

LAND USE AND ZONING ORDINANCE
Town of Danbury, New Hampshire

production, storage, and sale of food and fiber may be treated as “accessory uses” defined in Section 20.2., unless the provisions for a “home occupation, home-based enterprise or cottage industry” as delineated in Section 11.9. would be less restrictive for the agricultural activity or use.

11.8.1. In making decisions relating to agriculture and forestry, the jurisdictional boards and officials shall be guided by and comply with state “Right to Farm” and state forestry statutes.

11.9. HOME OCCUPATIONS, ~~HOME-BASED ENTERPRISE~~ & COTTAGE INDUSTRY CONDITIONS: Home Occupations, ~~home-based enterprises~~ and Cottage Industries are allowed ~~and encouraged~~, subject to the following definitions and provisions:

11.9.1. A Home ~~based~~ Occupation is ~~allowed permitted~~ in any district or overlay area, subject to the following definitions and requirements:

11.9.1.1. ~~The activity must be conducted by owners or residents of the premises. Employment of persons other than household members shall be limited by compliance with the performance standards of this section.~~

A Home Occupation is defined as any business enterprise taking place within the confines of a residence, where the commercial activity is incidental to the residential nature of the building, conducted by one or more of the residents of the building.

11.9.1.2. ~~The activity must be clearly incidental and subordinate to the primary use of the premises as a residence and must not change the residential character of the premises or the surrounding neighborhood.~~ Employees may be hired and used to conduct the business of a Home Occupation so long as their job descriptions are consistent with the functions outlined above.

11.9.1.3. ~~On-site sewage disposal from the business, profession, or trade shall not exceed ten (10) gallons per day per 1,000 square feet of lot area, based on regulations of the NH Department of Environmental Services.~~ Automotive equipment such as trucks, automobiles, and specialized trailers may be stored at the residential address of a Home Occupation, so long as the residential nature and appearance of the neighborhood are not adversely impacted by the scope of this storage. Additional employees of the enterprise may report to work at the residential address if their job descriptions include moving company vehicles off the site to service commercial customers at their remote locations.

11.9.2. Any existing Home Occupation ~~or home-based enterprise~~, or Cottage Industry legally in existence and in use at the time of adoption of this ordinance or of an amendment to it, which is rendered non-conforming by the ordinance or amendment, may continue to exist unchanged, subject to Article 9.

11.9.3. A new Cottage Industry or use established after the adoption of this ordinance shall be permitted if the Board of Appeals finds that it will meet the provisions of Article 10, and ~~issues a Special Exception, and the following requirements:~~

11.9.3.1. ~~The activity must be conducted by owners or residents of the premises. Employment of persons other than household members shall be limited by compliance with the performance standards of this section.~~ A Cottage Industry is defined as any business enterprise taking place on the property of a Residence where the commercial activity is in addition to the residential use and consists of manufacturing, on-site mechanical services, or the like. A cottage Industry must be owned by one or more of the residents of the overall property. Its operations may be conducted in a separate structure from the residential housing unit or units, for purposes of accommodating industrial and production activities usually requiring capital equipment not usually found in domiciles.

11.9.3.2. ~~The activity must be clearly incidental and subordinate to the primary use of the premises as a residence and must not change the residential character of the premises or the surrounding neighborhood.~~ A Cottage Industry may have employees whose job descriptions comprise both administrative and industrial production roles.

11.9.3.3. ~~On-site sewage disposal from the business, profession, or trade shall not exceed ten (10) gallons per day per 1,000 square feet of lot area, based on regulations of the NH Department of Environmental Services.~~ A Cottage Industry will almost certainly require automotive equipment storage and use.

11.9.3.4. ~~The cottage industry may take place in part outside of an enclosed structure, as well as within the enclosed interior of the dwelling and/or within an accessory building on the premises.~~ A Cottage Industry will almost certainly have inventories of parts and raw materials consistent with the consumption of them forecast by the company’s production schedule. These stores may well be housed in a separate, purpose-built warehouse on the site.

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11.9.3.5. ~~The special exception permit shall authorize the use for an initial period not exceeding three years, with continuation beyond that period to require certification for each succeeding three year period, by the officer or officials authorized to enforce this ordinance, that the use continues to comply with the criteria of this section.~~ Business activities consistent with the definition of a Cottage Industry may be, but are not limited to, the following: Manufacturing of finished goods, Fabrication of parts or subsystems for other manufacturers, On-Site Service of automotive or heavy equipment, Feed or Food production, Brewing or Distilling, Software Development and Testing, or the like.

11.9.3.6 Before a new Cottage Industry can begin operation, it's plan for development and operation must be subject to site plan review and approval by the Danbury Planning Board. This review will verify that despite the size and potential industrial scale of the proposed Cottage Industry, its placement on the proposed residential property will not, in and of itself, materially degrade the character of the neighborhood. The Planning Board's approval will also be conditioned on the successful receipt of such Federal, State, Health Department, or other certifications or permits as may be required to operate in accordance with the approved plan.

11.9.4. The distinctive nature of a Home Occupation, ~~home-based enterprise~~, or Cottage Industry (a more intensive use than a Home Occupation) is that it is incidental and subordinate to the principal use of a residence as a dwelling on a residential property. Other business-related uses are allowed or permitted as primary uses as provided in Sections 11.2, 11.3, and 11.4.

11.10. CLUSTER RESIDENTIAL DEVELOPMENT *(adopted by ballot on March 11, 2003)*

11.10.1. Statement of Purpose

11.10.1.1. The purpose of this article is to provide a flexible alternative to conventional development, which will discourage development sprawl and encourage keeping large parcels of open space. This permits greater flexibility in design and facilitates the economical and efficient provision of public services; provides a more efficient use of land in harmony with its natural characteristics; preserves more open space, agricultural and forest land, tree cover, recreation areas and scenic vistas.

11.10.1.2. In cluster developments, rather than subdividing the parcel into house lots which meet the minimum requirements, the dwelling units may be clustered on lots of reduced dimensions for the purpose of preserving a minimum of fifty percent (50%) of the tract as common land.

11.10.1.3. The remaining land in the parcel is not to be developed and is permanently reserved as common land. Common land is not to be developed, subdivided or have buildings placed upon it, and a permanent conservation easement deed describing these conditions shall be recorded at the Merrimack County Registry of deeds prior to Planning Board approval being given or construction beginning. Common land may be owned by a Homeowner's Association, an individual or other legal entity and will be open to all property owners in the development for recreational purposes.

11.10.1.4. Common land may also be described as "common area" or "common open space".

11.10.2. Definitions: The following definitions apply specifically to this Section of the Land Use and Zoning Ordinance:

11.10.2.1. Buffer: This means an area within a property or site, generally adjacent to and roughly parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, landscape features, and/or berms, designed to limit continuously the view of and/or sound or lighting from the site to adjacent sites or properties.

11.10.2.2. Cluster Subdivision: A residential subdivision of a tract of land where housing units are grouped on lots of reduced dimensions. The remaining land in the tract is reserved as permanently protected open space, referred to as common land.

11.10.2.3. Common Land: Land within or related to a cluster residential development, which is designed and intended for the common use or enjoyment of the residents of the development and/or the public, it may contain such improvements as are necessary and appropriate for recreational, agricultural or forestry purposes but may not be further subdivided or built upon. Common land shall not be eligible for current use assessment unless it is open to the public for recreational purposes.

11.10.2.4. Developable Land: The developable land area is that acreage of the tract remaining after deducting the wetlands and slopes in excess of twenty-five percent (25%).