

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Pompey

Local Law No. 1 of the year 2024

A local law AMENDING CHAPTER 165 TO AMEND ARTICLE VIII (ADMINISTRATION AND
(Insert Title)
ENFORCEMENT) SECTION 165-44 (G) (2) THAT REGULATES HOME BASED
BUSINESSES IN THE TOWN OF POMPEY

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of POMPEY as follows:

(SEE ATTACHED)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

G. Criteria for Specific Uses

(2) Home-Based Business

(a) Intent and Purpose. This Section of Town Code applies to all Home-Based businesses in non-commercial zoning districts. The Home-Based Businesses regulations seek to balance the need of some individuals to work at home with rights of other individuals to enjoy the residential character of their neighborhood and their private property. The purpose of the Home-Based Businesses regulations is to protect the health, safety, and welfare of neighboring residents and the preservation of the neighborhood as a comfortable place for the people who live there. Home-Based businesses are intended to be a seamless addition, not a disturbance, to any neighborhood.

It is also the intent and purpose of these regulations to provide for certain types of restricted occupational uses within non-commercial districts. Only such uses will be allowed which:

- [1] Are incidental to the use of the premises as a residence;
- [2] Are compatible with residential uses;
- [3] Are limited in extent; and
- [4] Do not detract from the residential character of the neighborhood.

(b) Definitions. For the purposes of this Section, the following words shall have the meaning indicated unless the context clearly requires otherwise:

BUSINESS VEHICLE

A car, bus, van, trailer or commercial motor vehicle (CMV) used to transport goods or passengers for the profit or benefit of an individual or business.

MOTORIZED EQUIPMENT

A device used by a business that includes an internal combustion engine or an electric motor of greater than one-quarter (1/4) horsepower.

HOME-BASED BUSINESS:

A lawful activity commonly carried on or managed within a dwelling or accessory structure on a residential property by a member or members of the family who occupy the dwelling, where the business activity is clearly incidental to the residential use of the property and where the residential character of the property, dwelling and accessory structures is maintained.

PREMISES

All lands, structures, installed equipment and appurtenances located on a property.

(c) Standards for Home-Based Businesses Permitted as of Right

Home-Based businesses complying with the standards set forth in this Section shall be considered minor in character and shall be permitted as of right with no permit required. Home-Based businesses permitted as of right must meet the following standards:

- [1] The Home-Based business shall be owned by a person or persons, not by an entity. Properties owned by an entity are required to comply with the provisions of subsection G(2)(d).
- [2] The dwelling on the premises shall be the primary and legal place of residence for the owner of the Home-Based business.
- [3] The Home-Based business shall be clearly incidental and secondary to the residential use of the property. No additions or alterations to the dwelling or property that change its residential character shall be permitted.
- [4] No separate entrance or driveway used primarily by the business shall be permitted.
- [5] Outdoor storage of goods, materials, or products connected with a Home-Based business is prohibited.
- [6] Only one unilluminated, two-sided sign no larger than two (2) square feet shall be displayed on the property for the Home-Based business. All other on-site advertising is prohibited.
- [7] Business vehicles. In addition to any personal resident vehicles, no more than two (2) licensed and registered vehicles not to exceed a gross vehicle weight rating of 14,000 pounds used for the Home-Based business shall be located on the premises, unless housed in an enclosed residential garage.
- [8] Motorized equipment. Any motorized equipment and/or attachments thereto used in the Home-Based business shall be stored in an enclosed structure.
- [9] No more than one person other than a resident of the dwelling shall work on-premises.
- [10] The Home-Based business shall not be open to the public or receive deliveries earlier than 8:00 a.m. or later than 8:00 p.m. Only vehicles of not more than two (2) axles and not greater than 14,000 pounds of gross vehicle weight shall make deliveries to Home-Based businesses. Such deliveries shall not restrict routine traffic flow.
- [11] A Home-Based business shall produce no offensive noise, vibration, smoke, dust, odors, heat or lighting.
- [12] A Home-Based business shall not use, store, produce or dispose of toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials, as deemed such by federal standards. Quantities of such supplies common to residential uses shall be exempted. Home-Based business activities

conducted and material/equipment used shall not be of a nature to require the installation of fire safety features not common to residential uses.

