

Warrant Article # \_\_\_\_\_

Are you in favor of the adoption of zoning amendment No. 2 to the existing town zoning ordinance as proposed by the Planning Board to amend Article XVI – Home Occupations of East Kingston as follows:

Original ordinance in *italics*, strike-through words deleted, new text in **bold**.

*ARTICLE XVI - HOME OCCUPATIONS (Adopted 3/89) (Amended 3/17) (Amended 3/18)*

**A. Purpose. The purpose of establishing conditions and limitations on home occupations is to recognize the increasing role of electronics and telecommunications in enabling individuals to work from their homes, and the growing use of computer and related equipment in the home which may have both personal and business applications. These regulations recognize that certain types of home-based businesses may be carried on without an adverse impact on the residential property or the neighborhood, but that limitations are necessary to preclude uses of a scale or type which may be incompatible in a residential context.**

**B. Home Occupation. The purpose of establishing conditions for home occupations is to provide for small scale business uses of the home which are subordinate to the principal use of the property as a residence, and that are virtually indistinguishable in appearance and level of traffic generation from other residences in a neighborhood. No home occupation shall be permitted which would be incompatible with traditional residential uses in the surrounding neighborhood.**

CA. Definitions:

*A Home Occupation is a professional occupation, service business or the production or selling of a product that is carried out from the primary dwelling **or accessory dwelling unit but must be** which is clearly accessory and subordinate to the residential use of the property. ~~A Home Occupation may not be conducted in an Accessory Dwelling Unit.~~ (Amended 3/18)*

~~An Invisible Home Occupation is one with no visible activity conducted outside the home.~~

*A Visible Home Occupation is a home-based business with a sign and/or customers visiting the business for the purchase of services or products. (Amended 3/96; Amended, 3/17)*

*A grandfathered nonconforming use is a use not permitted in the zoning district where it operates and that existed prior to adoption of the Home Occupation ordinance on January 6, 1989. The baseline of the nature and scale of the Grandfathered Non-Conforming Use shall be determined by the record established by the Grandfathered Non-Conforming Use Survey over the most recent 5 years. (Amended 3/18)*

**An Invisible Home Occupation is one with no visible activity conducted outside the home .**

*DB. Where Permitted: Home occupations are allowed in a residential dwelling unit by permit only. The Board of Selectmen may issue a Home Occupation Permit after the Planning Board holds a public hearing on the application with public notice per RSA 675:7 paid for by the applicant (Amended 3/91) and provided the provisions of this section are met. (Amended 3/96)*

**EC. Visible Home Occupation Standards:**

*All Visible Home Occupations shall comply fully with the following standards to protect public health and safety and shall have no impact to the character of residential neighborhoods and the town.*

*1. The Home Occupation must be located within a dwelling unit, or in a building or structure accessory to a dwelling unit.*

*2. The exterior of the building must not create or display any evidence of the home occupation, except a permitted sign and parking for customers and delivery vehicles. Variation from the residential character is prohibited.*

3. Adequate off-street parking must be provided for customers and deliveries. All businesses must provide adequate turnaround, drop-off, and pick-up areas in order to prevent cars from waiting in the street right-of-way and to prevent cars from backing up into the public right-of-way. The Home Occupation shall not require regular need for delivery of materials to and from the premises by large commercial vehicles ~~over twelve thousand (12,000) pounds GVWR~~ (e.g., tractor trailers and heavy commercial vehicles). (Amended 3/90)

**4. The parking of one commercial vehicle less than 14,000 GVWR is permitted in accordance with Article III-B – Residential / Agricultural District.**

~~45.~~ The Home Occupation must be conducted by a resident or owner of the property.

~~56.~~ The home occupation must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights, or refuse matter.

~~67.~~ Home occupation must not cause excessive vibrations, store or handle combustible or explosive materials, or negatively impact the physical condition, safety, access or traffic volume of existing roads.

~~78.~~ The Home Occupation must not utilize more than 25% of the gross floor area including dwelling, basement and accessory structures.

