

**Ordinance To Amend And Re-Enact The Zoning Ordinance Of The City Of Hampton, Virginia By Amending Sections 3-2 Entitled, "Table of Uses Permitted" and Section 3-3 Entitled, "Additional Standards On Uses," to Modify Regulations Pertaining to Home Occupation, Kennel, and Veterinarian Office/Hospital Uses and to Add New Uses Of Animal Day Care, Animal Shelter, and Home Based Rescue**

**Whereas**, the public necessity, convenience, general welfare and good zoning practice so require;

**BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Sections 3-2 and 3-3 of the Zoning Ordinance of the City of Hampton, Virginia, be amended to read as follows:

**Sec. 3-2. Table of uses permitted.**

**(a) Table of Uses Permitted in Standard Zoning Districts.**

*[See attached use table for changes.]*

**(b) Table of Uses Permitted in Special Zoning Districts.**

*[See attached use table for changes.]*

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**Section 3-3. – Additional standards on uses.**

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(6) Dwelling unit for resident caretaker/watchman. In the M-1, M-2, M-3, LFA-1, LFA-2, LFA-4, LFA-6, and HRC-3 districts, resident caretakers and watchmen must be employed on the premises.

(7) Home occupation. In the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, LFA-5, RT-1, BB-1, BB-2, BB-3, BB-4, BB-5, *PH-1, PH-2, PH-3*, DT-1, DT-2, DT-3, FM-1, FM-2, and FM-3 districts, home occupations shall be permitted only as an accessory use and only where the character of such use is such that it is clearly subordinate and incidental to the principal residential use of a dwelling. Home occupations that have the following general characteristics are permitted:

(a) Only those persons who are bona fide residents of the premises may participate in the home occupation. There shall be no on-site employment or use of labor from persons who are not bona fide residents of the dwelling.

(b) No mechanical or electrical equipment shall be employed within or on the premises other than machinery or equipment customarily found in a home; except that computer systems, fax machines and equipment customarily associated with home office equipment shall be permitted.

(c) No outside display of goods and no outside storage of any equipment or materials used in the home occupation shall be permitted.

(d) There shall be no audible noise, or any detectable vibration or odor from activities or equipment of the home occupation beyond the confines of the dwelling, or any accessory building, including transmittal through vertical or horizontal party walls.

(e) The storage of biohazardous waste, hazardous waste or materials not otherwise and customarily associated with home use is prohibited.

(f) The home occupation must be conducted entirely within the dwelling or an accessory structure, or both. Not more than two hundred (200) square feet of floor area ~~of the dwelling~~ shall be used in the conduct of the home occupation, including storage of stock-in-trade or supplies.

(g) All parking in connection with the home occupation (including, without limitation, parking of vehicles marked with advertising or signage for the home occupation) must be in driveway and garage areas on the premises, or in available on-street parking areas.

(h) Except for the sign authorized by Chapter 10, there shall be no evidence or indication visible from the exterior of the dwelling that the dwelling is being used ~~in whole or in part~~ for any purpose other than as a residential dwelling.

*(i) Home occupation shall not include the following uses, as defined by Chapter 2:*

*(i) any vehicle repair, vehicle sales, or vehicle storage for vehicles other than the owner/occupant's personal vehicle(s);*

*(ii) motor vehicle display for purposes of sale or lease other than the owner/occupant's personal vehicle;*

*(iii) machine shop/metal working;*

*(iv) body piercing and/or tattoo parlor; and*

*(v) kennel, home based rescue, animal shelter, and animal day care.*

(8) Group home 2 in the MD-1, MD-2, MD-3, MD-4, R-M, C-1 and C-2 districts, or;

Juvenile residence in the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1 and C-2 districts.

(a) No facility shall be located within a three-quarter ( $\frac{3}{4}$ ) mile radius of any existing facility of the same type;

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(22) Live entertainment 1, in conjunction with a restaurant or micro-brewery/distillery/winery use, as specified in the section 3-2 table of uses permitted.

