Monroe County Code Section 9.5-246(a)[Commercial Fishing Village District] is amended by adding subparagraph (6) that reads as follows:

(6) Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(a)(1) [Commercial Fishing Special District 1] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(b)(1) [Commercial Fishing Special District 2] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(e)(1) [Commercial Fishing Special District 5] is amended by adding subparagraph m. that reads as follows:

m. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(h)(1) [Commercial Fishing Special District 8] is amended by adding subparagraph d. that reads as follows:

d. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(l)(1) [Commercial Fishing Special District 12] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(m)(1) [Commercial Fishing Special District 13] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(p)(4) [Commercial Fishing Special District 16] is amended by adding subparagraph c. that reads as follows:

c. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(q)(3) [Commercial Fishing Special District 17] is amended by adding subparagraph e. that reads as follows:

e. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(s)(1) [Commercial Fishing Special District 20] is amended by adding subparagraph m. that reads as follows:

m. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-248 (a)(10) [Mixed Use District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code is amended to create Section 9.5-259 that reads as follows:

Sec. 9.5-259. Home Occupation Special Use Permit

(a) *Applicability:* Home occupation special use permits may be approved in any zoning district in which residential use is allowed, including nonconforming residential uses where such use was otherwise lawfully established.

(b) *Applications:* Applications for home occupation special use permits shall be submitted to the planning director on forms provided by the director. The application shall include a properly executed affidavit and agreement from the applicant attesting to and agreeing to compliance with the standards and requirements for home occupations as outlined in this section.

(c) *Authority:* The planning director is authorized to approve and otherwise administer home occupational special use permits as specifically set forth in this section.

(d) *Review by the planning director:* Within fifteen (15) working days of receiving a complete application, the planning director shall determine whether the proposed home occupation is consistent with the following standards and requirements:

(1) The home occupation is incidental and secondary to the residential use of the building;

(2) The home occupation does not change the essential residential character of the use;

(3) Not more than one (1) person who is a nonresident of the dwelling unit is employed by the home occupation;

(4) The home occupational use is not more than twenty (20) percent of the total floor area of the dwelling;

(5) The home occupation does not involve any retail sales or service which would require customers to visit the residence, nor does the physical address of the residence appear on any advertising materials including stationary and business cards;

(6) The home occupation is not visible from any other residential structure;

(7) No sign advertising the home occupation is displayed on the premises;

(8) The home occupation does not involve the outdoor storage of any equipment or materials;

(9) The home occupation does not utilize mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential building or accessory structure; and

(10) The home occupation does not increase the average daily automobile trips generated by the residence in which the home occupation is located; and

nuisance outside the residential building or accessory structure; and

(10) The home occupation does not increase the average daily automobile trips generated by the residence in which the home occupation is located; and

(11) Upon issuance of a permit, the applicant must apply for and maintain an occupational license for the home occupation where otherwise required.

(e) *Public notification of pending approval: The planning director,* after determining that an application for a home occupation special use permit is in compliance with the requirements of this division, shall give notice of the pending approval as follows:

(1) The planning director shall provide written notice by regular mail to owners of real property located within 300 feet of the property which is the subject of the proposed home occupation; and

(2) The applicant shall post the property of the proposed home occupation with a waterproof sign at least four (4) square feet in front surface area, which is so lettered as to be easily visible from all public streets and public ways abutting the property. The property shall remain posted for no less than thirty (30) calendar days beginning within five (5) working days of the date that the application is deemed to be in compliance by the planning director; and

(3) The above notices shall provide a brief description of the proposed home occupation and indicate where the public may examine the application. The cost of providing this notice shall be borne by the applicant.

