



# MORGANTOWN BOARD OF ZONING APPEALS

August 19, 2015  
6:30 PM  
City Council Chambers

## **Board Members:**

Leanne Cardoso, Chair  
Bill Burton, Vice-Chair  
Linda Herbst  
George Papandreas  
Jim Shaffer

## **STAFF REPORT**

**CASE NO:** CU15-07 / Meagan Deeley / 139 Linnehurst Street

### **REQUEST and LOCATION:**

Request by Meagan Deeley, for conditional "Class 2 Home Occupation" use approval at 139 Linnehurst Street.

### **TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 44, Parcel 156; R-1A, Single-Family Residential District

### **SURROUNDING ZONING:**

R-1A, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to establish a "Class 2 Home Occupation" in her residence at 139 Linnehurst Street. Addendum A of this report illustrates the location of the site.

Table 1331.05.01 "Permitted Land Uses" of the Planning and Zoning Code provides that "Class 2 Home Occupation" uses in the R-1A District require conditional use approval by the Board.

The petitioner states in her application that she wishes to provide deer processing services in her home. The following points highlight the information provided in the petitioner's application:

- The hours of operation will be from 7:00 AM to 9:00 PM during the deer season only.
- The average number of clients per day will vary.
- No delivery trucks associated with the proposed home occupation are anticipated to visit the site on a regular basis.
- There are two (2) off street parking spaces on the petitioner's property and (3) three on-street parking spaces available.
- All deer processing work will be completed inside the home.

### **STAFF RECOMMENDATION:**

The Board must determine whether the proposed request meets the standard criteria for a conditional "Class 2 Home Occupation" use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner.

Should the Board grant conditional "Class 2 Home Occupation" use approval, Staff recommends the following conditions:

## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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1. That the petitioner shall meet all related supplemental regulations specified in Article 1331.06(2) et seq. of the Planning and Zoning Code, which, among others, prohibits the home occupation from being conducted outdoors.
2. That the conditional use approval granted herein is specific to the petitioner and may not be transferred without prior approval by the Board of Zoning Appeals.
3. If the petitioner, as the sole beneficiary of this conditional use approval, wishes to make changes in the conduct of the business that departs from the description in the application or from any other conditions or restrictions imposed by the Board of Zoning Appeals, the holder must obtain prior permission of the Board of Zoning Appeals.

Enclosures: Application and accompanying exhibits

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

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**STAFF REPORT ADDENDUM A**  
**CU15-07 / Meagan Deeley / 139 Linnehurst Street**



CU15-07



City of Morgantown  
West Virginia

# HOME OCCUPATION APPLICATION PACKET \$75.00 CK 3246

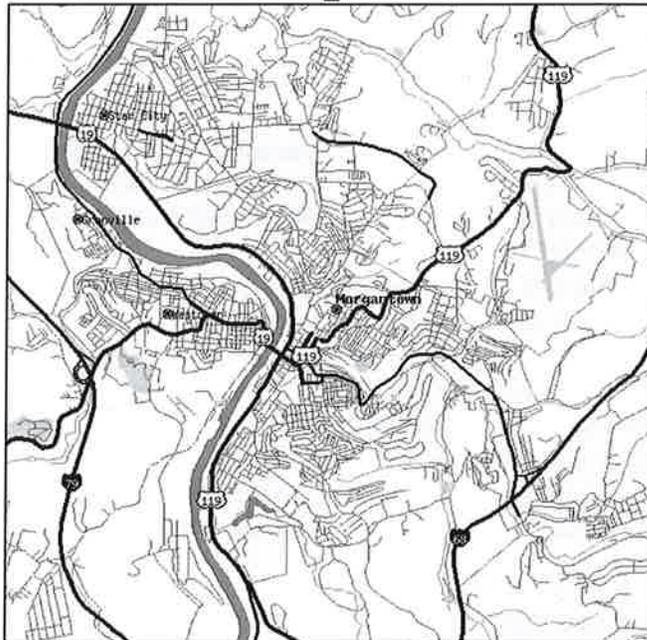


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CU15-07

**Success hinges on partnerships from the very beginning.**

Recognized as one of America's "Best Small Towns," Morgantown's success is due largely in part to its ability of forging partnerships between business, civic organizations, academia, and government for the purpose of supporting creativity, innovation, and entrepreneurship. In this spirit, the City strives to encourage and support residents who wish to work from their homes while preserving the residential character of our neighborhoods.

**STEPS TO OBTAIN HOME-BASED BUSINESS LICENSE**

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**Step 1 Home Occupation Approval** – Contact the **Planning Department** (phone 304.284.7431) for a Home Occupation Application (also available at the City's website: [www.morgantown.com](http://www.morgantown.com)). Submit these completed forms to the Planning Department. Home Occupation classification will be determined at this time (see "Zoning Compliance" below).