Live entertainment 1 venues are defined as venues providing live entertainment only within the building, without a dance floor or similar gathering area, and having performance space

of 75 square feet or less. Any other live entertainment venue is considered a live entertainment 2 venue.

Live entertainment 1 is subject to a live entertainment zoning administrator permit with the following attached conditions:

(a) Live entertainment shall be conducted inside the building only;

(b) A floor plan shall be provided and approved showing the arrangement of tables, chairs, and performance area. The layout shall remain in place for live entertainment performances and no dance floor or similar open gathering space shall be permitted

(c) The hours of operation for live entertainment shall not extend past 10:00 p.m. Sunday through Thursday and 11:59 p.m. Friday and Saturday;

(d) The live entertainment shall comply with section 22-9 of the City Code, as amended, pertaining to noise.

(e) Each ingress/egress point in the building shall be monitored by an attendant during the hours of operation, and additional attendants may be required to monitor vehicle parking areas that serve the building and maintain and control patron behavior upon exit of the building into the parking areas;

(f) The restaurant or micro-brewery/distillery/winery shall meet the minimum requirements for parking as established in Chapter 11 herein;

(g) The restaurant or micro-brewery/distillery/winery shall maintain compliance with all applicable federal and state laws and requirements of licensing agencies, including but not limited to ABC licensing;

(h) The live entertainment permit shall be valid for eighteen (18) months from the date of approval by the zoning administrator. After twelve (12) months of operation, prior to the expiration date, the live entertainment permit will be scheduled for review by the zoning administrator to consider if the continuation of the live entertainment permit would not be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would not cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land in the zoning district. The review will be based, in part, upon a physical site review, traffic flow and control, access to and circulation within the property, off-street parking and loading, hours and manner of operation, noise, light, neighborhood complaints, police service calls, and any violations of any federal, state or local law. If, after review, the zoning administrator determines that the live entertainment permit would not be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would not cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the zoning administrator may administratively extend the live entertainment permit in five-year increments. Each such extension shall be subject to the same administrative review. If the zoning administrator determines that that the live entertainment permit would be detrimental to the public health, safety and welfare and that to continue the

activities under the live entertainment permit would cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land the zoning district, the zoning administrator will notify the permittee of a denial of the extension in writing in the same manner as required under chapter 1 of the zoning ordinance. A permittee aggrieved by the decision of the zoning administrator may appeal the decision of the zoning administrator to the board of zoning appeals in the manner set forth in chapter 13 of the zoning ordinance. Nothing contained herein shall limit the rights of a permittee to seek a new live entertainment permit; and

(i) The zoning administrator, or appointed designee, shall have the ability to revoke the live entertainment permit upon violation of any of the above conditions.

~~(23) Reserved.~~ *Animal Day Care in R-R, C-1, C-2, C-3, M-1, M-2, M-3, BB-3, BB-4, BB-5, HRC-1, HRC2, LBP, DT-1, DT-2, PH-1, PH-2, PH-3, FM-2, FM-3, and FM-4 districts shall comply with the following minimum conditions:*

*(a) In the R-R district, all buildings and areas used for such purposes shall be located at least one hundred (100) feet from all side and rear property lines.*

*(b) In all districts, the use shall be conducted wholly within an enclosed building except with respect to an outdoor run complying with the below standards. In all cases, animal-related noises shall comply with City Code Sec 22-9, as amended.*

*(c) The use shall comply with all requirements of City Code Chapter 5, as amended, including but not limited to requirements regarding licensing and care of the animals.*

*(d) If an outdoor run is included, the following additional conditions shall also apply:*

*(i) Animals shall not be kept unattended in the outdoor run during the hours of 10 pm to 7 am;*

*(ii) The outdoor run shall be fenced with a minimum fence height of six (6) feet; and*