(f) *Decision by the planning director:* After thirty (30) calendar days of posting the property and upon a finding that the proposed home occupation complies with all of the requirements of this section, the planning director shall issue a home occupational special use permit, with or without conditions. The permit and the affidavit attesting to compliance with the above requirements shall be filed with the clerk of the court and recorded in the official records of Monroe County. The permit shall authorize only the current resident of the dwelling unit for

posting, a public hearing date shall be scheduled on the application for a home occupational special use permit. All costs related to the public hearing shall be the responsibility of the applicant. The public hearing shall be conducted by the planning commission in accordance with the provisions of Sec. 9.5-46;

(h) *Revocation:* The planning director shall have the authority to initiate actions to revoke home occupation special use permits and all such actions shall require a public hearing to be conducted before the planning commission in accordance with Section 9.5-22. The planning commission shall have the authority to revoke any home occupation special use permit where there is competent and substantial evidence to establish any of the following:

(1) That an application for home occupation special use approval contains knowingly false or misleading information;

(2) A violation by the holder of a home occupation special use permit of any provision of this section;

(3) A violation of any condition of the home occupation special use permit imposed pursuant to this section; or

(4) That the home occupation constitutes a public or private nuisance under Florida law.

* Underlined text is new. * ~~Strikethrough text is deleted.~~

IV. RECOMMENDATIONS

The Planning Commission and Planning Director recommend **APPROVAL** to the Monroe County Board of County Commissioners of the proposed text amendment for *Home Occupation Special Use Permit* in the Monroe County Land Development Regulations.

PC RESOLUTION

MONROE COUNTY, FLORIDA
PLANNING COMMISSION RESOLUTION #P78-02

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING TO THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS TO AMEND MONROE COUNTY CODE SECTION 9.5-4 (H-6, HOME OCCUPATION), MONROE COUNTY CODE TO PROVIDE A CLEARER DEFINITION; AMENDING SECTIONS 9.5-233, 234, 235.1, 236, 237, 238, 239, 240, 241, 242, AND 248 TO DELETE PUBLIC HEARING REQUIREMENT; AMENDING SECTION 9.5-247 (COMMERCIAL FISHING SPECIAL DISTRICTS), TO ALLOW HOME OCCUPATIONS; CREATING SECTION 9.5-259 TO PROVIDE RULES AND PROCEDURES FOR ADMINISTRATIVE APPROVAL BY THE PLANNING DIRECTOR OF HOME OCCUPATIONS.

WHEREAS, Section 9.5-4. Definitions (H-6) defines Home Occupations and continues inappropriately to describe the administrative methodology required to receive a special permit; and

WHEREAS, Section 9.5-4 (H-6) should contain only a definition of Home Occupation; and

WHEREAS, required standards for a home occupation and the applicable administrative regulations should appropriately be located in the regulatory sections of the Monroe County Land Development Regulations; and

WHEREAS, during the past ten (10) to twenty (20) years the numbers of home occupations have increased dramatically; and

WHEREAS, the issuance of a special permit for home occupations only after a public hearing by the Planning Commission has become an onerous and time consuming effort for the applicant, the Commission, and Staff; and

WHEREAS, the Monroe County Planning Commission finds that there is a need to revise the definition of Home Occupation; and

WHEREAS, the Monroe County Planning Commission finds that there is a need to amend the regulations for issuance of a home occupation special permit; and

WHEREAS, at a public meeting of October 3, 2002 the Monroe County Development Review Committee reviewed the staff report the Findings of Fact and the proposed amendment and recommended approval of the proposed text amendment; and

WHEREAS, the Monroe County Planning Commission, during regular meetings held on November 6, 2002, on November 19, 2002 and on December 4, 2002 conducted hearings on the proposed text and recommended approval of the text to the Monroe County Board of County Commissioners; and

WHEREAS, based on the Monroe County Code the Planning Commission finds that the proposed change is consistent with Section 9.5-511 (d) (5) b. (iv) New Issues and (V) Recognition of a need for additional detail or comprehensiveness; and

WHEREAS, based on the Monroe County Year 2010 Comprehensive Plan, the Planning Commission finds that the proposed text amendment is consistent with and furthers the goals of the Plan; and

WHEREAS, The Monroe County Planning Commission hereby supports the decision of the staff of the Monroe County Planning Department; and

