

ORDINANCE 2011-3

**ORDINANCE TO AMEND CHAPTER 340 OF THE TOWN OF PORT WASHINGTON
MUNICIPAL CODE, KNOWN AS THE ZONING AND
SUBDIVISION CODE, TO ALLOW HOME INDUSTRIES AS A CONDITIONAL USE**

WHEREAS, the Town of Port Washington has enacted a Zoning and Subdivision Code, which is codified as Chapter 340 of the Town of Port Washington Municipal Code and known as the Zoning and Subdivision Code; and

WHEREAS, the Town Board of Supervisors of the Town of Port Washington, with assistance from the Town Plan Commission, periodically reviews Chapter 340 to ensure that the requirements are fair and equitable to allow Town property owners adequate use of property while protecting the health, safety and welfare of the general public; and

WHEREAS, during the ongoing implementation of the Comprehensive Plan 2035 for the Town of Port Washington and the desire of the Town of Port Washington to accommodate homeowner-occupied industries as a secondary use of property within Residential and Agricultural Districts; and

WHEREAS, after careful consideration at many regular and publicly posted meetings, standards were prepared by the Plan Commission to allow Home Industries as Conditional Uses in Residential and Agricultural Districts and thereby establish submittal, review and approval regulations under which Home Industries are allowed; and

WHEREAS, at the publicly posted meeting of April 13, 2011, the Plan Commission recommended approval to the Town Board to amend Chapter 340 to allow certain Home Industries upon approval of a Conditional Use Permit; and

WHEREAS, after due public notice, the Town Board held a public hearing on May 11, 2011, soliciting public comment regarding the Plan Commission recommendation; and

WHEREAS, the Town Board of the Town of Port Washington having carefully reviewed the recommendation of the Plan Commission, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration and having based its determination on the effect of the granting of such rezoning and the health, safety and welfare of the community, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, smoke and odor, and others hereby determines that the public necessity, convenience, general welfare and good zoning practice requires that the zoning amendment be granted, as the zoning amendment will not violate the spirit or intent of the Zoning and Subdivision Code for the Town of Port Washington, will not be contrary to the public health, safety or general welfare of the Town of Port Washington, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood and

is consistent with the recommendations found in the Comprehensive Plan 2035 for the Town of Port Washington.

NOW THEREFORE, the Board of Supervisors of the Town of Port Washington, do hereby ordain as follows:

SECTION I. Section 340-20.1 F(2) of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby created to read as follows:

§340-20.1 F(2) Parcels greater than one acre.

(a) Home Industries, subject to Article IV Section 340-38 K.

SECTION II. Section 340-20.2 F(3)(b)[4] of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby created to read as follows:

§340-20.2 F(3)(b)[4] Home Industries, subject to Article IV Section 340-38 K.

SECTION III. Section 340-36 E. of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby created to read as follows:

§340-36. Review and approval.

E. Compliance Review. All conditional use permits shall be reviewed every two years at a time determined by the Town in order to ensure compliance with the terms and conditions in the permit, unless an alternative review frequency is stated within the permit.

SECTION IV. Section 340-38 K. of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby created to read as follows:

§340-38. Agricultural Uses.

K. Home Industries. Home Industries are intended to allow small homeowner-operated businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area with the following standards:

- (1) The minimum lot area shall be at least one (1) acre.
- (2) The access to the property shall be located along a County Trunk Highway, State Trunk Highway or one of the following Town roads: Dixie Road, Green Bay Road, Hawthorne Drive, Highland Drive, Hillcrest Drive, Lake Drive, Mink Ranch Road, Northwoods Road, Sauk Road, Sunset Road, Willow Lane, Willow Road, Woodland Road.
- (3) The home industry shall not normally generate customer or client traffic to the premises or, at any time, generate an amount of customer or client traffic that is inconsistent with the character of the existing neighborhood.
- (4) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjacent residential uses.

