

**TOWN OF GUILDERLAND  
LOCAL LAW NO. \_\_ OF 2010  
("Amendments to Chapter 280 of the Town Code")**

**BE IT ENACTED BY THE TOWN BOARD** as follows:

**SECTION I. PURPOSES AND FINDINGS**

The Town Board established a Zoning and Land Use Review Committee to make recommendations regarding amendments to Chapter 280 of the Town Code. As part of its review, the Committee proposes the following amendments which will accommodate mixed-used buildings that allow both residential and commercial uses, allow a combination of uses in the local business district, and streamline the review of home occupations. The Town Board finds that these amendments will serve the following purposes:

- (1) promote economic development and further enhance the quality of life of Town residents;
- (2) allow a mixture of complimentary uses to create economic and social vitality and to encourage the linking of trips;
- (3) provide flexibility in the siting and design of new development and redevelopment; and
- (4) facilitate development that supports public transit and encourages bicycle and pedestrian access.

The Town Board finds that these amendments are consistent with the Comprehensive Plan, and the studies promulgated thereunder, and are beneficial to the general welfare of the citizens of the Town of Guilderland.

**SECTION II. AUTHORITY**

This law is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution, Section 261 of the Town Law, and Section 10 of the Municipal Home Rule Law.

**SECTION III. AMENDMENTS**

**A. Section 280-5 is amended to delete the following definitions:**

~~**CUSTOMARY HOME OCCUPATION** An occupation or a profession which:~~

- ~~A. Is carried on wholly within the enclosed walls of the dwelling unit exclusive of accessory structures and does not use more than 25% of the floor area.~~
- ~~B. Is carried on by a member of the family in the dwelling unit.~~
- ~~C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.~~
- ~~D. Does not employ more than one person outside the family.~~
- ~~E. Shall not generate traffic beyond that normally expected in a residential neighborhood. Any need for parking generated by such use shall be provided in an off-street area, other than in a front yard.~~
- ~~F. Shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses of persons outside the dwelling unit. In the case of electrical interference, there shall be no radio or television disruption outside the dwelling unit or fluctuations in line voltages off the premises.~~

~~**DESIGNED LOCAL SHOPPING CENTER** The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of not less than 150,000 square feet nor more than 400,000 square feet.~~

~~**DESIGNED NEIGHBORHOOD SHOPPING CENTER** The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of less than 150,000 square feet.~~

~~**DESIGNED REGIONAL SHOPPING CENTER** The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of not less than 400,000 square feet nor more than one million square feet.~~

~~**DESIGNED SHOPPING CENTER** The use of a division of a single structure or the grouping of buildings which will constitute a convenient shopping center designed as a planned and harmonious unit.~~

**B. Section 280-5 is amended to add the following definitions:**

**HOME OCCUPATION** An occupation or a profession that is incidental and secondary to the use of a dwelling unit for residential purposes and is consistent with the supplemental regulations

contained in this chapter.

**MIXED-USE BUILDING** A building in which permitted residential uses are allowed with permitted non-residential uses.

**MIXED-USE BUILDING, NEIGHBORHOOD** A mixed-use building not exceeding 15,000 square feet of gross floor area. The residential use shall not exceed two dwelling units per building. Permitted non-residential uses are limited to any use permitted in the Business Non-Retail Professional District.

**MIXED-USE BUILDING, LOCAL** A mixed-used building not exceeding 25,000 square feet of gross floor area. The residential use shall not exceed four dwelling units per building. Permitted non-residential uses are limited to any use permitted in the Local Business District.

**SHOPPING CENTER** Two or more retail businesses or service uses on a single lot in a single structure or as a group of buildings with common access and parking facilities.

**SHOPPING CENTER, LOCAL** A shopping center where the combined total of all such business and service uses has a gross floor area of not more than 45,000 square feet.

**SHOPPING CENTER, REGIONAL** A shopping center where the combined total of all such business and service uses has a gross floor area exceeding 45,000 square feet but not more than one million square feet.

**C. Section 280-13(B) is amended to delete the following permitted use in the Agricultural Zone A:**

~~(e) Customary home occupation, including but not limited to woodworking, blacksmith shops and mail order sales.~~

**D. Section 280-13 (C) is amended to add an additional special use in the Agricultural Zone:**

(p) Home occupation (see Supplemental Regulations)

**E. Section 280-14 (C) (9) is amended to replace “Customary home occupation” with “Home occupation (see Supplemental Regulations)”**

**F. Section 280-15 (B) (4) is amended to replace “Customary home occupation” with “Home occupation (see Supplemental Regulations)”**

**G. Section 280-16 (C) (1) is amended to replace “Customary home occupation” with “Home occupation (see Supplemental Regulations)”**

**H. Section 280-19(C)(14) is amended to delete the following special uses in the Business Non-Retail Professional District:**

~~(14) Mixed use containing a nonresidential use listed in this section and a one-dwelling unit, provided that both uses are contained within the same principle structure.~~

**I. Section 280-19(C)(14) is amended to add the following special use in the Business Non-Retail Professional District:**

(14) Mixed-Use Building, Neighborhood (See Supplemental Regulations).