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, that the preceding findings of fact support the decision to recommend **APPROVAL** to the Monroe County Board of County Commissioners of the following amendment to the text of the Monroe County Land Development Regulations as requested by the Monroe County Planning Department:

Monroe County Code Section 9.5-4 (H-6) is amended to read as follows:

Home occupation means a business, profession, occupation or trade conducted within a residential building or accessory structure for gain or support by a resident of the dwelling. ~~which:~~

~~(1) Is incidental and secondary to the residential use of the building;~~

~~(2) Does not change the essential residential character of the use;~~

~~(3) Employs no more than one (1) person who is a nonresident of the building;~~

~~(4) The resident of the dwelling unit holds a valid occupational license for the use;~~

~~(5) Is confined to no more than twenty (20) percent of the total floor area of the dwelling;~~

~~(6) Does not display or sell any stock in trade on the premises;~~

~~(7) Is not visible from any other residential structure;~~

~~(8) Does not store outside of the dwelling any equipment or materials used in the home occupation;~~

~~(9) Does not utilize mechanical, electrical or other equipment which produces noise, electrical or magnetic interference vibration, heat, glare, or other nuisance outside the residential building or accessory structure; and~~

~~(10) Does not increase the average daily automobile trips generated by the residence in which the home occupation is located.~~

~~Such a home occupation may be conducted only after approval of the planning commission, which shall hold a special use hearing on the request, except in commercial fishing residential where a special use permit is not required. The planning commission may deny or grant a special use permit for the home occupation with such other conditions deemed in the public interest and consistent with these requirements.~~

Monroe County Code Section 9.5-233(a)(3) [Urban Residential District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-234(a)(4) [Urban Residential-Mobile Home District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-235.1(a)(3) [Urban Mobile Home-Limited District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-236(a)(4) [Sub Urban Residential District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-237(a)(4) [Sub Urban Residential District – Limited] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-238(a)(3) [Sparsely Settled Residential District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-239(a)(3) [Native Area District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-240(a)(3) [Mainland Native Area District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-241(a)(3) [Offshore Island District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-242 (a)(4) [Improved Subdivision District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code Section 9.5-245(d) [Commercial Fishing Area District] is amended by adding subparagraph (4) that reads as follows:

(4) Home occupations--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-246(a)[Commercial Fishing Village District] is amended by adding subparagraph (6) that reads as follows:

(6) Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(a)(1) [Commercial Fishing Special District 1] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(b)(1) [Commercial Fishing Special District 2] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(e)(1) [Commercial Fishing Special District 5] is amended by adding subparagraph m. that reads as follows:

m. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(h)(1) [Commercial Fishing Special District 8] is amended by adding subparagraph d. that reads as follows:

d. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(l)(1) [Commercial Fishing Special District 12] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(m)(1) [Commercial Fishing Special District 13] is amended by adding subparagraph f. that reads as follows:

f. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(p)(4) [Commercial Fishing Special District 16] is amended by adding subparagraph c. that reads as follows:

c. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(q)(3) [Commercial Fishing Special District 17] is amended by adding subparagraph e. that reads as follows:

e. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-247(s)(1) [Commercial Fishing Special District 20] is amended by adding subparagraph m. that reads as follows:

m. Home occupation--Special use permit required; commercial fishing does not require a special use permit.

Monroe County Code Section 9.5-248 (a)(10) [Mixed Use District] is amended to read as follows:

Home occupations--Special use permit required. ~~requiring a public hearing;~~

Monroe County Code is amended to create Section 9.5-259 that reads as follows:

Sec. 9.5-259. Home Occupation Special Use Permit

(a) *Applicability:* Home occupation special use permits may be approved in any zoning district in which residential use is allowed, including nonconforming residential uses where such use was otherwise lawfully established.

(b) *Applications:* Applications for home occupation special use permits shall be submitted to the planning director on forms provided by the director. The application shall include a properly executed affidavit and agreement from the applicant attesting to and agreeing to compliance with the standards and requirements for home occupations as outlined in this section.