- (5) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other environmental factor not normally associated with the residential use of property in the district.
- (6) A Plan of Operation shall be submitted and approved by the Plan Commission that must identify and describe the following (if a listed item is not applicable, please state as such):
 - a. Type of home industry
 - b. Operational control – Number of employees/relation to homeowner
 - c. Hours of operation
 - d. Location (in home, in accessory building, and/or outside)
 - e. Construction commencement and completion dates
 - f. Architectural design
 - g. Type of construction
 - h. Landscaping
 - i. Planting screens
 - j. Lighting
 - k. Fencing
 - l. Signage
 - m. Parking requirements
 - n. Exterior storage of business equipment, vehicles, materials, merchandise, inventory or heavy equipment
 - o. Inventory of equipment and vehicles to be used onsite
 - p. Inventory of all materials to be stored onsite
 - q. Hours of deliveries and refuse collection
 - r. Traffic circulation
 - s. Highway access restrictions
 - t. Increased yards
- (7) A Site Plan shall be submitted and approved by the Plan Commission that shall identify both existing and proposed buildings/structures in addition to features identified in subsections (e) through (t) above.
- (8) Any modification, alteration or expansion of a conditional use in violation of the approved conditional use permit or plan of operation, without approval by the Plan Commission, shall be grounds for termination of the conditional use permit. In the event of termination, a new permit must be obtained and all procedures in place at the time must be followed to use the property for a home industry.

SECTION V. Section 340-39 G. of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby created to read as follows:

§340-39. Residential Uses.

G. Home Industries. Home Industries are intended to allow small homeowner-operated businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area with the following standards:

- (1) The minimum lot area shall be at least one (1) acre.

- (2) The access to the property shall be located along a County Trunk Highway, State Trunk Highway or one of the following Town roads: Dixie Road, Green Bay Road, Hawthorne Drive, Highland Drive, Hillcrest Drive, Lake Drive, Mink Ranch Road, Northwoods Road, Sauk Road, Sunset Road, Willow Lane, Willow Road, Woodland Road.
- (3) The home industry shall not normally generate customer or client traffic to the premises or, at any time, generate an amount of customer or client traffic that is inconsistent with the character of the existing neighborhood.
- (4) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjacent residential uses.
- (5) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other environmental factor not normally associated with the residential use of property in the district.
- (6) A Plan of Operation shall be submitted and approved by the Plan Commission that must identify and describe the following (if a listed item is not applicable, please state as such):
 - a. Type of home industry
 - b. Operational control – Number of employees/relation to homeowner
 - c. Hours of operation
 - d. Location (in home, in accessory building, and/or outside)
 - e. Construction commencement and completion dates
 - f. Architectural design
 - g. Type of construction
 - h. Landscaping
 - i. Planting screens
 - j. Lighting
 - k. Fencing
 - l. Signage
 - m. Parking requirements
 - n. Exterior storage of business equipment, vehicles, materials, merchandise, inventory or heavy equipment
 - o. Inventory of equipment and vehicles to be used onsite
 - p. Inventory of all materials to be stored onsite
 - q. Hours of deliveries and refuse collection
 - r. Traffic circulation
 - s. Highway access restrictions
 - t. Increased yards
- (7) A Site Plan shall be submitted and approved by the Plan Commission that shall identify both existing and proposed buildings/structures in addition to features identified in subsections (e) through (t) above.
- (8) Any modification, alteration or expansion of a conditional use in violation of the approved conditional use permit or plan of operation, without approval by the Plan Commission, shall be grounds for termination of the conditional use permit. In the event of termination, a new permit must be obtained and all procedures in place at the time must be followed to use the property for a home industry.

SECTION VI. The definition of HOME INDUSTRIES is hereby created within Section 340-164 of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code to read as follows:

HOME INDUSTRIES: A homeowner-operated business operation that is incidental to the principal residential use. Home industries include logistics, or daily staging area of vehicles to be used off the premises and employee vehicles; off-premises excavation; landscaping; and similar uses.

SECTION VII. Severability. The several sections and portions of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

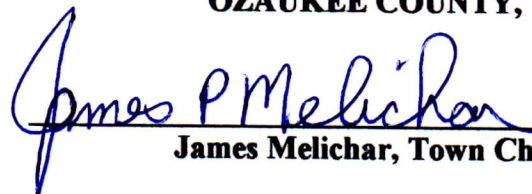
SECTION VIII. This ordinance shall take effect immediately upon passage and publication or posting as provided by law.

ADOPTED THIS 11th day of May, 2011.

BY THE TOWN BOARD OF SUPERVISORS

TOWN OF PORT WASHINGTON


OZAUKEE COUNTY, WI


James Melichar, Town Chair


Michael Didier, Town Supervisor


James Rychtik, Town Supervisor

Attest:


Jennifer Schlenvogt, Town Clerk