

**L.C.I.A.**

**Home Occupation Ordinance  
Licensing Procedures  
&  
Forms**

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# **LAKE CHAFFEE IMPROVEMENT ASSOCIATION**

## **Home Occupation Ordinance**

Any occupational/business use of property located within the boundaries of the LCIA must:

1. Conform to the restrictive covenants that are part of the deed, for the property on/in which the business will be located
2. Be approved by a majority vote of the LCIA Board of Directors.
3. Pay a non-refundable permit application/permit renewal fee of \$25.00
  - a. Permits shall be reviewed and renewed every two years for occupations formed under the 2006 Town of Ashford Home Occupation guidelines or any subsequent revisions.
  - b. Permits may be revoked by the LCIA Board of Directors for just cause, having given the permit holder four weeks written prior notice of such revocation.
  - c. Permits are issued to an individual for a specific location and are not transferable to another individual or for another location.
4. Home Occupation permits will be issued only to LCIA members, if permit is sought by another (non-member) the LCIA member (property owner) must be consenting to and be present at the meeting in which the permit will be discussed.
5. Home Occupation permits will be issued only for locations on which there is no tax, lien, penalty, interest or other liability payable to LCIA.
6. Home Occupations in current operation and licensed by the Town of Ashford prior to adoption date of this ordinance, are temporarily exempted from application process. They are “grandfathered” for the valid remaining time of the Town License, after which, they must meet the requirements of this ordinance, before requesting renewal with the Town of Ashford.
7. The penalty for operating a business without license issued under this ordinance shall be:
  - (1) \$100.00 for each month or portion of a month during which the business was operated without LCIA permit.
  - (2) Payment of all related expenses including but not limited to any attorney fees, and court costs, incurred by LCIA to enforce this ordinance.

# LAKE CHAFFEE IMPROVEMENT ASSOCIATION HOME OCCUPATION PERMIT

## Application and Approval Process

1. Obtain a copy of the Ordinance from (a) the LCIA Secretary or (b) the Lake Chaffee website: <http://www.LakeChaffee.org>
2. Fill out the application and public notice form.
3. Submit both documents and the non-refundable application fee of \$25.00 to the LCIA Secretary prior to the beginning of the next scheduled monthly LCIA Board of Directors' meeting. (upcoming meeting dates are listed on the Lake Chaffee website, and posted on the community bulletin boards)
  - a. Applicant and or LCIA member requesting permit must be present at the meeting to answer any questions that might be raised by board members.
  - b. The LCIA Secretary will certify your public notice form and return it to you prior to the end of this meeting.
4. You will post the public notice form in a manner permitting it to be read from the street adjacent to the proposed home occupancy / business location.
  - a. The public notice form should remain in place until the next regularly scheduled directors' meeting but for no fewer than 28 days.
5. The LCIA Board of Directors will vote on the application at the next regularly scheduled director's meeting, but not less than 28 days after application submission.
  - a. The Board may request that your application be revised.
  - b. Return of your application, certified by the LCIA Secretary, will serve as your Home Occupation Permit from LCIA and will also serve as proof to Ashford town officials of LCIA approval.
  - c. This LCIA approval does not relieve you of the requirement to obtain necessary licenses and permits (e.g. Home Occupancy Permit, Federal Identification Number, etc.) from other governing bodies.
  - d. Failure of the LCIA Board to vote upon your application within 63 days of initial submission will imply approval.
6. Your application and the board's disposition of your application are a matter of public record and will be reported in the minutes published for the associated meeting(s).
7. LCIA Home Occupation permits can be revoked with four (4) weeks prior notice by the LCIA Board for one or more of the following reasons:
  - a. The use has clearly altered the residential character of the premises and neighborhood through the generation of excess traffic.
  - b. Changes in the lot or occupied building(s) have been made, altering the residential character of the premises or the neighborhood;
  - c. The nature of the occupation has changed from what was originally permitted.