*(iii) If the lot upon which the establishment is located abuts any lot zoned R or MD district, any outdoor run shall comply with the following:*

*(a) The outdoor run shall not be located closer than twenty (20) feet of the residentially zoned lot's abutting lot line.*

*(b) If the outdoor run is located within one hundred (100) feet of any residentially zoned lot, any fencing used for the perimeter of the enclosure shall be opaque and at least six (6) feet in height. Barbed wire and electric fences are expressly prohibited.*

*(c) If the outdoor run is located within one hundred (100) feet of any residentially zoned lot, it shall have screening per the City of Hampton Landscape Guidelines.*

(24) Religious facility in the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, C-3, RT-1, BB-1, BB-2, BB-3, BB-4, BB-5, PH-1, PH-2, PH-3, DT-1, DT-2, and DT-3 districts.

Religious facilities and accessory uses such as convents, Sunday schools, parish houses, and assembly rooms (excluding rescue mission or temporary revival), are permitted provided:

(a) For the above uses with a capacity within any single assembly area, of no more than five hundred (500) people, no vehicular access shall be permitted from any residential street unless required for emergency vehicular access.

(b) For the above uses with a capacity within any single assembly area of between five hundred one (501) and one thousand (1,000) people, no vehicular access shall be permitted from any residential or minor collector street unless required for emergency vehicular access.

(c) For the above uses with a capacity within any single assembly area in excess of one thousand (1,000) people, no vehicular access shall be permitted from any residential, minor collector, or collector street unless required for emergency vehicular access.

(d) Notwithstanding the provisions of chapter 12, Nonconformities, a religious facility may make additions to its physical plant, without regard to any street access requirements or limitations, provided:

(i) Any addition or construction of additional buildings which increases sanctuary seating above the limits which would otherwise be imposed by street access requirements, shall occur only on the property owned in accordance with section 57-12 of the Code of Virginia by the religious facility at the time of adoption of this ordinance;

(ii) All additions or construction of additional buildings shall comply with the setback requirements in effect at the time of submission of the site plan for the addition or construction; and

(iii) Any addition or construction of additional buildings which increases sanctuary seating shall be accompanied by additional parking spaces for the new seating provided at the ratio required at the time of submission of the site plan for such addition or construction.

...

(27) Silviculture/plant nursery, including retail sales in all districts. The following minimum conditions shall be met:

(a) The minimum lot size for such a use shall be two (2) acres;

(b) The owner and operator of the premises occupy a residence on site;

(c) The rental, repair, or sale of motorized equipment or tools other than hand tools shall be prohibited;

(d) The operations of such a use, including storage, but excluding outside plant production storage and sale shall be conducted within a completely enclosed structure;

(e) The sale or storage of liquid or dry chemicals unless same is pre-packaged by the manufacturer shall be prohibited;

(f) There may be only one (1) unlighted exterior sign in accordance with local zoning ordinances; and

(g) Off-street parking on site is provided in conformance with chapter 49~~11~~ of the zoning ordinance.

~~(28) Veterinarian office/hospital in the R-R district.~~

~~All buildings and areas used for such purposes shall be located at least one hundred (100) feet from all side property lines.~~

~~Veterinarian office/hospital in the C-2, C-3, and RT-1 districts. Use shall be conducted wholly within an enclosed building.~~

*(28) Veterinarian office/hospital in R-R, C-2, C-3, M-1, M-2, M-3, RT-1, LBP, PH-1, PH-2, and PH-3 shall comply with the following minimum conditions:*

*(a) In the R-R district, all buildings and areas used for such purposes shall be located at least one hundred (100) feet from all side and rear property lines.*

*(b) In all districts, the use shall be conducted wholly within an enclosed building except with respect to an outdoor run complying with the below standards. In all cases, animal-related noises shall comply with City Code Sec 22-9, as amended.*

*(c) The use shall comply with all requirements of City Code Chapter 5, as amended, including but not limited to requirements regarding licensing and care of the animals.*