~~89.~~ Not more than two non-residents (of the premises) may be employed by the Home Occupation. For the purposes of this section, the Planning Board shall determine whether sales or other personnel, who conduct the majority of their business away from the property, shall be included in the count of those employed at the premises. (Amended 3/96)

~~910.~~ Disposal of all solid waste generated by the business must be at the business owner's expense, and shall not be provided by the Town of East Kingston. (Adopted 3/07)

**F. Invisible Home Occupation Standards:**

**1. The Home Occupation must be located within a dwelling unit, or in a building or structure accessory to a dwelling unit.**

**2. The exterior of the building must not create or display any evidence of the home occupation.**

**3. The Home Occupation shall not require regular need for delivery of materials to and from the premises by large commercial vehicles (e.g., tractor trailers and heavy commercial vehicles).**

**4. The Home Occupation must be conducted by a resident or owner of the property.**

**5. The home occupation must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights, or refuse matter.**

**6. Home occupation must not cause excessive vibrations, store or handle combustible or explosive materials, or negatively impact the physical condition, safety, access or traffic volume of existing roads.**

**7. The Home Occupation must not utilize more than 25% of the gross floor area including dwelling, basement and accessory structures.**

**8. Not more than two non-residents (of the premises) may be employed by the Home Occupation. For the purposes of this section, the Planning Board shall determine whether sales or other personnel, who conduct the majority of their business away from the property, shall be included in the count of those employed at the premises.**

**9. Disposal of all solid waste generated by the business must be at the business owner's expense, and shall not be provided by the Town of East Kingston.**

**FGD. Exceptions:**

1) If a property is located on a State Road (NH Routes 107, 107A, 108), no more than four non-residents (of the premises) may be employed, and the home occupation use of the dwelling shall not utilize more than 50% of the gross floor area (including dwelling, basement and accessory structures).

~~2) Administrative support for businesses or services that are conducted on or off-site of the residential premises are exempt from the public hearing of the application process but must complete a Home Occupation application for the purposes of municipal record keeping, pay the annual Invisible Home Occupation Permit Fee, and meet with the Planning Board to present the application and receive a favorable recommendation from the Planning Board. (Amended 3/97) (Amended 3/18) (Amended 3/23)~~

**GHE. Permitted Uses:** The following uses (including but not limited to) may be permitted and must be secondary to the residential use of the dwelling unit. **All uses must be in accordance to State requirements for that specific business and proof (State license/permit) shall be submitted to the Board of Selectmen on an annual basis as part of the annual Home Occupation Permit renewal process.**-(Amended 3/12)

1. Medical, health and dental offices, fitness training, exercise, health counseling;
2. Other professional offices and instructional services (i.e., cooking, crafts, arts);
3. Tailor, seamstress;
4. Artisan, writer or musician;
5. Day care for ~~up to twelve preschool plus five school-age~~ **four additional** children **than whom already resides in the dwelling**; any day care use shall be in compliance with the State Department of Health and Welfare's "He-C4002.N.H. Child-Care Facility (Day Care) Licensing and Operating Standards". ~~Twelve preschool plus five school-age children shall be the maximum number allowed to be cared for in the Residential District.~~ (Amended 3/90)
6. Bookkeepers, accountants, secretarial services;
7. Real estate and insurance offices;
8. ~~Beauticians, -~~ **aestheticians, massage therapists, stylists and barbers, with each type of business restricted to a maximum of one chair**;
9. Art, craft, hobby, and antique shops;
- ~~10. Vehicle light repair and maintenance services for not more than three vehicles at any given time and not more than two vehicles parked outside. (Adopted 3/06);~~
- ~~11.10.~~ Animal care and training (number of animals to be determined by the Planning Board) (Amended 3/12);
- ~~12.11.~~ Occupations not listed above that are of a similar nature, scale and impact with review by the Planning Board, and only if the Board of Selectmen finds that the occupation meets the provisions of this section. (Amended 3/96)

**HIF. Uses Not Permitted:** The following uses are not permitted as a Home Occupation: adult oriented business; fireworks storage, manufacture and sales; industrial and commercial manufacturing or activity; vehicle **repair, vehicle restoration and auto body shops**; storage, handling or sales or regulated substances and **uses involving the parking or storage of tractor trailers, or the parking or storage of trucks with a gross vehicle weight greater than 14,000 lbs.** (Adopted 3/13; Amended 3/17)

