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DATE INTRODUCED: June 13, 2023
PUBLIC HEARING DATE: July 18, 2023
PUBLIC HEARING TIME: 7:00 p.m.
ADOPTION DATE: July 18, 2023
EFFECTIVE DATE: Upon Adoption

Ordinance 23-17
Home Occupation – Retail

An Ordinance to amend Kent County Code, Vol. II, Chapter 205, Zoning, as amended by revising Article VI, Conditions of Approval, §205-68 Residential Uses, Item F. Home Occupation (including family daycare home) to permit the limited sale of products not produced on the premises.

THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. That the Kent County Code, Vol. II, Chapter 205, Zoning, Article VI, Conditions of Approval, §205-68 Residential Uses, Item F. Home Occupation (including family daycare home), is hereby amended by adding the following underlined language and deleting the following bracketed language shown with strike-through marks:

F. Home Occupation (including family childcare homes)

1. The owner/operator shall secure a zoning certificate of use for a home occupation from the Department of Planning Services, Division of Planning. The dwelling shall be the bona fide residence of the operator of the occupation.
2. The use shall not change the character of the dwelling unit or residential premises nor have any exterior evidence other than an identification sign no larger than six sq. ft.
3. In the RS1, RS5 and RMH Districts, floor area developed to such use shall not exceed 25% of the dwelling unit (except licensed family day-care homes); if the occupation is in a detached accessory structure, floor area shall be limited to 100% of the existing structure or 500 square feet, whichever is less. An accessory structure attached to the principal dwelling will be considered part of the dwelling for floor area calculations.
4. In the AC and AR Districts, floor area devoted to such use shall not exceed 25% of the dwelling unit (except licensed family day-care homes); if the occupation is in a detached accessory structure, floor area shall be limited to 2,500 square feet, with up to an additional 1,000 square feet used for storage only. An accessory structure attached to the principal dwelling will be considered part of the dwelling floor area calculations.
5. If the home occupation is conducted in an accessory structure, the structure shall be located a minimum of 15 feet from the side and [~~rear~~]-rear property lines.

6. There shall be no person engaged or employed other than members of the household residing on the premises.
7. Only equipment and facilities that are similar in nature, type, and power to what would generally be used for domestic or household purposes shall be permitted.
8. The use of property shall not change the general character of the neighborhood.
9. The occupation shall create no noise, traffic, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any extent greater or more frequent than that usually experienced for an average residential use in the district wherein located.
10. The need for parking generated by such use shall be provided off street. There shall be two spaces required for the home occupation in addition to the spaces required for the residential use.
11. ~~Stock in trade, outdoor~~ Outdoor or open-air storage, and storage or keeping of service vehicles on the premises shall be prohibited, except for what is permitted within the zoning district in which the use is located. Any enclosed storage shall be considered included as part of the total permitted square footage.

12. Retail Sales.

- 12.a. No stock-in-trade (the goods kept on hand by a business for the purposes of its trade) shall be produced on the premises, except for the following:
 - i. Good crafted or produced on the premises.
 - ii. The hand-wrapping or finishing of gift baskets, variety packs, or other similar multi-content stock, wherein the component items have been manufactured elsewhere.
- b. No stock-in-trade shall be sold on the premises, except for the following:
 - i. The trans-shipment or pre-arranged pickup of items specifically pre-ordered or pre-purchased by a customer, except for vehicles and large equipment and
 - ii. The direct shipment of items to a customer that were specifically pre-ordered or pre-purchased by the customer.
- c. Deliveries and pickups of supplies or products are permitted only between 8:00 a.m. and 8:00 p.m.
- d. Vehicles used for delivery and pickup are limited to those normally servicing residential neighborhoods.
- e. Customers may visit the site only during the hours of 8:00 a.m. to 8:00 p.m.
- a.f. No more than six (6) customers or clients may visit the site on any single day.

~~[Sale or rental of goods, other than those produced on the premises by the home occupation, shall be prohibited.]~~

13. Personal service activities such as beauty shops, barber shops and hairdressing establishments shall serve one client at a time, be limited to one chair and have only one operator who is a member of the household residing on the premises.
14. Wholesale auto sale offices shall maintain compliance with all applicable State of Delaware, Division of Motor Vehicles requirements. No storage of vehicles bought or sold as part of this use may be parked on the site.

Section 2. Severability.

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 3. Effective Date.


This Ordinance shall be effective upon the date of adoption.

ADOPTED BY THE LEVY COURT OF KENT
COUNTY, DELAWARE



President, Kent County Levy Court

This 18th day of July, 2023

ATTEST: 
Clerk of the Peace

Synopsis: The ordinance permits the limited sale of products not created on the premises as part of a home occupation.