

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-14-06 (R2)**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 8th day of January, 2007:

Present:	Vote:
Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Stran L. Trout	Aye

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Motion was made by Mr. Sparks, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE AMENDING  
CHAPTER 98, NEW KENT COUNTY CODE  
AS IT APPLIES TO HOME OCCUPATIONS**

WHEREAS, the New Kent County Planning Commission and New Kent County Board of Supervisors have been requested by the New Kent County Board of Zoning Appeals to consider amending the home occupation provisions in Chapter 98 of the New Kent County Code; and

WHEREAS, the Board of Supervisors referred the proposal to the Zoning Ordinance Re-write Committee for recommendation which has been provided; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on 21 August 2006, and carefully considered the public comment received; and

WHEREAS, the Planning Commission voted 6:3:1 to forward a favorable recommendation to amend the home occupation provisions found in chapter 98 of the New Kent County code; and

WHEREAS, the proposed amendment has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, the Board of Supervisors has thoroughly considered the rules and regulations that apply to home occupations in the County in order to address, protect, and promote public convenience, necessity, general welfare and good zoning practices in the County; and

WHEREAS, the Board of Supervisors has also carefully reviewed the work and recommendation of the Zoning Ordinance Re-write Committee and the Planning Commission and has considered the economic development goals and objectives of the County's Vision 2020 Comprehensive Plan; and

NOW THEREFORE BE IT ORDAINED this, the 8<sup>th</sup> day of January 2007, by the New Kent County Board of Supervisors that Chapter 98 of the New Kent County Zoning Ordinance be amended as follows:

- A. Amend section 98-2 to add the following definition in correct alphabetical order among the existing conditions:

*Retail establishment* — Buildings, or other structures, where sales and services are intended to be to the ultimate consumer of those goods and services and the goods or raw materials are not intended for further sale or processing. The term includes retail shop, retail store, retail sales and services and is often further subdivided into two types:

- General retail -- Establishments that are general retail operations carry an assortment of merchandise from many different categories. Such establishments may include, but are not limited to, department store, discount store, farm store, and similar establishments. This category also includes larger scale retail operations, including retailers housed in large buildings with open display areas, which may sell in a narrow market segment, but have a large variety, selection, and inventory within that segment.
- Specialty retail – Establishments that are retail operations that specialize in one type or line of merchandise and which are located in smaller buildings which may be customized for the sale of those particular type of goods. Such stores may include but are not limited to apparel stores, jewelry stores, bookstores, shoe stores, stationery stores, antique stores, and similar establishments.

- B. Amend section 98-10(c)(6) as follows:

(c) The following accessory uses or structures shall be permitted in conjunction with a residence:

\* \* \*

(6) Home occupations in accordance with ~~section 98.16~~ the following conditions:

~~a. There shall be no display visible from the right of way or adjacent properties other than a sign not to exceed four square feet in size stating only the name of the occupant and/or the home occupation.~~

~~b. All activities associated with a home occupation in residentially zoned districts shall not utilize over 500 square feet of enclosed structure per parcel.~~

~~c. For all activities associated with a home occupation in an A-1 agricultural district which require a detached structure, such detached structure shall not exceed one percent of the size of the parcel. Additionally, this structure shall not exceed 5,000 square feet per parcel, regardless of size, without a conditional use permit.~~

~~d. There shall be no individuals other than family members residing on the premises employed at the site of the home occupation.~~

~~e. There shall be no outside storage associated with the home occupation.~~

~~f. Parking shall be provided for anticipated visitors, clients or customers, etc., on-site in a manner which does not alter the exterior appearance of the property in such a way as to cause an appearance which is nonresidential in character.~~

~~g. The home occupation shall be clearly incidental and subordinate to the residential use of the property.~~

~~h. 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.~~

~~i. All public contact related to such home occupation shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday.~~

~~j. In all residential districts, no more than one business vehicle and one piece of equipment shall be operated from the site or stored on-site overnight.~~

~~k. The following activities and uses shall not be permitted as home occupations, nor shall activities determined by the zoning administrator to be sufficiently similar in terms of type, scale and impact be permitted:~~

~~Vehicle repair and services~~

~~Antique shops~~

~~Funeral homes~~

~~Gift shops~~

~~Restaurants~~

~~Commercial stables or kennels~~

Boardinghomes

Tourist homes

Daycare or babysitting for more than ten children inclusive of children of the operator's immediate family.

