shall be signed by the titleholder(s) of the parcel and, if different, the person(s) who own the business for which a license is sought. The Township Clerk shall stamp date the application, retain the original, and forward a copy to the Planning Commission and Zoning Inspector.

2. Application Information.

The application shall state: **(i)** Name of the applicant(s): address, telephone/facsimile number(s), and e-mail address; **(ii)** Name of the titleholder(s): address, telephone/facsimile number(s), and e-mail address; **(iii)** Name of the person(s) who intends to own and manage the Home Based Occupation; **(iv)** Name of person(s) residing on the property; **(v)** Name of non-resident employee(s); **(vi)** Street address where the Home Based Occupation is intended to be conducted; **(vii)** Zoning classification of property; **(viii)** Property size in acres; **(ix)** Name and address of person(s) residing on abutting lands; **(x)** State whether an accessory structure is intended to be used in conjunction with the proposed Home Based Occupation; **(xi)** Percentage of the dwelling unit to be used for the Home Based Occupation; **(xii)** Approximate distance between location of structure(s) where business activity will be conducted the closest dwelling unit on abutting lands; **(xiii)** Description of the business activity, i.e., goods and/or services; and **(xiv)** State any request for variance, stating the reason(s) for the variance and its effect on the standards.

3. Application Fee.

A non-refundable application fee in an amount to be determined by resolution of the Township Board shall be submitted to the Township Clerk with the application. The Township Clerk shall not forward copies of the application to the Planning Commission until the application fee is paid.

4. Variable Fee.

Any expenses incurred by the Township not generally shared by all other applicants with respect to processing and administering a license shall be paid by the applicant and/or licensee. Failure to pay those sums within sixty (60) days of the date of invoice shall be grounds to deny the application or revoke the license.

6.02 Webster Township Planning Commission

1. Preliminary Review.

The Zoning Inspector shall review the application and submit a report to the Planning Commission: **(i)** Determine whether the application is complete, correct, dated and signed; **(ii)** Determine whether the proposed Based Occupation is intended to be conducted on property zoned Agriculture District (A-1) on a parcel two (2) acres or larger; **(iii)** Not more than 20% of the area of the principal residence is proposed to be used in the activity; and **(iv)** Not more than two (2) non-resident (family or non-family) employees are listed on the application.

2. Notice.

At least fourteen (14) days before the Planning Commission considers the application, the Township shall mail a copy of the application, together with a notice of hearing, to each property owner within a 300 foot radius from the property line. The Township may rely on the assessor's records for the name and address of the property owner. The notice shall state the date, time and place of the hearing and state that any persons may appear before the Planning Commission concerning this matter. A copy of the notice shall be mailed to the applicant.

3. Hearing.

At the hearing on the application all persons wishing to address the Planning Commission shall be given the opportunity and signed correspondences delivered to the Planning Commission prior to or at the hearing shall be considered. The hearing may be adjourned or continued to a date specified without mailing further notice.

4. Standard.

An application shall be approved if the applicant provides information, data and documentation sufficient to meet the following criteria:

- A.** The activity will not adversely affect the quiet, peaceful, attractive enjoyment of those who reside in the vicinity of the property.
- B.** The property is zoned Agriculture District (A-1) and is two (2) acres or larger.
- C.** The activity will not adversely affect the agricultural or rural residential character of the area.
- D.** The activity will not take up more than 20% of the total area of the principal residence on the property.
- E.** The activity will not adversely affect the health, safety and general welfare of the public.

In applying the standard the Planning Commission shall consider the appropriateness of the proposed activity to the particular location; the type and condition of roads; sight distances; type, size and quality of vehicles associated with the activity; setbacks and buffer distances;

proximity to residential uses, and other uses, such as the keeping of horses and livestock; road easements, rights-of-way, lakes and ponds; and the square footage of accessory buildings intended to be used in conjunction with the Home Based Occupation.

The burden is on the applicant to provide information, data, and documentation to show that each standard is met. Failure to sustain the burden as to any standard is a basis for denial of the application.

