

Petition #: 2003-008
Petitioner: Charlotte-Mecklenburg Planning Commission

ORDINANCE NO. _____ **AN ORDINANCE AMENDING APPENDIX A
OF THE CITY CODE –ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the Code of the City of Charlotte is hereby amended as follows:

1. Amend CHAPTER 2: DEFINITIONS AND RULES OF CONSTRUCTION, PART 2: DEFINITIONS, Section 2.201. Definitions, by deleting the existing definitions of Childcare center and Childcare home, and adding the following new definitions in proper alphabetical order:

Childcare center

An individual, agency or organization, licensed by the North Carolina Department of Health and Human Services, providing supervision or care on a regular basis to between thirteen (13) and seventy-nine (79) children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Childcare center in a residence

A facility run by an individual that resides in a single family residence, that provides supervision or care on a regular basis in the individual's home for six (6) to twelve (12) pre-school children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult. A Childcare Center in a Residence must be licensed by the North Carolina Department of Health and Human Services.

Family childcare home

A facility run by an individual that resides in single family residence that provides supervision or care on a regular basis in the individual's home for eight (8) or fewer children who are not related by blood or marriage to, and are not the legal wards or foster children of, the supervising adult. Family Childcare homes must be licensed by the North Carolina Department of Health and Human Services.

Large childcare center

An individual, agency or organization, licensed by the North Carolina Department of Health and Human Services, providing supervision or care on a regular basis for eighty (80) or more children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Childcare operator/primary caregiver

The person or entity that is granted permission by the State of North Carolina to operate a childcare facility and to be held legally responsible for the childcare business.

Shift (for a Family Childcare Home or Center)

A work period during which a Family Childcare Home or a Childcare Center in a Residence cares for children. For purposes of this ordinance, a shift is further categorized as follows:

- First shift: Operating between the hours of 6:00 A.M. and 6:30 P.M.
- Second shift: Operating between the hours of 4:00 P.M. and 12:00 A.M.
- Third shift: Operating between the hours of 10:00 P.M. and 6:00 A.M.

2. Amend CHAPTER 9: GENERAL DISTRICTS

A. PART 1: TABLE OF USES AND HIERARCHY OF DISTRICTS, Section 9.101.

Table of uses, Institutional uses, by deleting the following uses and the accompanying symbols indicating districts where permitted:

- Childcare centers
- Childcare homes

And adding the following uses in proper alphabetical order and the accompanying symbols indicating districts where permitted:

Childcare centers: PC (under prescribed conditions) in all Multi-family, UR-2, UR-3, UR-C, INST, all Research, all Office, B-1, B-2, BD, UMUD, UI, and I-1.

Childcare centers in a residence: PC (under prescribed conditions) in all Single Family, all Multi-family, UR-1, UR-2, UR-3, UR-C, all Office, B-1, B-2, and UMUD.

Family childcare home: PC (under prescribed conditions) in all Single family, Multi-family, UR-1, UR-2, UR-3, UR-C, all Office, B-1, B-2, and UMUD.

Large childcare centers: PC (under prescribed conditions) in INST, all Research, all Office, B-1, B-2, BD, UMUD, and I-1.

B. PART 2: SINGLE FAMILY DISTRICTS, Section 9.203. Uses permitted under prescribed conditions, by deleting the use, Childcare homes,

And adding the following uses in proper alphabetical order:

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

- C. PART 3: MULTI-FAMILY DISTRICTS, Section 9.303. Uses permitted under prescribed conditions, by deleting the uses, Childcare centers, and Childcare homes.

And adding the following uses in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502.

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

- D. PART 4: URBAN RESIDENTIAL DISTRICTS, Section 9.404. Urban Residential Districts; Uses permitted under prescribed conditions, by adding the following uses in proper alphabetical order:

Childcare centers (UR-2, UR-3, and UR-C only), subject to the regulations of Section 12.502.

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

- E. PART 5: INSTITUTIONAL DISTRICT, Section 9.503. Uses permitted under prescribed conditions, by adding the following use in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502.

Large childcare centers, subject to the regulations of Section 12.502.

- F. PART 6: RESEARCH DISTRICTS, Section 9.603. Uses permitted under prescribed conditions, by adding the following use in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502.

