

# **ORDINANCE O-24-35**

## **AN ORDINANCE AMENDING CHAPTER 188-64, AND CHAPTER 139-31 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HOWELL TO PERMIT FAMILY HOME DAY CARES IN RESIDENTIAL ZONES OF THE TOWNSHIP**

**WHEREAS**, Chapter 188 Land Use, Article IX Zoning Requirements; Section 64 entitled “Home Offices” (herein “the Ordinance”) of the Administrative Code of the Township of Howell (the “Code”) permits usage of residences for business and occupational pursuits subject to Township regulation as provided in the Section; and

**WHEREAS**, the Township code does not currently take into consideration home day care operations in residential zones, as permitted by Municipal Land Use Law, N.J.S.A. 40:55D-66.5b; and

**WHEREAS**, the Township wishes to update its code to clarify that home day cares are permitted in all residential zones, provided they follow the Family Day Care Provider Registration Act as found in N.J.S.A. 30:5B-16 et seq.,

**NOW THEREFORE BE IT ORDAINED**, by the Township Council of the Township of Howell, County of Monmouth, State of New Jersey, that Chapter 188 Land Use, Article IX Zoning Requirements; Section 64, entitled Home Offices of the Administrative Code of the Township of Howell, is hereby amended as follows:

**NOTE:** Sections of Chapter 188 and Chapter 139 of the Administrative Code of the Township of Howell are to be amended are set forth below. All additions are shown in ***bold italics with underlines***. All deletions are shown in ***~~bold italics with strikeouts~~***. All other sections will remain unchanged.

**SECTION 1.** Chapter 188 “Land Use”, Article IX “Zoning Requirements”; Section 64, entitled “Home Offices”, of the Administrative Code of the Township of Howell is hereby amended as follows:

§ 188-64 Home offices.

A. The purposes of this section are to:

(1) Permit home office usage for home occupations and blue-collar trades, which are incidental to the residential use of the premises, are compatible with residential uses, are limited in extent, degree and time, and do not detract from the residential character and quality of the neighborhood, with the foregoing to be considered in the context of an evaluation of the impact of such uses outside of the confines of the residential dwelling itself.

(2) Encourage incubator or start-up business activities and/or blue-collar trades within the context of a home office, as defined herein, for later removal to an appropriate nonresidential zone as the business grows and succeeds beyond the limitations and restrictions appropriate for a residential zone.

(3) Protect residential areas from any adverse impacts associated with home occupations and protect residential property values.

(4) Ensure that the health, safety and welfare of neighbors and residents are protected and that their rights are not compromised in any manner whatsoever by the operation of the particular home occupation.

B. A home office use is an office activity, carried on for gain by a resident in a dwelling unit, clearly accessory and secondary to the use for living purposes, which shall be a permitted accessory use in residential zone districts, provided that:

(1) The use is operated by or employs, in the residence only, only a resident or residents who are permanent full-time residents of the dwelling unit and no other person.

(2) No nonresident employees, customers, or business invitees or guests shall use or visit the dwelling unit for business purposes.

(3) The accessory office use shall occupy a maximum of 10% of the gross floor area of the residence, but in no instance greater than 750 square feet, shall not be served by an entrance separate from the household, nor shall the room have separate kitchen or bath facilities.

(4) There shall be no exterior storage of materials.

(5) There shall be no change to the exterior of buildings or structures because of the use, and no outside appearance of a business use, including, but not limited to, parking, storage, or lights.

(6) The use shall not operate any equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with telephone, radio or television reception, detectable by neighboring residence.

(7) The home office use operates solely within the residence, no outdoor activities permitted; the home office use shall not be evident from outside of the home.

(8) No merchandise or products shall be offered for sale upon the residential premises, nor shall there be any window or other display of any kind.

(9) The use does not require any increased or enhanced electrical or water supply.

(10) The quantity and type of solid waste disposal is the same as other residential uses in the zone district.

(11) The capacity and quality of sanitary sewerage affluent is typical of normal residential use, and creates no potential or actual detriment to the sanitary sewer system or its components.

(12) Delivery trucks shall be limited to US Postal Service, United Parcel Service, Federal Express, and other similar delivery services providing regular services to residential uses in the zone district.

(13) All vehicle traffic to and from the home office use shall be limited in volume, type and frequency to what is normally associated with other residential uses in the zone district.

(14) There shall be no signage of any type identifying the accessory home office usage.

C. Prohibited uses. Those uses, such as but not limited to the following, which by the nature of the investment or operation, have a pronounced tendency once commenced, to rapidly increase and escalate beyond the limits permitted and beyond the impacts to be reasonably anticipated from residential purposes and are more suited to professional, business, or agricultural districts and therefore are prohibited:

(1) Retail merchandising.