5. Conditions.

The following conditions shall apply to a Licensed Home Based Occupation:

- A.** 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 20 percent of the floor area of the dwelling unit.
- B.** The Licensed Home Based Occupation shall be conducted within the dwelling unit and/or accessory structure.
- C.** There shall be no change in the outside appearance of the structure or premises; or other visible evidence of the Licensed Home Based Occupation; and no external or internal alterations not customary to a residential structure or the agricultural area.
- D.** No article shall be sold on the premises except that which is prepared within the dwelling unit or accessory structure.
- E.** No equipment or process associated with the occupation shall create noise, vibration, glare, fumes, odor, or visual or audio electrical interference beyond the property.
- F.** No hazard of fire, explosion, radioactivity, or chemical release may pollute the air, surface or ground water.
- G.** Only one (1) non-illuminating sign, no larger than 3 feet by 3 feet affixed to a post placed outside the road right-of-way is permitted.
- H.** 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.
- I.** 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.

- J.** The location of the Licensed Home Based Occupation shall be the principal residence of the owner of the business.
- K.** The scope and character of manufacturing and warehousing activities customarily located in districts dedicated to those uses are prohibited.
- L.** 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.
- M.** No more than two (2) vehicles or boats may be on the property for repair, restoration, or body work at any one time and than only in a completely enclosed structure.
- N.** 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.
- O.** The license is non transferable.
- P.** Such other and further conditions to ensure that the standards are maintained.

6. Decision.

The decision of the Planning Commission shall be based on the record made before the Planning Commission. The Planning Commission may deny, grant or grant with conditions the license with or without variances. The conditions imposed and variances granted shall be specified in the minutes of the meeting.

7. Webster Township Zoning Inspector.

Upon direction of the Planning Commission, the Zoning Inspector shall issue licenses, assist in the administration of this Ordinance, inspect properties, annually renew licenses, and issue notices of violations and citations.

8. License Form.

Upon the direction of the Planning Commission, the Zoning Inspector shall issue a license. The license shall be signed and dated by the Zoning Inspector and a duplicate original sent to the applicant. The license shall state the address upon which the Home Based Occupation is authorized to be conducted, the nature of the occupation authorized, conditions imposed and variances granted.

The following shall be printed on the license:

The authorization herein granted is subject to the Township's right to inspect the Property and conditioned upon the applicant(s) strict adherence to the terms and provisions of the license, Webster Township Licensed Home Based Occupation Ordinance, and other applicable ordinances, rules and regulations.

9. Inspections.

The issuance of a license authorizes the Zoning Inspector or other duly authorized representative of the Township to enter upon the property at reasonable times to inspect the premises to ensure compliance with this Ordinance and conditions set forth in the license.

10. Term and Renewal.

A. Automatic Annual Renewal. The term of a license shall be one year and shall annually automatically renew, provided no complaints have been submitted during the preceding year and an exterior visual inspection of the property reveals no violation of this Ordinance or a condition of the license.

B. Contested Renewal. Licenses for which a complaint has been filed or a violation observed or suspected shall be referred to the Planning Commission. The Planning Commission may authorize the Zoning Inspector to renew the license; renew the license with additional conditions, including the posting of a bond or irrevocable letter of credit in an amount sufficient to cover the Township's actual costs and expenses related to the license; or provide notice to the applicant and conduct a hearing to decide whether to renew the license. The decision of the Planning Commission shall be in writing, state the facts of record relied upon, its analysis based on the standards and conditions imposed, and its conclusion.

11. Reapplication.

If an application or the renewal of a license is denied, a reapplication for the property shall not be filed for one year from the date the decision was rendered.

SECTION 7. VARIANCE

7.01 Authority.

The Planning Commission may grant a variance to any condition set forth under Subsection 6.02 (5) and Section 4.07 of this Ordinance which is not contrary to the spirit and intent of this Ordinance.

7.02 Procedure.

A. An application for a license shall specify what, if any, variance from a condition specified in Subsection 6.02 (5) and Section 4.07 is requested, state the reason for the variance, and the effect it would have on the standards in Subsection 6.02 (4).