Large childcare centers, subject to the regulations of Section 12.502.

- G. PART 7: OFFICE DISTRICTS, Section 9.703. Uses permitted under prescribed conditions, by deleting the use Childcare homes,

And adding the following uses in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502.

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

Large childcare centers, subject to the regulations of Section 12.502.

- H. PART 8: BUSINESS DISTRICTS, Section 9.803. Uses permitted under prescribed conditions, by deleting the uses childcare centers and childcare homes,

And adding the following uses in proper alphabetical order:

Childcare centers (B-1, B-2, and BD only), subject to the regulations of Section 12.502.

Childcare centers in a residence (B-1 and B-2 only), subject to the regulations of Section 12.502.

Family childcare homes (B-1 and B-2 only), subject to the regulations of Section 12.502.

Large childcare centers (B-1, B-2 and BD only), subject to the regulations of Section 12.502.

- I. PART 8.5: MIXED USE DEVELOPMENT DISTRICT, Section 9.8503. Mixed Use Development District; uses permitted under prescribed conditions, by deleting the use “Day care centers” from the listing of “Day care centers, nursing homes, rest homes, rest homes and homes for the aged...”

And adding the following uses in proper alphabetical order:

Childcare centers in a residence, subject to the regulations of Section 12.502.

Childcare centers, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

Large childcare centers, subject to the regulations of Section 12.502.

- J. PART 9: UPTOWN MIXED USE DISTRICT, Section 9.903. Uptown Mixed Use Districts; uses permitted under prescribed conditions, by deleting the use “Day care centers” from the listing of “Day care centers, nursing homes, rest homes, rest homes and homes for the aged...”

And adding the following uses in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502.

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

Large childcare centers, subject to the regulations of Section 12.502.

- K. PART 10: URBAN INDUSTRIAL DISTRICT, Section 9.1003. Urban Industrial District, uses permitted under prescribed conditions, by adding the following use in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502.

- L. PART 11: INDUSTRIAL DISTRICTS, Section 9.1103. Uses permitted under prescribed conditions, by adding the following use in proper alphabetical order:

Large childcare centers (I-1 only), subject to the regulations of Section 12.502.

And revise the existing use of “Childcare centers” to read: Childcare centers (I-1 only), subject to the regulations of Section 12.502.

Section 9.1104. Permitted accessory uses and structures, by adding the following uses in proper alphabetical order:

Childcare care centers, as an accessory use or structure in I-2.

Large childcare centers, as an accessory use or structure in I-2.

3. AMEND CHAPTER 11: CONDITIONAL ZONING DISTRICTS

- A. PART 2: MIXED USE DISTRICTS (MX-1, MX-2, AND MX-3), Section 11.203. Uses permitted under prescribed conditions, by deleting the use, Childcare homes,

And adding the following uses in proper alphabetical order:

Childcare centers (MX-2, and MX-3 only), subject to the regulations of Section 12.502.

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

- B. PART 3: MANUFACTURING HOUSING DISTRICT, Section 11.303. Uses permitted under prescribed conditions, by deleting the use, Childcare home,

And adding the following uses in proper alphabetical order:

Childcare centers in a residence, subject to the regulations of Section 12.502.

Family childcare homes, subject to the regulations of Section 12.502.

- C. PART 4: COMMERCIAL CENTER DISTRICT, Section 11.403. Uses permitted under prescribed conditions, by adding the use in proper alphabetical order:

Childcare centers, subject to the regulations of Section 12.502

Large childcare centers, subject to the regulations of Section 12.502.

4. Amend CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY,
 - A. PART 2: OFF-STREET PARKING AND LOADING, Table 12.202. MINIMUM REQUIRED OFF-STREET PARKING SPACES BY USE, INSTITUTIONAL USES, by adding the use, large childcare centers, to the listing Childcare centers. The listed will then read, Childcare centers and large childcare centers.
 - B. PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES, Section 12.502. Adult care center, adult care homes, child care center and child care homes, by deleting the section title, the first paragraph and subsections (1), and (2),

And replacing with the following:

Section 12. 502. Adult care homes, adult care centers, childcare centers, childcare centers in a residence, family childcare homes, and large childcare centers.

