

*"A Historic Past"*



*"A Bright Future"*

**THE CITY OF DELAWARE CITY**

407 Clinton Street – P.O. Box 4159  
Delaware City, Delaware 19706  
Phone: 302-834-4573 Fax: 302-832-5545

**CITY OF DELAWARE CITY  
DELAWARE CITY, DELAWARE  
Ordinance No. 21-0816-03**

**ORDINANCE TO AMEND CHAPTER 46 OF THE CITY OF DELAWARE CITY  
CODE BY AMENDING THE DEFINITIONS AND REQUIREMENTS RELATED  
TO DAYCARE CENTERS UNDER SECTION 46-16(i)**

WHEREAS, pursuant to Article V, Section 5-02(A) of the City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, §2-01 of the Charter, the Mayor and the City Council of the City of Delaware City ("City Council" possess the authority to adopt, amend, modify, or repeal the City of Delaware City Code ("Code");

WHEREAS, the Mayor and the City Council, in accordance with the City of Delaware City Comprehensive Plan, seek to clarify certain provisions of Chapter 46 relative to the definition and requirements for daycare centers within the City of Delaware City.

NOW THEREFORE, making the express finding that the below changes enhance and perpetuate the City of Delaware City's cultural, social, economic, religious, political or architectural history, as set forth in Chapter 49 of the Code, the Mayor and the City Council of the City of Delaware City hereby ordain and adopt the following Code changes and revisions:

**Section 1.** 46-16(i) of the Code is hereby amended by deleting the following stricken language and inserting the following underlined language:

- i.) Day-care centers, kindergartens, preschools, and day nursery schools, ~~and orphanages~~, if a special exemption is granted by the Board of Adjustment, provided there shall be:
  - 1.) ~~At least one hundred (100) square feet of outdoor play space per child shall be provided.~~
  - 2.) ~~Outdoor play space shall be fenced or otherwise enclosed on all~~

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- ~~sides and shall not include driveways, parking areas, or land unsuited by other usage or natural feature for the children's active play space. Fencing or other enclosures shall be a minimum of four (4) feet high.~~
- 3.) ~~The minimum lot area for each six (6), or remainder over the multiple of six (6), children shall be the same as the minimum lot areas requirement for each dwelling unit in the district in which such uses are to be located.~~
- 4.) Childcare facilities within Delaware City must meet the State of Delaware regulations and requirements for a Daycare Facility as outlined in the two State Guidelines by reference, and as may be amended.
- A.) DELACARE Regulations for Family and Large Family Childcare Homes – 2019
- B.) DELACARE Regulations for Early Care and Education and School-Age Centers
- 5.) For purposes of this section, the following definitions shall apply:
- A.) **Family daycare:** Family childcare is a licensed childcare service offered by a person or a person who formed an entity. OCCL names this person or entity as a licensee. A licensee provides this service for less than 24 hours per day and children attend without a parent/guardian. A licensee receives payment for services provided. There are two types of family childcare; a level I may have a maximum of five or six children depending on their ages and a level II may have a maximum of nine children depending on their ages. Children living in the home who do not attend kindergarten or a higher-grade count in these numbers. These regulations describe the ages of children allowed to be present in each type. A licensee provides care, education, protection, supervision, or guidance to children in his or her private home. Children provided only to a person's own children, grandchildren, nieces, nephews, or stepchildren does not require a family childcare license even if payment is received.



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- B.) Large family daycare:** Large family childcare is a licensed childcare service offered by a person or entity such as a company. OCCL names this person or entity as a licensee. A licensee provides this service for less than 24 hours per day and children attend without a parent/guardian. A licensee receives payment for services provided. A licensee may have a maximum of 12 children. The ages of the children will determine the number of staff needed. Children living in the home who do not attend kindergarten or a higher-grade count in these numbers. A licensee provides care, education, protection, supervision, or guidance to children in a private home or non-residential setting. Children provided only to a person's own children, grandchildren, nieces, nephews, or stepchildren does not require a family childcare license even if payment is received.
- C.) Early Care and Education and School-Age Centers:** Early Care and education and school-age centers provide care, education, protection, supervision, and guidance for 13 or more children, including children who are related to the licensee. This service is provided for less than 24 hours per day and children attend without a parent/guardian. A licensee receives payment for services provided. This definition includes, but is not limited to, full- and part-time childcare or daycare, early care and education, preschool, nursery school, before- or after-school care, school vacation or holiday care, and summer childcare.
- 6.) Family daycare facilities in the R-1, R-2 and HPR Districts, if a special exemption is granted by the Board of Adjustment, and it can meet all of the State requirements.
- 7.) Large Family daycare facilities may be located in the licensee's home in the R-1, R-2 and HPR Districts if a special exemption is granted by the Board of Adjustment, and it can meet all of the State requirements, as set forth in i.) 4.) A and B, above.
- 8.) Large Family daycare facilities may be located in a non-residential setting and Early Care and Education and School-Age Centers may be located in the C-1

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and C-1L Districts if a special exemption is granted by the Board of Adjustment, and it can meet all of the State requirements, as set forth in i.) 4.) A and B, above.

A.) Plan review shall include consideration of parking for staff and the ability to safely discharge and pick-up children.

9.) Large Family daycare facilities may be located in a non-residential setting and Early Care and Education and School-Age Centers in the HPR District if it is located in a primarily commercial area and a special exemption is granted by the Board of Adjustment, and it can meet all of the State requirements.

A.) Plan review shall include consideration of parking for staff and the ability to discharge and pick-up children safely.

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ADOPTED BY THE MAYOR AND COUNCIL, this 15<sup>th</sup> day of November, 2021.

ATTEST:

Tina Pincus  
City Secretary

APPROVED AS TO FORM:

[Signature]  
City Solicitor

[Signature]  
Mayor

Elizabeth Koutyus  
Council Member

Betty Beant  
Council Member

[Signature]  
Council Member

[Signature]  
Council Member

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Council Member

First Reading on 8/16/21.

Second Reading, Public Hearing, and Final Passage on: 11/15/21.