**J. Section 280-20(B) is amended to add the following special uses in the Local Business District:**

(20) Mixed-Use Building, Local (See Supplemental Regulations).

(21) Shopping Center, Local.

**K. Section 280-21(B) is amended to delete the following special uses in the General Business District:**

~~(21) Designed local shopping center.~~

~~(22) Designed neighborhood or regional shopping center.~~

**L. Section 280-21(B) is amended to add the following special uses in the General Business District:**

(21) Shopping Center, Regional.

**M. Section 280-24.1 (“Rural 3 District”) and Section 280-24.2 (“Rural 5 District”) are amended to delete the following definition:**

~~CUSTOMARY HOME OCCUPATION 2~~

~~An occupation or a profession which:~~

~~A. Is carried on in the principal dwelling unit or an accessory structure or elsewhere on the property.~~

- ~~B. Is carried on by a member of the family residing in the principal dwelling unit.~~
- ~~C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.~~
- ~~D. Does not employ more than three persons outside the family.~~
- ~~E. Is located on a lot of seven acres or more in size in the Rural 5 District.~~
- ~~F. Shall not generate traffic beyond that normally expected in a residential neighborhood. Any need for parking generated by such use shall be provided in an off-street area, other than in the front yard.~~
- ~~G. Shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses of persons outside the accessory structure. In case of electrical interference, there shall be no radio or television disruption outside the accessory structure or fluctuations in line voltages off the premises.~~

**N. Section 280-24.1 (“Rural 3 District”) and Section 280-24.2 (“Rural 5 District”) are amended to delete the following permitted use:**

- ~~(e) Customary home occupation, including but not limited to woodworking, blacksmith shops and mail-order sales.~~

**O. Section 280-24.1 (“Rural 3 District”) and Section 280-24.2 (“Rural 5 District”) are amended to replace the special use “customary home occupation 2” with:**

“Home occupation (see Supplemental Regulations)”

**P. Existing Article IVA “Interim Development District” is deleted and replaced by a new Article IVA entitled “Supplementary Regulations Pertaining to Specific Uses.”**

**Q. A new Section 280-37.2 (“Mixed-Use Building”) is added:**

- A. Purpose.** The purpose of this section is to allow both residential and non-residential uses in appropriate buildings to:
  - (1) allow a mixture of complimentary uses to create economic and social vitality and to encourage the linking of trips;

- (2) provide flexibility in the siting and design of new development and redevelopment; and
- (3) facilitate development that supports public transit where appropriate and encourage bicycle and pedestrian travel.

**B. Requirements.**

- (1) Residential uses in mixed use buildings are permitted on upper stories only or on ground floors where they do not use storefront space. Residential uses shall not exceed 25 percent of ground floor area if permitted and shall not exceed 40 percent of the building's gross floor area.
- (2) Density. In any mixed use development, the density shall not exceed eight residential units per acre. Minimum floor areas for residential units shall comply with Section 280-15 C(7).
- (3) Auto oriented uses such as drive thru restaurants and vehicle sales and service are prohibited.
- (4) Off-street parking is generally to be provided in the rear or side of buildings.
- (5) The main entrance to a building should be oriented toward the street and sidewalk. There are generally windows or display cases along building facades which face the street or sidewalk.
- (6) There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities. Buildings, vehicular circulation and open spaces shall be arranged so that pedestrians moving between buildings or from buildings to the street are not unnecessarily exposed to vehicular traffic.

**R. A new Section 280-37.3 (“Home Occupation”) is added:**

- A. Purpose.** The intent of this section is to accommodate small-scale owner-occupied businesses, trades or professions within residential and rural areas. In accommodating such activities, it is the intent that there will be no degradation of the character of neighborhoods in which these activities occur. A Home Occupation shall be conducted in a manner which does not give the outward appearance of a nonresidential use or business being conducted on the premises, does not infringe on the right of neighboring landowners to the quiet enjoyment of

their land, and does not alter the character of the district in which the lot is located.