(c) *Authority:* The planning director is authorized to approve and otherwise administer home occupational special use permits as specifically set forth in this section.

(d) *Review by the planning director:* Within fifteen (15) working days of receiving a complete application, the planning director shall determine whether the proposed home occupation is consistent with the following standards and requirements:

(1) The home occupation is incidental and secondary to the residential use of the building;

(2) The home occupation does not change the essential residential character of the use;

(3) Not more than one (1) person who is a nonresident of the dwelling unit is employed by the home occupation;

(4) The home occupational use is not more than twenty (20) percent of the total floor area of the dwelling;

(5) The home occupation does not involve any retail sales or service which would require customers to visit the residence, nor does the physical address of the residence appear on any advertising materials including stationary and business cards;

(6) The home occupation is not visible from any other residential structure;

(7) No sign advertising the home occupation is displayed on the premises;

(8) The home occupation does not involve the outdoor storage of any equipment or materials;

(9) The home occupation does not utilize mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential building or accessory structure; and

(10) The home occupation does not increase the average daily automobile trips generated by the residence in which the home occupation is located; and

(11) Upon issuance of a permit, the applicant must apply for and maintain an occupational license for the home occupation where otherwise required.

(e) *Public notification of pending approval: The planning director,* after determining that an application for a home occupation special use permit is in compliance with the requirements of this division, shall give notice of the pending approval as follows:

(1) The planning director shall provide written notice by regular mail to owners of real property located within 300 feet of the property which is the subject of the proposed home occupation; and

(2) The applicant shall post the property of the proposed home occupation with a waterproof sign at least four (4) square

feet in front surface area, which is so lettered as to be easily visible from all public streets and public ways abutting the property. The property shall remain posted for no less than thirty (30) calendar days beginning within five (5) working days of the date that the application is deemed to be in compliance by the planning director; and

(3) The above notices shall provide a brief description of the proposed home occupation and indicate where the public may examine the application. The cost of providing this notice shall be borne by the applicant.

(f) *Decision by the planning director:* Upon a finding that the proposed home occupation complies with all of the requirements of this section, the planning director shall issue a home occupational special use permit, with or without conditions. The permit and the affidavit attesting to compliance with the above requirements shall be filed with the clerk of the court and recorded in the official records of Monroe County. The permit shall authorize only the current resident of the dwelling unit for the particular home occupation proposed and shall not be transferable to another location or to another person or entity.

(g) *Public Hearing on an application for a Home Occupation Special Use Permit:* If requested by the applicant, or an adversely affected owner or resident of real property located in Monroe County, during the required thirty (30) calendar days of the posting, a public hearing date shall be scheduled on the application for a home occupational special use permit. All costs related to the public hearing shall be the responsibility of the applicant. The public hearing shall be conducted by the planning commission in accordance with the provisions of Sec. 9.5-46;

(h) *Revocation:* The planning director shall have the authority to initiate actions to revoke home occupation special use permits and all such actions shall require a public hearing to be conducted before the planning commission in accordance with Section 9.5-22. The planning commission shall have the authority to revoke any home occupation special use permit where there is competent and substantial evidence to establish any of the following:

(1) That an application for home occupation special use approval contains knowingly false or misleading information;

(2) A violation by the holder of a home occupation special use permit of any provision of this section;

(3) A violation of any condition of the home occupation special use permit imposed pursuant to this section; or

(4) That the home occupation constitutes a public or private nuisance under Florida law.

* Underlined text is new. * ~~Strikethrough text is deleted.~~

PASSED AND ADOPTED By the Planning Commission of Monroe County, Florida at a regular meeting held on the 4th day of December, 2002.

David C Ritz, Chair	YES
Vice Chair Denise Werling	YES
Commissioner Jerry Coleman	YES
Commissioner Jiulio Margalli	YES
Commissioner Alicia Putney	YES

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

By _____
David C. Ritz, Chair

Signed this _____ day of January, 2003