



DEPARTMENT OF LAND USE

SECTION 40.03.420 ACCESSORY USES, RESIDENTIAL HOME USES

A. **Home occupation.** Any home occupation as defined in Section [40.33.221.B](#), which is conducted in a manner such that the dwelling housing the occupation is indistinguishable from dwellings with no business use and which meets the following standards is permitted as an accessory residential home use as set forth below.

1. **Employees:** The owner of the home occupation shall be a full-time resident of the dwelling unit and subject to the following exceptions shall not employ any individuals other than family members who also are full-time residents of the dwelling unit.
 - a. Additional non-resident, on-site employees or independent contractors are permitted if the operator executes a Conditional Home Occupation Agreement, hereinafter "the agreement". Upon execution of the agreement with the County, the operator may employ up to two (2) full-time non-resident employees or independent contractors at a time or up to four (4) part-time employees or independent contractors, provided only two (2) are on the premises at one time. The agreement shall be on a form provided by the Department, disclose the name and date of birth of all additional non-resident employees and/or independent contractors and shall be filed with the County Code Enforcement Office. All information on the written agreement is of a continuing nature. Any changes in the information on the agreement shall be in writing and mailed or otherwise submitted to the County Code Enforcement Office within thirty (30) days of the change. The person applying for the agreement shall sign the agreement and represent that the contents of the certificate are true and correct to the best of his or her knowledge. Any person who falsifies any information on any agreement made with the Department shall be subject to criminal proceedings under 11, *Del. C.* § 861 through § 880 (Offenses Involving Falsification of Records). The agreement is not required for home occupations, professional office or studios, which as of December 31, 1997, legally employed no more than two (2) persons to provide secretarial, clerical or similar assistance.
 - b. A home occupation which provides a service that occurs off-site may have additional employees, provided such employees meet and work off-site and not at the subject residence.
 - c. **Exception:** In Arden, Ardentown, and Ardencroft ("the Ardens") the owner of the home occupation need only be a full-time resident of the Ardens and may employ two (2) full-time non-resident employees or independent contractors. The owner may employ an additional two (2) part-time/seasonal employees or independent contractors, provided the appropriate Village Secretary is notified in writing on the Home Occupation Village Notification Form. Any changes to such an arrangement must be done in writing to the Village Secretary within thirty (30) days of the change.

2. **Customers/clients:** The operator may meet with customers at the site provided that the frequency and consistency of traffic to and from the site in relation to the home occupation does not interfere with the community's comfort, safety, or enjoyment of the neighborhood around the subject property as a residential area or create a visual or traffic annoyance to persons of normal sensibilities such that a public nuisance is created. High volume visits and traffic to and from the site during the hours of 8:00 a.m. until 6:00 p.m. shall be prima facie evidence that the home occupation is not indistinguishable from other dwellings and creates a public nuisance in the residential neighborhood, in violation of this section.
3. **Location, size and modifications:** No home occupation shall be conducted outside the dwelling unit. The total area used to accommodate the home occupation shall not exceed twenty-five (25) percent of the total gross floor area (GFA) of the principal residential dwelling. No structural alterations or enlargements shall be made to the dwelling unit for the primary purpose of conducting the home occupation.
 - a. **Exception:** In the Ardens, the home occupation shall not exceed one thousand (1,000) square feet inclusive of all square footage in the dwelling and any accessory structure on the same lot utilized for the home occupation so long as the residential character of the buildings is maintained.
4. **Parking:** Adequate on-site, off -street parking shall be provided for all employees, customers, clients and/or pupils. The principal driveway serving the residence shall act as the parking area. Only the principal driveway may be used for parking in conjunction with the home occupation.
5. **Hazardous materials:** Toxic, explosive, flammable, radioactive or other restricted materials used, sold or stored on the site in connection with the home occupation shall conform to Chapter 6 for residential uses.
6. **Outside storage:** No outdoor display or storage of materials, goods, supplies or equipment related to the home occupation shall be permitted.
 - a. **Exception:** In the Ardens, outside storage is permitted, but neither shall be visible from roadways or from beyond the leasehold.
7. **Deliveries and pick-ups:** Truck deliveries or pick-ups of supplies or products, associated with the home occupation shall occur only within the hours of 8:00 a.m. and 7:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. No regular tractor trailer delivery shall be permitted.
8. **Signs and displays:** No display of any products or operations that would create external evidence of the operation of the home occupation is permitted. No sign is permitted which will in any way advertise or identify the home occupation. No marked service vehicle, trailer or other equipment used in conjunction with the home occupation shall be parked on the property or contiguous street right-of-way so as to identify, advertise or otherwise attract attention to the home occupation.
 - a. **Exception:** In the Ardens, one (1) non-illuminated sign up to one (1) square foot in size may be attached to the dwelling or the accessory structure and one (1) two-axle marked service vehicle may be parked on the property.