C. Add new section 98-16 as follows:

**Sec. 98-16. Home occupations**

- (a) *Home occupations permitted.* Home occupations shall be permitted in conjunction with any legal residential use if in conformance with the following standards:
- (1) No person other than individuals residing on the premises shall be engaged on the premises in such home occupation.
  - (2) The home occupation shall be clearly incidental and subordinate to the residential use of the property. The home occupation use may not exceed the greater of four hundred (400) square feet or twenty-five percent (25%) of the living space of the residence.
  - (3) There shall be no change in the outside appearance of the building or premises or other evidence of the conduct of such home occupation visible from the street or adjacent properties. Signs and outdoor storage are not permitted except for a single four (4) square foot identification sign.
  - (4) There shall be no on-premises direct retail sales of goods or materials to the general public. This shall not be interpreted to preclude the occasional delivery of products produced on the premises in low volume or as a custom order, inclusive of specialty bakeries, dressmakers, tailors, artists and similar craft and artisan occupations.
  - (5) Exclusive of child or adult day care, on-site customer or client contact shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
  - (6) Parking is limited to two (2) off-street spaces in addition to the spaces required for residential occupancy. Parking must be ten feet (10') from any property line and shall be suitably surfaced and effectively screened and buffered by landscaping from view of adjacent residential properties.

- (7) The occupation or activity shall not require the use of machinery or equipment that creates noise, odor, smoke, dust or glare or is unreasonably dangerous or disruptive to persons residing in the home or on adjacent property nor shall flammable or toxic substances be utilized other than that which would customarily be utilized in the home in association with a hobby or avocation not conducted for gain or profit.
- (8) Commercial vehicles must be kept behind the principal building setback line applicable in the district unless kept in a garage or an enclosed and screened storage yard. Only two (2) vehicles or pieces of equipment may be operated from the site in connection with a home occupation except as permitted in paragraph (b)(2) below. In the R-0, R-0A, R-1, R-1A, R-2, R-3 and PUD districts, the maximum gross vehicle weight for any vehicle operated from the property shall be 26,000 pounds.

(b) *Certain home occupations limited to certain districts.*

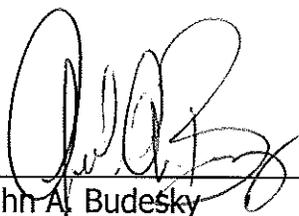
- (1) The following home occupations and those with similar patterns and intensities of customer visitation and activity levels may only be conducted in the A-1, R-0, R-0A, R-1, and R-1A, districts:
  - A. Photography studios,
  - B. Adult day care centers for not more than four (4), aged, infirm or disabled adults who reside elsewhere,
  - C. Tutoring, music or voice lessons or similar services for not more than four (4) persons, other than the family members of the provider, at any single time.
- (2) Small contracting businesses operated as a home occupation where equipment and materials are stored on site may only be conducted in the A-1 district provided that the criteria established below are met. The business office operations of a small contracting business where no materials or equipment are stored on the premises of the home, nor are employees and sub-contractors physically on the premises to receive task orders shall not be subject to the limitations of this subsection.

- A. The minimum area for any lot used for a small contracting business in the A-1 district shall be five (5) acres.
- B. All structures, parking and loading areas, and storage areas associated with such use shall be located behind the residential structure on the site and inside of all required setbacks and shall be effectively screened from view from all adjacent properties by landscaping supplemented if necessary by fencing.
- C. Not more than three (3) vehicles and/or pieces of equipment associated with the operation of a business shall be operated from the site or stored there overnight. Small transportable equipment including lawn mowers, chain saws, power hand tools, table, band or radial arm saws, and similar items shall not be included in this limitation.
- D. The total indoor area in accessory buildings used in connection with the home occupation uses shall not exceed a total of two thousand five hundred (2,500) square feet.
- E. The total outdoor area used in connection with the home occupation shall not exceed a total of one thousand five hundred (1,500) square feet.

(c) *Home occupations permitted by conditional use permit.* The board may authorize, by conditional use permit the enlargement or expansion or intensification or operation of home occupations beyond the limits otherwise specified herein, including the employment of one (1) or more non-resident employees. In so doing, the board shall specify the allowable number of non-resident employees and shall impose such conditions as deemed necessary to protect the residential character of the property and structure(s) used in the conduct of the home occupation and the properties in the general vicinity of the subject property. Such conditions may include a specific time in the future by which the home occupation shall cease on the property.

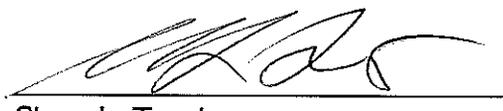
(d) *Prohibited home occupations.* The following uses shall not be permitted as accessory home occupations unless permitted as a principal use in the district in which located;

- (1) Automobile repair and servicing.
- (2) Funeral chapels or funeral homes.
- (3) General retail sales,
- (4) Medical or dental clinics or hospitals.
- (5) Restaurants, tearooms, or other eating or drinking establishments.
- (6) Animal clinics or hospitals, commercial stables, commercial kennels.
- (7) Other activities and land uses which the zoning administrator determines to be materially similar to the activities listed above.



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John A. Budesky  
County Administrator



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Stran L. Trout  
Chairman