*Home Occupations, Class 1* approvals may be granted administratively.

*Home Occupations, Class 2* are considered "Conditional Uses" that require a separate application and approval by the Board of Zoning Appeals.

**Step 2 Business License Registration** – Once administrative or BZA approval for the Home Occupation is granted, bring a copy of your Home Occupation Approval to the **Finance Department** (phone 304.284.7408) where you will complete business license and municipal tax registration forms.

**ZONING COMPLIANCE**

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**Home Occupation** – Any business activity conducted entirely within the owner's primary residence, which requires a business license issued by the State of West Virginia and by the City of Morgantown; and is clearly incidental to or secondary to the residential use of the dwelling. Home occupations are divided into two classes, as follows:

- A. Home Occupation, Class I:** Considered an accessory use, and is personal to the applicant, is not transferable to any other person, and does not apply to any other business of the applicant. It is also intended to allow businesses that rely solely on electronic or off-premise transactions. Types in this category include, but are not necessarily limited to:
  - a. Business where all work and communication is conducted over the internet, telephone, and/or electronic mail; and that do not engage in any on-premise customer contact.
  - b. Businesses where a service is provided off-premise to a client or customer, with no client or customer visitation to the business location. In these instances, the business location is used solely for bookkeeping and electronic or telephone communication with clients and customers.
  - c. Businesses where the owner produces a product at the business location and offers it for sale over the internet or transports the products(s) to off-premise merchants, trade shows, flea markets, and the like for sale. No products are displayed or offered for sale to customers visiting the business location.
  
- B. Home Occupation, Class II:** A conditional use intended to allow businesses that generate limited quantities of customer visitation and/or merchandise deliveries. The business is personal to the applicant, is not transferable to any other person, and does not apply to any other business of the applicant. Any Home Occupation that is not clearly of type Class I shall be deemed to be Class II.

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Initial to confirm that you have read and understand these regulations: MJD

**C. The following regulations apply to both classes of home occupations:**

- a. A home occupation must be compatible with residential uses of the dwelling, must not change the residential character, and must not detract from the character of the neighborhood.
- b. A home occupation must not produce detectable fumes, odors, dust, heat, noise, vibration, glare, electro-magnetic field, electrical interference, or other effects outside the dwelling, including transmittal through vertical or horizontal party walls.
- c. A home occupation shall not require fixed installation of equipment or machinery that substantially changes the residential character of the dwelling.
- d. A home occupation may not occupy more than twenty-five (25) percent of the floor area of the principal structure, and may not require internal or external alterations or construction features not customary to a residential dwelling.
- e. A home occupation shall be conducted entirely within the principal building. No home occupation shall be conducted outdoors or in any accessory building or garage, except that parking of a vehicle used in conducting the business and/or simple storage of materials or goods used in association with the business may be permitted in such buildings.
- f. A home occupation may have no more than one vehicle with business identification, and shall have no vehicle with greater than one (1.0) ton capacity and shall not have any trailer.
- g. Except as required by State law, there shall be no exterior indication of the home occupation, no exterior signs, nor any other on-site advertising visible from the exterior.
- h. A home occupation shall not involve on-site employment of persons not residing in the dwelling, except as otherwise provided the City of Morgantown Zoning Ordinance.
- i. A home occupation shall be registered as a business with the City of Morgantown Finance Office and shall pay applicable business and occupation taxes.
- j. If the applicant is not the owner of the property at which the home occupation will be conducted, the applicant must verify that written notice of intention to conduct the home occupation has been given to the owner of the property.
- k. No sexually oriented business, as defined by the Zoning Ordinance, may be permitted as a home occupation.
- l. Merchandise delivery and/or pick-ups to and from the premises that are associated with the home occupation, and that utilize a commercial delivery service or the United States Postal Service, shall not exceed four (4) per day.

**D. The following regulations apply to only Home Occupations, Class 2:**

- a. If any resident living within 300 feet of a Home Occupation, Class 2, believes that it is being conducted in violation of the imposed conditions or believes that the home occupation is distracting from the residential character of the neighborhood, the resident can submit a petition for revocation of the conditional use permit. The Planning Director and/or the Board of Zoning Appeals will review such petitions. Such license may be suspended or revoked on a temporary or permanent basis or other conditions imposed on the business.
- b. If the holder of a conditional use Class II home occupation permit wishes to make changes in the conduct of the business that departs from the description in the application or from any other conditions or restrictions imposed by the Board of Zoning Appeals, the holder must obtain prior permission of the Board of Zoning Appeals.
- c. Retail sales shall not occur nor services provided on the premises on a regular basis or in substantial volume, such that customer visitation to the premises is deemed to be unreasonable. The Board of Zoning Appeals shall decide if customer visitation for the proposed type and volume of retail activities or services is reasonable when considering the conditional use permit application.
- d. Conditional Use Home Occupation applications must be filled out completely, or the application will be deemed to be incomplete and shall not be considered by the Board of Zoning Appeals.

