

SECTION 23 HOME OCCUPATION

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### 2301 Intent

To provide for the operation of limited commercial activities within residential and agricultural zoning districts. The standards for home occupations herein are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, plus a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether a proposed accessory use qualifies as a home occupation. Uses such as motor vehicle repair or body shop, medical clinic, hospital, bed and breakfast establishment, animal clinic/hospital, retail business, or any similar use generating more than occasional or minimal vehicular traffic are not considered a home occupation.

### 2302 Class 1 Home Occupation

A Class 1 Home Occupation is defined as a business, profession, occupation, or trade conducted entirely within a residential building or within a building accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such a building. *(Amended 12/12/23)*

The permission granted or implied by Class 1 Home Occupations shall not be construed as an exemption from any applicable covenants, conditions, restrictions, architectural standards, or other private agreements and obligations. *(Amended 12/12/23)*

### 2303 Class 1 Home Occupation – Criteria

A Class 1 Home Occupation shall be allowed as a permitted use, in residential or agricultural districts, provided that:

- 2303.01 Such use may be conducted within the principal dwelling, provided that the total area for such purpose shall not exceed 50% of the first-floor area of the principal dwelling; one permitted accessory structure; or both. *(Amended 12/12/23)*

The total area for such purpose within the accessory structure shall not exceed:

- For lots less than 1 acre in size: 500 sq. ft.
- For lots 1 acre or greater in size: 1,000 sq. ft.

- 2303.02 Such use shall be conducted only by the occupant's thereof plus not more than one (1) nonresident employee.

- 2303.03 Such use shall be clearly incidental and secondary to the use of the residence as a dwelling and shall not change the character thereof.

- 2303.04 Accessory structures shall be similar in façade to a single-family dwelling, private garage, shed, barn, or other such structure and shall be compatible in design and scale with the neighborhood. *(Amended 12/12/23)*
- 2303.05 There shall be no exterior advertising of the home occupation.
- 2303.06 There shall be only limited and incidental sale of products made by the residents and conducted on the site.
- 2303.07 There shall be no outside storage on the premises of materials or equipment used in connection with the home occupation.
- 2303.08 There shall be no excessive or offensive noise, vibration, smoke, dust, odors, heat, glare or light noticeable or extending beyond the lot.
- 2303.09 Traffic shall not be generated which significantly affects the residential character of an area.
- 2303.10 Such use shall comply with an applicable development guide, building code, fire code, health regulation, or any other local, state, or federal regulation. The permission granted or implied by this Section shall not be construed as an exemption from such regulation.
- 2303.11 There shall be only incidental and minimal use or storage of toxic or flammable materials. *(Amended 12/12/23)*

#### 2304 Class 2 Home Occupation

Class 2 Home Occupations are allowed in order to promote greater self-sufficiency; the economical use of energy; to reduce congestion and the burden on the road network; to improve air quality; to promote the family unit; and to protect and conserve the nonurban areas. The nature of resources available, and the benefits and disadvantages created by home occupations necessitate a distinction between Class 1 and Class 2 Home Occupation. Each concept is based on supplementing income and recognizes that the districts in which each is practiced has unique characteristics. For these reasons, Class 2 Home Occupations shall be permitted in the A-1, LRR, and RR zoning districts, on conforming lots only. *(Amended 8/23/22)*

A Class 2 Home Occupation is defined as a business, profession, occupation, or trade conducted for gain or support and located entirely within or operating from a residential building or a building accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the residential character of the dwelling, lot, or neighborhood. *(Amended 8/23/22)*

The permission granted or implied by a Class 2 Home Occupation permit shall not be construed as an exemption from any applicable covenants, conditions, restrictions, architectural standards, or other private agreements and obligations. *(Amended 8/23/22)*