For the purposes of this ordinance, facilities for the temporary care of adults are divided into two classes – adult care homes and adult care centers. Adult care homes serve up to six (6) adults, and adult care centers more than six (6) adults. Facilities for the temporary care of children are divided into four classes – family childcare homes, childcare centers in a residence, childcare centers, and large childcare centers. A family childcare home serves eight (8) or fewer children. A childcare center in a residence serves between six (6) and twelve (12) pre-school children. A childcare center serves between thirteen (13) and seventy-nine (79) children. A large childcare center serves eighty (80) or more children.

The development requirements for each class of facility are indicated below:

(1) Family childcare homes

All family childcare homes for eight (8) or fewer children are required to obtain a change of use permit from the Zoning Administrator. Family childcare homes, licensed by the North Carolina Department of Health and Human Services, may be established as an accessory use to a single family detached dwelling unit in all single family districts, all multi-family districts, UR-1, UR-2, UR-3, UR-C, all office, B-1 and B-2, MUDD, UMUD, MX-1, MX-2, MX-3, and R-MH districts, according to the following requirements:

- (a) The single family detached dwelling unit containing the family childcare home must be the primary residence of the operator/primary caregiver.
- (b) The minimum lot area must be equivalent to the minimum lot area for a single family detached dwelling for the district in which it is located.
- (c) The dwelling unit must meet the minimum setback, yards, and height requirements for the district in which it is located.
- (d) New family childcare homes must be separated from existing family childcare homes and childcare centers in a residence in a single family residential district by a distance of 400 feet measured in a straight line from the closest point of each lot property line, excluding childcare facilities operating as accessory use to a religious institution.
- (e) Any building additions and/or ornamentations to the residential

dwelling unit must be in general character with other homes facing the same street as the family childcare home.

- (f) Outdoor play space and play equipment must be located in the required or established rear yard but outside of any required buffers.
- (g) Outdoor play space must be screened from adjoining single-family uses and single-family residential zoning districts, per Section 12.303 (2). If a fence is used, a maximum of 50% of the fence surface may be left open and the finished side of the fence shall face the abutting property.
- (h) No outdoor play is permitted after sundown.
- (i) One (1) unlighted identification sign, not to exceed four (4) square feet, may be attached to the residence. Detached identification signs are not permitted.
- (j) A maximum of eight (8) children are permitted during the first shift, and a maximum of five (5) children are permitted during one other shift. No more than two (2) shifts are permitted within a 24-hour period.
- (k) No more than one (1) person, at any one time, who resides outside of the residence, may be an employee.
- (l) The operator's own preschool age children must be counted in the number of children allowed. School age children of the operator are not counted.
- (m) No additional parking is permitted beyond four (4) parking spaces.

(2) Childcare centers in a residence

All childcare centers in a residence for six (6) to twelve (12) pre-school children are required to obtain a change of use permit from the Zoning Administrator. Childcare centers in a residence, licensed by the North Carolina Department of Health and Human Services, may be established as an accessory use to a single family detached dwelling unit in all single family districts, all multi-family districts, UR-1, UR-2, UR-3, UR-C, all office, B-1 and B-2, MUDD, UMUD, MX-1, MX-2, MX-3, and R-MH districts, according to the following requirements:

- (a) The single family detached dwelling unit containing the childcare center in a residence must be the primary residence of the operator/primary caregiver.
- (b) The minimum lot area must be equivalent to the minimum lot area for a duplex dwelling for the district in which it is located.
- (c) The dwelling unit must meet the minimum setback, yards, and height requirements for the district in which it is located.
- (d) New childcare centers in a residence must be separated from existing family childcare homes and childcare centers in a residence in a single family residential district by a distance of 400 feet measured in a straight line from the closest point of each lot property line, excluding childcare facilities operating as accessory use to a religious institution.
- (e) Any building additions and/or ornamentations to the residential dwelling unit must be in general character with other homes facing the same street as the family childcare home.
- (f) Outdoor play space and play equipment must be located in the required or established rear yard but outside of any required buffers.
- (g) Outdoor play space must be screened from adjoining single-family uses

and single-family residential zoning districts, per Section 12.303 (2). If a fence is used, a maximum of 50% of the fence surface may be left open and the finished side of the fence shall face the abutting property.