9. **Manufacturing, repairing, mechanical work:** No manufacturing, repairing or other mechanical work shall be performed outside the dwelling unit. When such activity is conducted inside the dwelling unit, it shall be conducted in such a way that no noise, heat, glare, odor, vibration, electromagnetic interference or smoke shall be perceptible at or beyond the property line.
- a. **Exception:** In the Ardens, manufacturing, repairing, and other mechanical work may be performed outside the structure housing the home occupation as long as they are conducted in such a way that no noise, heat, glare, odor, vibration, or electromagnetic interference causes an annoyance to persons of normal sensibilities by creating a public nuisance.

10. **Penalties.**

- a. Each person who engages in a home occupation with on-site, non-resident/family employees or independent contractors without having filed the Conditional Home Occupation Agreement or updating the Conditional Home Occupation Agreement as required (except for those exempted as valid nonconforming uses at the time of the passage of this ordinance) shall be guilty of a violation of this chapter and subjected to a fine of up to one hundred (\$100) dollars. Each day that a violation of this Section continues shall constitute a separate offense for which a separate conviction may be obtained, and a separate penalty imposed.
- b. Each person found to have included a false statement in the Conditional Home Occupation Agreement shall be subject to the penalties for violation of 11, *Del. C. § 861 through § 880 (Offenses Involving Falsification or Records)*.
- c. Each person found to have violated any other provision of this Section shall be guilty of a violation punishable by a fine of up to one hundred (\$100) dollars. Each day that a violation continues shall constitute a separate offense for which a separate conviction may be obtained, and a separate penalty imposed.
11. **Nonconforming uses:** Legal home occupation uses that were in existence prior to December 31, 1997 may continue to remain as a nonconforming situation and, pursuant to Article 8, any change in title or of right to possession shall not affect the continuation of the nonconforming situation. As set forth in Article 8, the status of any nonconforming situation may be determined by the Department after public notice.
12. **Variance from home occupation provisions:** Any application for a variance from the provisions of this section will be treated as an application for a use variance.

B. **Family day care home.** A family day care home shall be permitted subject to the following:

1. State licensing requirements shall be met, including those pertaining to building, fire, safety and health codes.
2. Lot dimensional and bulk standards shall conform to the applicable zoning district.
3. One (1) nameplate sign not to exceed one (1) square foot may be permitted.
4. No structural or decorative modifications that will alter the exterior residential characteristics of the dwelling shall be permitted.

C. **Large family day care home.** A large family day care home shall be subject to the following:

1. State licensing requirements shall be met, including those pertaining to building, fire, safety and health codes.
2. Minimum lot size shall be ten thousand (10,000) square feet.
3. One (1) nameplate sign not to exceed one (1) square foot may be permitted.
4. No structural or decorative modifications that will alter the exterior residential character of the dwelling shall be permitted. Any new or remodeled dwelling must be designed to be compatible with the residential character of the surrounding neighborhood.
5. Outdoor play or activity areas shall be fenced or otherwise enclosed on all sides and shall consist of developable lands but shall not include driveways, parking areas or dropoff areas.
6. No outdoor play or activity structures shall be located within ten (10) feet of the property line.
7. Two (2) additional off-street parking spaces shall be provided.

D. **Roomers and boarders.** In any one (1) family dwelling no more than three (3) nontransient roomers or boarders may be permitted subject to the following:

1. The owner of the property must reside in the dwelling.
2. No display or advertising on the premises is permitted.
3. For purposes of this Section, the term "nontransient" means a person who resides as a roomer or boarder for a period of time not less than forty-five (45) days.

(Amended February 8, 2000 by Ordinance 99-134; amended July 25, 2000 by Ordinance 00-057; amended July 13, 2004 by Ordinance 04-059; amended November 10, 2009 by Ordinance 09-068; amended January 18, 2011 by Ordinance 10-113; amended July 10, 2018 by Ordinance 18-021)