# **LAKE CHAFFEE IMPROVEMENT ASSOCIATION HOME OCCUPATION PERMIT**

## **Guidelines**

The LCIA Board of Directors shall evaluate each such permit application on its own merits based upon but not restricted to the following guidelines:

1. Will the proposed Home Occupation be in conflict with restrictive covenant provisions against "...manufacturing, agricultural or commercial business of any kind...?"
2. Does the proposed Home Occupation, as a minimum, conform to Section 2.10.03(D) of the Ashford Zoning Regulations plus the following restrictions:
  - i. Home Occupation cannot employ any non-household member at the Lake Chaffee location.
  - ii. No physical sign or marker denoting the Home Occupation.
3. To what degree will the Home Occupation's presence be obvious to those familiar with the neighborhood (i.e. LCIA members) as well as the casual observer (i.e. how will it impact the current residential characteristics of the Lake Chaffee neighborhood?).
4. Impact of the proposed Home Occupation upon vehicular traffic.
5. Impact of the proposed Home Occupation upon air, water, noise, light, visual or other pollution.
6. Impact of the proposed Home Occupation upon trespassing on LCIA property roads, beaches, boat launches, rights-of-way, the lake itself as well as upon the private property of its members.
7. Other than above, degree to which activity resulting from the presence of the proposed Home Occupation could pose a nuisance.
8. Objections by (a) adjoining property owners and (b) other LCIA members to the presence of the Home Occupation
9. Applications for proposed Home Occupations will only be entertained when all outstanding LCIA taxes are current, penalties, interest and lien fees owed by the petitioning member have been paid in full.

## **Miscellaneous**

1. Hard copies of this ordinance, including the application and public notice forms, will be available from the LCIA Secretary
2. Digital copies of this ordinance, including the application and public notice forms, will be published on the Lake Chaffee website.

# LAKE CHAFFEE IMPROVEMENT ASSOCIATION

## Authority

“...The executive board may enact by-laws and ordinances ... Any by-law or regulation adopted by the executive board may also be amended, modified or rescinded by a majority vote of the members of the association present...”<sup>1</sup>

## Article 1 of Restrictive Covenants

“Said premises shall not be used for any commercial, agricultural or manufacturing business of any kind.”<sup>2</sup>

## Commentary

Deeds within the Lake Chaffee community are subject to a set of ten (10) restrictive covenants, the first of which prohibits use of the property for commercial, agricultural or manufacturing business of any kind – this is not the same as saying “businesses of any kind”.

It is the responsibility of the LCIA Board of Directors (referred to as the Board) to “...make reasonable assumptions in interpreting the restriction and to what circumstance it applies...”<sup>3</sup> In other words, determine those businesses which are not “commercial, agricultural or manufacturing” in nature.

The Board interprets the **intent**<sup>4</sup> of the restriction as a compact with those who purchased property at Lake Chaffee to retain the rural-residential characteristics prevalent at the time the Lake Chaffee community was formed.

To that end, this ordinance defines “...commercial, agricultural or manufacturing business of any kind...” as any enterprise which alters or has the potential to alter the rural-residential character of any part of the Lake Chaffee community.

This ordinance defines the process by which a business can obtain Board approval as an activity that is not prohibited by the deeded restrictive covenants.

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<sup>1</sup> Section 6, “Special Act No. 86 – An Act Incorporating the Lake Chaffee Improvement Association, Incorporated”

<sup>2</sup> Deed for Lot 35, deeded to Helen K. Checkers on April 30, 1949 as recorded at Ashford Town Hall, Volume 43 Page 523. All other Lake Chaffee subdivision deeds in Volumes 43 and 44 contain the same restrictive covenant.

<sup>3</sup> Goodwin and Paul letter to Laura Koropatkin *et al* dated July 6, 2007; page 3 paragraph 1

<sup>4</sup> “Restrictive covenants are to be read as a whole to give effect to the ascertainable intent of the drafter, and strictly construed against grantors and the parties seeking to enforce the covenants. All doubts are to be resolved in favor of the free use of property. Courts should not infer restrictions that are not expressly provided for in the controlling documents.”