**IIG. Permit Required:** An annual permit to operate each home occupation must be obtained from the Board of Selectmen during the second quarter of the calendar year beginning in 1989. Agricultural/Farm home occupations and Family Day Care operations (~~up to six preschoolers plus up to three school-age children (Section E.5)~~) shall be exempt from these permitting procedures. (Amended 3/91, 3/90, 3/96, and 3/06)

There shall be an annual permit fee (see Land Use Board Ffee schedule) charged to cover the costs for Board of Selectmen review, administration and enforcement of the ordinance. (Amended 3/06, 3/09)

Businesses whose owners can demonstrate that they do not create any traffic, visual, or other impacts on the neighborhood may be deemed by the Selectmen as being an "invisible business with a reduced permit fee. An invisible status does not relieve these businesses from compliance with the provisions of this and all other sections of the zoning ordinance. (Adopted 3/97, Amended 3/06; Amended 3/17)

A minimum annual fee (see Land Use Board Ffees schedule) shall be charged to those home occupations identified as "invisible" to defray the administrative costs of annual review and Board of Selectmen oversight. (Adopted 3/97, Amended 3/09)

~~JKH~~. Grandfathered Nonconforming Uses: Any pre-existing grandfathered nonconforming use of a commercial business nature in operation at the date of the public posting of this ordinance (January 6, 1989) are required to submit an annual Home Occupation Application and fee and complete a Grandfathered Non-Conforming Use Survey. Annual Home Occupation permits shall not be issued without a completed Grandfathered Non-Conforming Use Annual Survey. Any Grandfathered Nonconforming Use in effect as of January 6, 1989 shall not increase in scale or nature of the business. The baseline of the nature and scale of the Grandfathered Non-Conforming Use will be determined by the record established by the Grandfathered Non-Conforming Use Survey for the most recent year up to a 5-year period. In addition, such Grandfathered Nonconforming Uses shall not be relieved from compliance with other state and local regulations. (Amended 3/18)

~~KLJ~~. Signs for Visible Home Occupations: Signs for Home Occupations may be erected and maintained only when in compliance with Article VII - General Provisions and the following provisions. (Amended 3/91)(Amended 3/13)

1. No sign shall be internally illuminated, or have flashing or moving parts;
2. No sign may have more than two sides.
3. No sign shall be allowed for invisible businesses.

~~LNJ~~. Procedure: Application shall be made to the Selectmen's office, including public hearing fees paid in accordance with the Town of East Kingston Subdivision Regulations. Abutters will be notified by certified, return-receipt mail, the public will be notified by public hearing notice posted on the town's website or newspaper of general circulation and posted in two other locations, and the applicant will be scheduled for a public hearing with the Planning Board. After the public hearing, the Planning Board will make a recommendation to the Selectmen as to whether the Home Occupation Permit should be granted. The application will then be forwarded to the Selectmen who will issue their final decision. (Adopted 3/96) (Amended 3/23)

~~MOK~~. Application: The Home Occupation Permit Application and Home Occupation Permit Worksheet must be filled out in full detail to be accepted for processing. The Planning Board shall hold a public hearing and make a recommendation on the application to the Board of Selectmen. If the property is part of a Homeowners Association or Condominium Association, the applicant shall provide a letter from the Homeowners Association that the Home Occupation is allowed. If a tenant of a rental property, the applicant shall provide a letter from the property owner that the Home Occupation is allowed. (Amended 3/01)

~~NPL~~. Enforcement: This section shall be administered and enforced by the Board of Selectmen. Any person who violates the provisions of this section shall be fined \$100 for each offense.

Each day that a violation is continued shall constitute a separate offense. No action may be brought about under this provision unless the alleged offender has been given at least a 7-day notice from the Selectmen by certified mail, return receipt requested, that a violation exists.

In addition, such Home Occupations shall not be relieved from compliance with other state and local regulations.