**2305 Class 2 Home Occupation – Criteria**

- 2305.01 Such use may be conducted within the dwelling, provided that the total area for such purpose shall not exceed 50% of the floor area of the dwelling; one permitted accessory structure; or both. *(Amended 8/23/22)*
- 2305.02 Such use shall be conducted only by the occupants thereof plus not more than two (2) nonresident employees.
- 2305.03 Such use shall be clearly incidental and secondary to the use of the residence as a dwelling and shall not change the character thereof.
- 2305.04 Accessory structures shall be similar in facade to a single-family dwelling, private garage, shed, barn, or other such structure and shall be compatible in design and scale with the neighborhood. *(Amended 8/23/22)*
- The accessory structure shall be located so that visual or environmental impacts are minimized. Landscaping may be required in order to buffer the accessory structure from adjacent land uses or when located in the highway-corridor viewsheds, as designated in the County Master Plan.
- 2305.05 There shall be no exterior advertising of the home occupation.
- 2305.06 There shall be only limited and incidental sale of products conducted on the premises.
- 2305.07 There shall be no outside storage on the premises of materials or equipment used in conjunction with the home occupation.
- 2305.08 There shall be no excessive or offensive noise, vibration, smoke, dust, odors, heat, glare or light noticeable or extending beyond the property.
- 2305.09 Traffic shall not be generated which significantly affects the rural or residential character of an area.
- 2305.10 Such use shall comply with an applicable development guide, building code, fire code, health regulation, or any other local, state, or federal regulation. The permission granted or implied by this Section shall not be construed as an exemption from such regulation. Demonstration of such compliance may be required prior to issuance of a Class 2 Home Occupation permit. *(Amended 8/23/22)*
- 2305.11 There shall be only incidental and minimal use or storage of toxic or flammable materials.

## 2306 Class 2 Home Occupation – Permit Process

A Home Occupation permit is required for Class 2 Home Occupations and the applicant has the responsibility of showing that the proposed home occupation is within the purpose and criteria of 2304 and 2305 herein. The permit shall be processed administratively by the Planning Division pursuant to the purposes stated in 2304 and the criteria in 2305 herein, as follows:

- 2306.01 The landowner or lessee shall meet with staff to discuss the proposed home occupation and the procedure to obtain a permit for such use.
- 2306.02 The application for a Class 2 Home Occupation shall be submitted on a form obtained from the Planning Division and shall be signed by the landowner, if other than the applicant, and shall include plans or exhibits, as required.
- 2306.03 The applicant shall submit with the application an affidavit certifying owners of all abutting properties and the homeowner's association, if applicable, have been provided notice. Such notification shall be either a notice of the Class 2 Home Occupation permit request sent by certified mail to the owners' addresses as shown in the records of the Douglas County Assessor's Office, or the applicant may obtain a signed statement from the abutting landowners and/or homeowner's association stating that they were notified of the Class 2 Home Occupation permit request. Copies of the mailed notice, signed statements, and certificates of mailings shall be submitted with the application. *(Amended 8/23/22)*
- 2306.04 The applicant shall submit the appropriate fee in accordance with the fee schedule adopted by the Board.
- 2306.05 The application shall be reviewed using the criteria of this Section, and compliance with other local, state or federal regulations.
- 2306.06 The Director shall make a decision to approve or deny the application within 10 working days of the date a complete application was received, unless the applicant agrees to an extension not to exceed 30 days.
  - 2306.06.1 Approval shall be based on the criteria in 2305 herein and conditions may be imposed that ensure that the criteria in 2305 herein and the intent of this Section are met.

2306.06.2 The following may be reasons for denial, but are not inclusive:

- The on-street or on-site parking of trucks or other types of equipment associated with the home occupation.
- The littered, unkept and otherwise poorly maintained condition of the dwelling site.
- Noncompliance with the criteria in 2305, the intent of this Section or this Resolution.
- The proposal cannot be conditioned to meet the criteria in 2305 or the intent of this Section.

2306.07 An appeal of the Director's decision regarding a Home Occupation permit may be submitted to the Board of Adjustment pursuant to Section 26A of this Resolution. *(Amended 4/10/12)*

2307 Class 2 Home Occupation – Permit Renewal

Permits shall be renewed annually upon compliance with the conditions and criteria set forth in the original permit.

2308 Class 2 Home Occupation – Permit Transferability

A Class 2 Home Occupation permit is valid only for the lot and owner identified on the permit. It cannot be transferred upon the sale of the lot, or otherwise assigned to another person/business. The new landowner/lessee shall apply for a new permit.

2309 Class 2 Home Occupation – Permit Revocation

If, upon review, the conditions or restrictions imposed by this Section 23 or by the permit have not been complied with, the Director may take such action as is deemed necessary to remedy the noncompliance, including but not limited to revocation of the Class 2 Home Occupation permit. The revocation of the permit may be appealed to the Board of Adjustment pursuant to Section 26A of this Resolution. *(Amended 4/10/12)*

2310 Class 2 Home Occupation – Use By Special Review in A-1, LRR, and RR Districts

A landowner may apply for a use by special review in accordance with Section 21 of this Resolution when the Class 2 Home Occupation would exceed the criteria for the maximum area of the use in 2305.01, exceed the criteria for the maximum number of nonresident employees in 2305.02, or any combination thereof. *(Amended 8/23/22)*