[13] All parking associated with the Home-Based business shall be in the driveway or inside of a structure where the Home-Based business is located. Parking on the street or in the yard is prohibited.

[14] No more than two client, customer or delivery vehicles shall be on the premises of the Home-Based business at the same time.

[15] The gross floor area within a dwelling or accessory structure used or occupied in conjunction with a Home-Based business, inclusive of basements, attics, cellars and similar areas, shall not be greater than 25 percent (25%) of the gross floor area of the first floor of a dwelling, and in no event shall such business area exceed 500 square feet.

[16] An accessory structure may be used for the Home-Based business or to support the Home-Based business but is subject to the gross floor area limitations set forth in paragraph 15 above.

[17] More than one Home-Based business shall be permitted on a premises subject to the above conditions which would apply to all businesses.

(d) Home-Based Business Requiring Town Approval

[1] If a Home-Based business does not meet the standards set forth in Section (c) above but is not prohibited by Section (e) herein, the owners thereof shall apply through the Codes Enforcement Office for a permit from the Planning Board. The application shall be in the form provided by the town and shall specify the business use, how it conforms to the intent of this Section and any other documentation that the Codes Officer requires.

[2] No Home-Based business subject to Planning Board approval shall operate until such approval is granted.

(e) Prohibited Home-Based Businesses

The following operations are prohibited:

[1] A Home-Based business where the owner of the business does not reside on the premises.

[2] A Home-Based business that is the primary use of the premises.

[3] On-premises retail sales, unless clearly incidental and secondary to the Home-Based business, limited in scope and where there is no display of items for sale in any configuration resembling a retail store.

[4] Warehousing as a service.

[5] Restaurant/Café/Tavern.

[6] Mortician/Funeral home.

- [7] Ambulance service.
- [8] Limousine service with more than one vehicle parked outside.
- [9] Major appliance repair (except when working at customers' homes).
- [10] Junkyard.
- [11] Automotive repair, body work, painting, detailing, washing services (except when working at customers' homes).
- [12] Massage parlors.
- [13] Medical or dental laboratory.
- [14] Raising or harboring of domestic pets for sale where facilities are less than 100 feet from any property line and the lot is less than five acres.

(f) General Provisions

- [1] The Town Board shall establish the application and permit fees for the Home-Based business permit.
- [2] The Home-Based business owner is responsible for notifying the Town Codes Officer of any changes in the business operations that affect its status under this Section. Failure to do so shall constitute a violation of these provisions.
- [3] A violation of any provision of this Section shall be subject to the enforcement and penalty provisions of Section 165-47, as amended from time to time.

(g) Sunset Clause

It is recognized that there currently exist in the Town of Pompey businesses operating on residential properties that pre-date this statute. Owners of such businesses that meet the following criteria shall be considered non-conforming uses under Section 165-20 of this Code only for Home Based Business: (i) the home based business has been in operation for more than five (5) years, as proved by a sworn affidavit to the Code Enforcement Officer; (ii) there is no record of neighbor complaints on file with the Town against the property owner for operation of the a home based business; (iii) the home based business is not prohibited under Section 2(e) above; (iv) and the home owner provides the Code Enforcement Officer with a description of the home based business that shall include, but not be limited to, the time of operation, the number of employees beside the homeowner, the estimated number of vehicles that frequent the home based business per week and any other information requested by the Code Enforcement Officer. For any other existing home based business, Owners of such businesses are hereby required to obtain the necessary operating permit no later than one-hundred and eighty (180) days from the effective date of this Local Law. Failure to do so shall constitute a violation of this law, subject to the enforcement and penalty provisions set forth in Section 165-47, as amended from time to time.

(h) Severability

The invalidity of any clause, sentence, paragraph or provision of this Section shall not invalidate any other clause, sentence, paragraph, or part thereof.

(i) Effective Date

This Local Law shall take effect immediately upon filing with the New York Department of State.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2024 of the (County)(City)(Town)(Village) of POMPEY was duly passed by the TOWN BOARD on APRIL 9 2024, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.


I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 4/25/24

(Seal)