CUIS-07



City of Morgantown  
West Virginia

# HOME OCCUPATION APPLICATION

## I. APPLICANT

Applicant Name:		Meagan Deeley	
Name of Business:		DBA Dave & Meagan's Deer Processing	
Mailing Address:	Street	Phone:	304-276-8495
	City	Mobile:	11 11
	State	Zip	
		Email:	mjk1059@yahoo.com

## II. PROPERTY

Street Address:		139 Linnehurst St Morgantown WV 26505	
Zoning:	R-1A	Tax Map No:	44
		Parcel No:	156

## III. DESCRIPTION

1. Please answer either "YES" or "NO" to each of the following descriptions that best explains your proposed home-based business. A "NO" response to any of these descriptions may lead to a Class 2 Home Occupation classification.

- Yes  No All work and communication is conducted over the internet, telephone, and/or electronic mail AND does not engage in any on-premise customer contact.
- Yes  No Services are provided off-premise to clients or customers, with no client or customer visitation to the business location. In these instances, the business location is used solely for bookkeeping and electronic or telephone communication with clients and customers.
- Yes  No Businesses where the owner produces a product at the business location and offers it for sale over the internet or transports the products(s) to off-premise merchants, trade shows, flea markets, and the like for sale. No products are displayed or offered for sale to customers visiting the business location.

2. Is the applicant the owner of the dwelling at which the home occupation will be conducted?

Yes  No If not, a copy of the applicant's written notice to the owner of the intention to conduct the business must be attached.

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City of Morgantown  
West Virginia

# HOME OCCUPATION APPLICATION

## IV. NARRATIVE

Please describe, in greater detail, the nature of your proposed enterprise.

customer drops off deer during  
hunting season, we process it, same  
customer picks meat back up

## V. ATTEST

I have read and understand the zoning regulations pertaining to Home Occupations. I understand that my signature indicates that all of the information contained on this application is true and correct, and if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. I understand that approval of this home occupation is dependent upon me abiding by all the regulations found in the City of Morgantown Zoning Ordinance. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process this application and enforce related approvals and conditions.

Meagan Deeley

Meagan Deeley

7-6-15

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

### OFFICE USE ONLY

Received: \_\_\_\_\_ Complete: \_\_\_\_\_  Class 1  Class 2 By: \_\_\_\_\_  
 Class 1 Approved  Class 1 Disapproved Date: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CU15-07



City of Morgantown  
West Virginia

# HOME OCCUPATION APPLICATION

## VI. SUPPLEMENTAL INFORMATION (Class 2 Conditional Use ONLY)

The Board of Zoning Appeals may impose additional conditions or restrictions and additional off-street parking depending on the nature of the proposed home occupancy. The following information is required to demonstrate the scale and scope of the proposed home-based enterprise.

1. The days and hours of operation will be: deer season only 7am-9pm

2. Will any customers, clients, students or other persons visit the dwelling on a regular basis?

Yes  No

If yes, state the average and maximum number of persons who will visit per week, per day, and at any one time.

Number per week: average =  maximum =

Number per day: average =  maximum =

Number at one time: average =  maximum =

With respect to persons visiting the dwelling, what percentage do you anticipate will come by car, as opposed to on foot or by public transportation?

Please explain:

4. Will any delivery trucks stop at the dwelling on a regular basis, either to deliver or pick-up materials, supplies, finished products or other items?

Yes  No

If yes, please state the average and maximum number of stops by delivery trucks per week and per day.

Number per week: average =  maximum =

Number per day: average =  maximum =

5. Describe the availability of on-street, off-street, and public parking at the site and in the vicinity.

both off street (2) on street (3)

**VII. FINDINGS OF FACT  
(Class 2 Conditional Use ONLY)**

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact Criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

**This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because,**

**1. The home occupation will be compatible with residential uses of the dwelling, in that:**

The business is only during deer season, done inside the house during certain days / hours

**2. The home occupation will not change the residential character of the dwelling, in that:**

all work done inside. All work is a small controllable volume

**3. The home occupation will not detract from the residential character of the neighborhood, in that:**

unless you enter the home, you would not know the business exists

**4. Congestion in the streets will not be increased, in that:**

small volume, only 1-2 at a time  
and we have off street parking