[http://swagman.typepad.com/poa\\_governance/2006/02/michigan\\_case\\_1.html](http://swagman.typepad.com/poa_governance/2006/02/michigan_case_1.html)

## Excerpts from Goodwin and Paul letter to Laura Koropatkin *et al* Dated July 6, 2007

(key phrases relevant to this proposed ordinance, underscored below, are not underscored on the original correspondence)

**Beginning with the 7th paragraph of the 2nd page and extending thru the 5th paragraph of the 3rd page:**

1. The Board has the authority to enforce all of the deed restrictions as written in the individual deeds.
2. The Board does not have the authority to selectively enforce those restrictions or modify them by vote, variance or ordinance.
3. The restrictions may not be modified or rescinded by vote of the membership.

The remaining question is how the Board may interpret the restriction pertaining to commercial use of property. The cases tell us that the meaning of restrictive covenants must be determined by reviewing all its relevant provisions and reading it in light of the surrounding circumstances. It is an attempt to determine the intent of the parties by considering the language and circumstances existing at the time of writing *Wood v Amer.* 54 Conn. App. 601 (1999).

The Board must not selectively enforce the restrictions, but it may make reasonable assumptions in interpreting the restriction and to what circumstance it applies in determining which purported violation of the restrictions it will seek to enforce. For example, there may be a difference between a home office on the premises which supports a business which is conducted primarily offsite and a business which is conducted solely onsite.

The Board has the authority under the Special Act to enforce the restrictions. Likewise, any member of the Association has the right to bring an enforcement action to the Court to enforce the restrictions as well. The Board's interpretation of the restriction may ultimately be reviewed by the Court. Indeed the cases I have cited were all brought by one landowner against another.

Section 7 however, only provides recourse to the Court for enforcement. It is allowable for the Board to enact an ordinance which provides for other means of enforcement, such as a fine as you have done for many other situations, but there is presently no such ordinance in place addressing the violation of the commercial use restriction.

Lastly, in enforcing the restrictions, the Board should also be cognizant of the principal of laches and the applicable statute of limitations. Laches means an inexcusable delay which prejudices the one against whom enforcement is sought. *Farms & Mechanics Savings Bank v. Sullivan*, 216 Conn. 341 (1990). Was enforcement of the restrictions delayed so long that the property owner has somehow been prejudiced and suffered damages as a result of the delay? This is a question of fact for the Court.

Connecticut General Statutes Section 52-575a however, provides that an action to enforce a private restriction must be commenced within three years of the time the person seeking the enforcement had actual or constructive knowledge of the violation. This time limitation provides specific directions.

## Excerpts from Town of Ashford Zoning Regulations dated April 2006

(key phrases relevant to this proposed ordinance, underscored below, are not underscored on the original document)

### Beginning with Page 26 Section 2.10.03(D) and extending thru Page 27 Section 2.10.03(D)2:

#### 2.10.3(D) Home Occupations

Home Occupations of limited impact to the neighborhood, shall be allowed following Site Plan Approval by the Zoning Enforcement Officer. These occupations shall be limited to:

1. The sale of farm or garden products;
2. The manufacture and sale of homemaking products;
3. The creation and sale of Arts and Crafts made on the premises;
4. Arts and letters;
5. Professional services such as an engineer, surveyor, forester, accountant, lawyer, music teacher and others who tend to interact with the public off site;
6. Business services such as a real estate agent or broker, insurance agent, photographer, and others who have limited dealings with the public on site;
7. Workshop and office activities clearly accessory to skilled trades such as plumber, carpenter, electrician, painter, appliance and small equipment repair etc. provided such activity does not become a separate manufacturing operation i.e. a carpenter may make cabinets for his own remodeling jobs, however, he cannot make cabinets to sell to others;
8. Beauty parlor or barber shop, provided the occupation meets all requirements of the local health authority, and;
9. Day care or preschools licensed by the state for no more than twelve (12) children.
10. Dog grooming; Also see 2.10.03A.