(2) Boarding and breeding kennels for dogs and cats.

(3) The raising of livestock for market.

(4) Medical or dental clinics.

(5) Funeral homes.

(6) Auto repair for other than a resident, the painting of vehicles, trailers and boats of and for a person other than the residents.

(7) Private schools with organized classes.

(8) Welding or machine shops.

(9) Equipment rental.

(10) Massage parlors.

#### **D. Family Day Care Home**

**In keeping with the purposes of home offices as outlined above, and consistent with Municipal Land Use Law at N.J.S.A. 40:55D-66.5b, family day care homes shall be a permitted accessory use in all residential zone districts, provided that:**

(1) **The property must be registered as a family day care home pursuant to the "Family Day Care Provider Registration Act," P.L. 1987, c.27 (NJSA 30:5B-16 et seq.).**

(2) **The number of children permitted to attend a family day care home shall be limited to no more than five children at any one time. The number of children may be extended up to 8, provided at least three children reside at the family day care property.**

(3) **The day care is operated by or employs, a resident or residents who are permanent full-time residents of the dwelling unit.**

- (4) *Adequate utilities, such as warm/cold running water, operational bathroom facilities, electricity, and heat are all required.*
- (5) *Outdoor play is permitted. All play equipment must be maintained in a safe condition.*
- (6) *The quantity and type of solid waste disposal is the same as other residential uses in the zone district.*
- (7) *The capacity and quality of sanitary sewerage affluent is typical of normal residential use, and creates no potential or actual detriment to the sanitary sewer system or its components.*
- (8) *Delivery trucks shall be limited to US Postal Service, United Parcel Service, Federal Express, and other similar delivery services providing regular services to residential uses in the zone district.*
- (9) *All vehicle traffic to and from the home day care use shall be limited in volume, type and frequency to pick up and drop off of children.*
- (10) *There shall be no signage of any type identifying the family home day care usage.*
- (11) *Family day care homes must obtain a land use certificate from the Township, the fees of which are outlined in Chapter 139-31(F).*

**SECTION 2.** Chapter 139 “Fees”, Article XVII “Land Use”; Section 31, entitled “Land Use Certificates”, of the Administrative Code of the Township of Howell is hereby amended as follows:

§ 139-31 Land use certificates.

The fees for land use review and approval are:

- A. Land use certificate, individual plot plans: \$85.
- B. Mobile home replacement: \$85.
- C. Land use certificate, fences: \$50.
- D. Land use certificate, outdoor display of goods: \$30.
- E. There will be a fee of \$20 for all returned checks.
- F. Land use certificate, family home day care: \$85.*

**SECTION 3. REPEALER**

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

**SECTION 4. INCONSISTENT ORDINANCES**

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

**SECTION 5. SEVERABILITY**

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 6. EFFECTIVE DATE**

This Ordinance shall take effect upon its passage and publication according to law.

**NOTICE**

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on **August 20, 2024** and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on **September 17, 2024** at 7:00 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk’s Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

**Introduction:**

<b>COUNCIL</b>	<b>MOTION</b>	<b>2ND</b>	<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
<b>Councilwoman Fischer</b>	<b>x</b>		<b>x</b>			
<b>Councilman Gasior</b>		<b>x</b>	<b>x</b>			
<b>Councilwoman O'Donnell</b>			<b>x</b>			
<b>Deputy Mayor Nadel</b>			<b>x</b>			
<b>Mayor Berger</b>						<b>x</b>

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held August 20, 2024. WITNESS my hand this 21<sup>st</sup> day of August 2024.

*Diane Festino*  
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DIANE FESTINO, RMC  
Municipal Clerk  
Township of Howell

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on September 17, 2024.

**Adoption:**

<b>COUNCIL</b>	<b>MOTION</b>	<b>2ND</b>	<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
<b>Councilwoman Fischer</b>	<b>X</b>		<b>X</b>			
<b>Councilman Gasior</b>			<b>X</b>			
<b>Councilwoman O'Donnell</b>		<b>X</b>	<b>X</b>			
<b>Deputy Mayor Nadel</b>			<b>X</b>			
<b>Mayor Berger</b>			<b>X</b>			

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held September 17, 2024. WITNESS my hand this 18<sup>th</sup> day of September 2024.

*Diane Festino*  
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 DIANE FESTINO, RMC  
 Municipal Clerk  
 Township of Howell

Explanatory Statement: To Permit Family Home Day Cares in Residential Zones of the Township.