**B. Minor Home Occupation.** A special use permit is not required for a home occupation use which meets each of the following conditions:

- (1) No physical change to the exterior of a principal or accessory structure is required to accommodate the home occupation.
- (2) The use is conducted on the property solely by persons utilizing the dwelling as their primary residence.
- (3) The home occupation has no nonresident employees.
- (4) There shall be no advertising structure for the home occupation use. Any sign for the home occupation shall conform to the requirements for signs as set forth in this chapter.
- (5) There is no exterior storage of materials, equipment, vehicles or supplies used in the home occupation.
- (6) There are no clients or customers at the property.
- (7) No articles or products are offered for sale or repair services provided at the property.
- (8) The home occupation meets the conditions under section C(1)- (9) below.
- (9) The applicant submits a completed application for a Minor Home Occupation Permit which certifies compliance with the provisions of this section and pays any permit fee required by the Town Board.

**C. Home Occupation I.** Home Occupation I is permitted by special use permit, pursuant to Section 280-52, in the single family residential, MR, TH, BNRP, LB and GB Districts provided that the proposed home occupation meets all of the following conditions:

- (1) The home occupation must be clearly incidental and secondary to the residential use of the property and carried on by a member of the family in the dwelling unit.
- (2) The home occupation shall be carried out wholly within the enclosed walls of the dwelling unit and utilize no more than 25% of the floor area. The home occupation shall not use any accessory structure.

- (3) There shall be no exterior display or exterior storage of materials, equipment, vehicles or supplies used in the home occupation.
- (4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
- (5) The home occupation shall not generate traffic beyond that normally expected in the particular zoning district. Any need for parking generated by such use shall be provided in an off-street area.
- (6) The home occupation shall not allow the use of the property as a meeting place or gathering location for nonresident employees for work elsewhere or the storage of materials, equipment, vehicles, or supplies for use elsewhere.
- (7) No equipment or process shall be used that creates noise, vibration, glare, fumes, odors, or electrical interference detectable by the normal senses of persons beyond the limits of the property. In the case of electrical interference, there shall be no radio or television disruption outside the dwelling unit or fluctuations in line voltages off the premises.
- (9) The home occupation shall not use, store, produce or dispose of any toxic or hazardous material.
- (10) If the home occupation involves teaching, tutoring, or similar personal instruction and/or care, no more than two students or clients shall be permitted in the dwelling unit at any one time.
- (11) The home occupation shall employ no more than one nonresident employee at any one time.

**D. Home Occupation II.** Home Occupation II is permitted by special use permit, pursuant to Section 280-52, in the A Zone, and RA-3, and RA-5 Districts, provided that the proposed home occupation meets all of the following conditions:

- (1) The proposed home occupation meets all of the conditions for a Home Occupation I under section C above, except that:
  - (a) The home occupation may employ up to three nonresident employees at any one time.

- (b) The use of accessory structures is permitted, where the accessory structures have a minimum 20 foot side yard setback and a minimum 20 foot rear yard setback.
  - (c) The exterior display of article or products of the home occupation and the exterior storage of materials, equipment, vehicles or supplies used in the home occupation are allowed in the rear yard only, with a minimum 20 foot side yard setback and a minimum 20 foot rear yard setback.
- (2) The home occupation may sell or offer for sale any articles or products that are wholly produced, grown, created or assembled on the lot and may provide repair services in connection with the trade of a dressmaker, milliner, seamstress, or tailor, furniture repair, reupholstering, or the trade of a blacksmith, locksmith or household appliance or small engine repair. Repair services may include the sale of replacement or repair products or accessories that are reasonably related to the principal product.

**E. Prohibited home occupations.** The use of a dwelling or accessory structure for the following home occupations is prohibited:

- (1) Ambulance or taxi service.
- (2) Dance studio, aerobic exercise studio, gymnasium, or health club.
- (3) Kennel.
- (4) Laundry service or dry-cleaning service.
- (5) Mortician, funeral home or hearse service.
- (6) Motor vehicle repair, sales or rental.
- (7) Parking garage or the rental of off-street parking spaces.
- (8) Restaurant, cafe or tavern.
- (9) Towing service.

**S. Section 280-52 F (1) is amended to add the following:**

- (1) With respect to any application for special use permit, **with the exception of home occupations**, the Planning Board shall make a written site plan review report . . . .

#### **SECTION IV. VALIDITY**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

## **SECTION V. REPEAL OF OTHER LAWS**

This Local Law supersedes any inconsistent provisions in Chapter 280 of the Town of Guilderland Code.

## **SECTION VI. EFFECTIVE DATE.**

This Local Law shall be effective upon filing with the Secretary of State.

DRAFT