The Site Plan must include a detailed floor plan of the building(s) showing the areas within these buildings to be used by the home occupation and a detailed plan of the property showing how the home occupation will affect the exterior of the home (storage, parking etc.). The Site Plan must also list all equipment to be used in the occupation, state the number of people who will be employed on the premises and demonstrate that the home occupation meets all of the following requirements:

1. The use is clearly secondary to the residential or agricultural use of the property.
2. No traffic shall be generated by such home occupation in greater volume than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be provided off the street and not in the required yards of the lot.
3. There shall be no change in the residential character of the site or the neighborhood and there shall be no visible activity of the operation.
4. Any existing accessory buildings used for a home occupation shall observe all setback requirements of the district. Any new accessory building to be used by the home occupation shall not exceed 50 percent of the floor area of the principle residence building.
5. There shall be no external storage of equipment other than equipment normally observed in residential neighborhoods (i.e. play ground equipment, small lawn & garden tractors or passenger vehicles and trucks that can be registered with Combination plates). All such equipment shall be located so as to comply with all primary and secondary setback requirements.
6. No noise, odor, vibrations, glare, fumes, electrical interference or unsightly conditions shall be noticeable on the lot.



7. No more than two non-residents shall be employed on the premises.
8. There shall be no change in the outside appearance of the residence or accessory building or visible sign of operation of the home occupation except for a nameplate not to exceed three (3) square feet in area.
9. Such use shall not occupy more than 50 percent of the floor area of the principal residential building.

**2.10.03(D)1 Special Permit Home Occupations**

Any application for a Home Occupation which is not listed in 2.10.03(D) or which does not meet all of the requirements set forth in 2.10.03(D) may be approved as a Home Occupation by the Commission following a Special Permit/Public Hearing if the Applicant can demonstrate to the Commission that the proposal has adequate measures incorporated into the plan so that the home occupation will not adversely affect the residential nature of the neighborhood. The Commission may attach such conditions to the approval as they deem necessary to protect the residential character of the premises and the neighborhood. Uses that are not allowed as Home Occupations may be allowed under 4.09 as a Rural Industry.

**2.10.03(D)2 Permit Duration**

Permits are not transferable to another site. Home Occupation Permits shall be reviewed and renewed every two (2) years and are valid for as long as the permittee operates the Home Occupation in conformance with 2.10.03 (D)1 or any conditions specified by a Special Permit. Any permit may be revoked if, in the opinion of the Zoning Enforcement Officer and the Commission either/or:

- a. The use has clearly altered the residential character of the premises and neighborhood through the generation of traffic substantially in excess of that normally generated by a residential dwelling;
- b. Changes in the lot or occupied building(s) have been made, altering the residential character of the premises or the neighborhood;
- c. The nature of the occupation has changed from what was originally permitted, or;
- d. If any of the conditions listed above or imposed by a Special Permit have been violated. Any uncertainty regarding the issuance or renewal of a home occupation permit shall be resolved by the Commission.

# LAKE CHAFFEE IMPROVEMENT ASSOCIATION

P.O. Box 231 Ashford, CT 06278

WWW.LAKECHAFFEE.ORG

## APPLICATION AND APPROVAL FORM FOR A HOME OCCUPATION PERMIT

APPLICANT'S NAME:	DATE:
Relationship to owner:	
PROPERTY OWNER'S NAME (if different from above):	
MAILING ADDRESS:	
RESIDENT ADDRESS (address of where Home Occupation will take place, if different from mailing address):	
Is this property the primary residence of the applicant?	YES NO
Type of Home Occupation (i.e. internet sales, attorney, etc.):	
Briefly describe below the nature of the home occupation proposed and its day-to-day operations. (e.g. days & hours of operation, any noise that may result from the proposed home occupation, equipment that may be used in the performance of the occupation, etc.) Please be as specific as possible.	
Will there be any physical changes to residence or surrounding property to accommodate the new Home Occupation? If so, explain. (i.e. fencing, signage, additional parking spaces, etc.)	