*(d) If an outdoor run is included, the following additional conditions shall also apply:*

*(i) Animals shall not be kept unattended in the outdoor run during the hours of 10 pm to 7 am;*

*(ii) The outdoor run shall be fenced with a minimum fence height of six (6) feet; and*

*(iii) If the lot upon which the establishment is located abuts any lot zoned R or MD district, any outdoor run shall comply with the following:*

*(a) The outdoor run shall not be located closer than twenty (20) feet of the residentially zoned lot's abutting lot line.*

*(b) If the outdoor run is located within one hundred (100) feet of any residentially zoned lot, any fencing used for the perimeter of the enclosure shall be opaque*

216 *and at least six (6) feet in height. Barbed wire and electric fences are expressly*  
217 *prohibited.*

218 *(c) If the outdoor run is located within one hundred (100) feet of any residentially*  
219 *zoned lot, it shall have screening per the City of Hampton Landscape Guidelines.*

220 (29) Accessory use/structure for keeping of recreational animals in the R-R, R-LL, R-43,  
221 R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, R-M, C-1, C-2, C-3, RT-1, DT-1, and DT-2  
222 districts. Accessory building, structure, or use, to include a private stable for the keeping of  
223 or the use of, horses, ponies, or similar animals customarily used for recreational purposes  
224 are permitted provided:

225 (a) That such a stable or such use shall not be permitted on a lot containing less than one  
226 (1) acre; if two (2) or more such animals but not exceeding eight (8) are to be kept, a  
227 minimum lot area of two (2) acres shall be required; if more than eight (8) such animals are  
228 to be kept, a minimum lot area of three (3) acres shall be required; and

229 (b) That no structure used as a private stable, manure pit, or bin shall be located nearer  
230 than sixty (60) feet to any adjacent lot line, except where such lot line abuts a water course  
231 at least sixty (60) feet in width.

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233 (37) Agriculture/farming in the R-R district shall be on a lot with a minimum of three (3)  
234 acres.

235 (38) Kennel *in the R-R, C-3, M-1, M-2, M-3, and LBP shall comply with the following*  
236 *minimum conditions:*

237 *(a) In the R-R district, kennels shall have all buildings and areas used for such purposes*  
238 *located at least one hundred (100) feet from all side and rear property lines.*

239 *(b) In all districts, the use shall be conducted wholly within an enclosure as defined in City*  
240 *Code Chapter 5, as amended. In all cases, animal-related noises shall comply with City*  
241 *Code Sec 22-9, as amended.*

242 *(c) The use shall comply with all requirements of City Code Chapter 5, as amended,*  
243 *including but not limited to requirements regarding licensing and care of the animals.*

244 *(d) If an outdoor run is included, the following additional conditions shall also apply:*

245 *(i) Animals shall not be kept unattended in the outdoor run during the hours of 10 pm*  
246 *to 7 am;*

247 *(ii) The outdoor run shall be fenced with a minimum fence height of six (6) feet; and*

248 *(iii) If the lot upon which the establishment is located abuts any lot zoned R or MD*  
249 *district, any outdoor run shall comply with the following:*

250 *(a) The outdoor run shall not be located closer than twenty (20) feet of the*  
251 *residentially zoned lot's abutting lot line.*

252                   ***(b) If the outdoor run is located within one hundred (100) feet of any residentially***  
253                   ***zoned lot, any fencing used for the perimeter of the enclosure shall be opaque***  
254                   ***and at least six (6) feet in height. Barbed wire and electric fences are expressly***  
255                   ***prohibited.***

256                   ***(c) If the outdoor run is located within one hundred (100) feet of any residentially***  
257                   ***zoned lot, it shall have screening per the City of Hampton Landscape Guidelines.***

258           (39) Silviculture/plant nursery, no retail sales in the RT-1 district shall be on a minimum of  
259           five (5) acres.

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