B. The request for a variance shall be considered by the Planning Commission at the hearing on the application.

7.03 Standard.

A variance may be granted, provided it results in the quiet, attractive and peaceful enjoyment of one's property and does not disturb the quiet repose and enjoyment of neighbors, adversely affect the intended character of the area, or pose a threat to public health, safety and general welfare.

7.04 Conditions.

The Planning Commission may impose such conditions as it deems necessary to ensure that the standard is maintained, to include (but not limited to) the posting of financial guarantees.

7.05 Webster Township Zoning Ordinance.

Nothing contained in this Ordinance is intended to alleviate any requirement or standard in the Webster Township Zoning Ordinance, to include (but not limited to) the procedures and standards for granting a zoning variance.

7.06 Term.

Variations granted under this Ordinance shall not run with the land and, unless sooner terminated, terminate with the license.

SECTION 8. ADMINISTRATIVE STANDARD

Whenever, in the course of the administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance, injurious to the surrounding neighborhood, or contrary to the intended character of the area.

SECTION 9. VIOLATION

9.01 Revocation Proceedings.

In the event a complaint is filed or a violation of this Ordinance or a condition of the license is alleged, the Township may issue a notice of violation to the licensee which sets forth the nature of the complaint or violation and the date and time upon which the licensee is requested to appear before the Planning Commission. The licensee shall be given an opportunity to respond to the allegations and present testimony and documents on their behalf. The Planning Commission shall render a written decision based on the record made at the hearing.

9.02 Municipal Civil Infraction.

Additionally, any person, firm, corporation, or any other organization which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of this Ordinance or a provision of a license issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. The minimum fine for each violation shall be \$100.00 up to a maximum fine of \$500.00. Each day after a citation has been issued shall be deemed a separate civil infraction.

9.03 Nuisance Per Se.

A violation of a provision of this Ordinance or a condition of a license is a nuisance per se. The court shall order the nuisance abated and the owner and/or person in control of the property and/or Licensed Home Based Occupation liable for maintaining a nuisance per se.

SECTION 10. SEVERABILITY

This Ordinance and its various parts, sections, subsections, phrases and clauses are severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance, its parts, sections, subsections, phrases, sentences and clauses are intended to be valid, irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

SECTION 11. RELATIONSHIP TO OTHER LAWS

The provisions of this Ordinance shall be held to be minimum requirements for the promotion of public health, moral, safety, comfort, convenience, or general welfare. This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance, or with any rules, regulations, or permits previously adopted, or issued, or which shall be adopted or issued pursuant to the law relating to the use of premises described herein; provided, however, that if this Ordinance imposes a greater restriction than is required by existing ordinances or rules, regulations, or permits, the provisions of this Ordinance shall control.

SECTION 12. REPEALER

The provisions of this Ordinance shall be held to be minimum requirements for the promotion of public health, moral, safety, comfort, convenience, or general welfare. This Ordinance is not intended to repeal, abrogate, annul or in any way effect the imposition of a higher standard imposed by other statutes, ordinances, rules or regulations.

SECTION 13. PUBLICATION AND EFFECTIVE DATE

Publication of this Ordinance shall be made within thirty (30) days after passage by publication of a true copy once in a newspaper having general circulation in the Township and shall take effect thirty (30) days after publication. Within one week after publication of the Ordinance the Township Clerk shall record the Ordinance in the Ordinance Book, record the date of passage of the Ordinance, the names of the members of the Township Board voting, and how each member voted.

Date of Passage: _____

Date of Publication: _____

Effective Date: _____

Date Recorded: _____

John Kingsley
Webster Township Supervisor

Mary Dee Heller
Webster Township Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Webster Township Board of Trustees at a Regular Meeting held on the ____ day of _____, 2006, at which all Members were present, except:
_____.

I further certify that the fore-going members voted for adoption of said Ordinance _____ and that the following Members voted against adoption of said Ordinance _____.

I further certify that said ordinance was published in the Dexter Leader within thirty (30) days after it was adopted and has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signature of the Supervisor and Township Clerk.

Dated: _____, 2006

Mary Dee Heller
Webster Township Clerk