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WWW.LAKECHAFFEE.ORG

Will the proposed home occupation generate additional traffic?	YES	NO
If yes, give approximate volume and frequency:		
Does operation involve shipments to or from the location (i.e. UPS, FED-EX etc.)?	YES	NO
If yes, give approximate volume and frequency:		
Does operation involve heavy equipment or trucks being driven or moved on L.C.I.A. roads?	YES	NO
If yes, give explanation, type of vehicles, volume and frequency of road use:		
Total number of employees and approximate work hours at the proposed location:		
Number of employees residing at location:		
Average number of clients/customers visiting this location daily or weekly: (please specify)		

**BY SIGNING THIS FORM YOU ARE TESTIFYING THAT THE INFORMATION WRITTEN ON THIS FORM AND GIVEN BY YOU ON THIS MATTER, IS BINDING AND TRUTHFUL UNDER PENALTY OF PERJURY.**

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE OF PROPERTY OWNER \_\_\_\_\_ DATE \_\_\_\_\_

# PUBLIC NOTICE

APPLICATION DATE: \_\_\_\_\_

DATE POSTED: \_\_\_\_\_

THE OWNER OF THIS RESIDENCE HAS AN  
**APPLICATION PENDING**  
WITH THE L.C.I.A. AND THE TOWN OF  
ASHFORD **FOR A PERMIT** TO ALLOW  
THE OCCUPANT TO HAVE A  
**HOME BASED BUSINESS**  
**ON THIS SITE.(HOME OCCUPATION)**

FOR FURTHER INFORMATION, QUESTIONS OR  
CONCERNS PLEASE CONTACT ANY L.C.I.A.

OFFICIAL BY CALLING \_\_\_\_\_  
**REFERENCE APPLICATION #** \_\_\_\_\_

OR, ATTEND THE NEXT PUBLIC MEETING AT  
LAKE CHAFFEE HALL, DATE \_\_\_\_\_ @ 6:30 PM

This notice must be posted in a manner permitting it to be read from the street adjacent to the proposed home occupancy / business location and remain in place until the next regularly scheduled directors' meeting but for no fewer than 28 days.

# LAKE CHAFFEE IMPROVEMENT ASSOCIATION

P.O. Box 231 Ashford, CT 06278

WWW.LAKECHAFFEE.ORG

**THIS FORM WILL SERVE AS THE LCIA HOME OCCUPATION PERMIT UPON BOARD APPROVAL.**

**PRESENT THIS FORM TO TOWN OR STATE OFFICIALS.**

**LCIA HAS REVIEWED THE INFORMATION CONTAINED ON THIS FORM.**

**IF APPROVED, LCIA HAS NO OBJECTION TO THE ISSUANCE OF ANY LICENSE OR PERMIT THAT MAY BE REQUIRED BY THE TOWN OF ASHFORD OR THE STATE OF CONNECTICUT TO LAWFULLY CONDUCT THE ABOVE DESCRIBED HOME OCCUPATION.**

**THIS SECTION TO BE COMPLETED BY LAKE CHAFFEE BOARD OF DIRECTORS ONLY**

**\*\*PERMIT IS NOT VALID WITHOUT ALL 3 SIGNATURES\*\***

BOARD OF DIRECTORS APPROVAL?      APPROVED      DENIED

IF DENIED, REASON:

DATE OF BOARD VOTE: \_\_\_\_\_

TERM OF APPROVAL: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_

AUTHORIZED SIGNATURE #1: \_\_\_\_\_ DATE: \_\_\_\_\_ TITLE \_\_\_\_\_

AUTHORIZED SIGNATURE #2: \_\_\_\_\_ DATE: \_\_\_\_\_ TITLE \_\_\_\_\_

AUTHORIZED SIGNATURE #3: \_\_\_\_\_ DATE: \_\_\_\_\_ TITLE \_\_\_\_\_