- (h) No outdoor play is permitted after sundown.
- (i) One (1) unlighted identification sign, not to exceed four (4) square feet, may be attached to the residence. Detached identification signs are not permitted.
- (j) A maximum of twelve (12) children are permitted during the first shift, and a maximum of five (5) children are permitted during one other shift. No more than two (2) shifts are permitted within a 24-hour period.
- (k) No more than two (2) persons, at any one time, who reside outside of the residence, may be employees.
- (l) The operator's own preschool age children must be counted in the number of children allowed. School age children of the operator are not counted.
- (m) No additional parking is permitted beyond four (4) parking spaces.

(3) Childcare centers

Childcare centers for between sixteen (16) and seventy-nine (79) children, licensed by the North Carolina Department of Health and Human Services, may be established in all multi-family districts, UR-2, UR-3, UR-C, INST, all research, all office, NS, B-1 and B-2, BD, MUDD, UMUD, MX-1, MX-2, MX-3, and I-1 districts, according to the requirements listed below. Childcare centers are also permitted as an accessory to uses permitted in the I-2 district, religious institutions, elementary, junior and senior high schools, and government buildings, and are exempt from the requirements listed below.

- (a) Childcare centers in the multi-family residential districts must meet the minimum lot area of 12,000 square feet.
- (b) In all other districts where childcare centers are permitted, they must meet the minimum lot size or floor area ratio of the district where located.
- (c) Setback, yard and height requirements must meet the requirements of the district where located.
- (d) Childcare centers must have frontage on a collector street or a minor or major thoroughfare. Primary access to the center may be provided by way of a local residential street that directly intersects a collector street or a minor or major thoroughfare.
- (e) Outdoor play space and equipment must be located in the required or established rear yard in all residential districts but outside of any required buffers. In nonresidential districts, outdoor play space and equipment must be located outside of the required setback and side yards.
- (f) There is no limit on the hours of operation of a childcare center, but no outdoor play shall be permitted after sundown.
- (g) In residential districts, building additions and/or ornamentation must be in general character with other residential uses facing the same street as the childcare center.

- (h) Buffers and screening requirements as per PART 3: BUFFERS AND SCREENING.
- (i) In residential districts, detached signage will be limited to one (1) sign with a maximum of sixteen (16) square feet in area and a maximum height of four (4) feet. Signage in nonresidential districts will be permitted according to requirements of the district where located.
- (j) Parking spaces are required based upon one (1) space per employee, plus one (1) space per ten (10) children.
- (k) Land may be set aside for a childcare center without rezoning the property in single family subdivisions with a minimum of 250 lots when planned and developed on land that is internal to and as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved preliminary subdivision plan. The childcare center must be located on a lot that fronts a collector street or a minor or major thoroughfare. Primary vehicular access may be provided by way of a local residential street. The center must meet all of the standards and requirements for childcare centers and be separated by a Class C buffer from any abutting residential use or residential zoning.

(4) Large childcare centers

Large childcare centers for eighty (80) or more children, licensed by the North Carolina Department of Health and Human Services, may be established in the non-residential districts of UR-C, INST, all research and office, B-1, B-2, B-D, UMUD, MUDD, MX-2, MX-3, CC, NS, I-1, according to the requirements listed below. Large childcare centers are also permitted as an accessory use in the I-2 district, and are exempt from the requirements listed below.

- (a) Large childcare centers must meet the minimum lot size or floor area ratio of the district where located.
- (b) There is no limit on the hours of operation for large childcare centers, but no outdoor play shall be permitted after sundown.
- (c) Outdoor play space and equipment must be located outside of the required setback and side yards and be outside of any required buffers.
- (d) Buffers and screening requirements as per PART 3: BUFFERS AND SCREENING.
- (e) Signage will be permitted according to requirements of the district where located with the exception that one (1) off-premise directional sign is permitted to direct traffic from Class II or III streets to a large childcare center located on a Class IV or V street.
- (f) Parking spaces are required based upon one (1) space per employee, plus one (1) space per ten (10) children.

Renumber existing subsection (3) to (5) and add a new subsection (6) as follows:

- (6) All of the uses listed in this section, Section 12.502 that exist before or after these regulations become effective shall not be subject to these regulations if only a change of ownership occurs.

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

City Attorney

I, _____, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 17th day of February, 2003, the reference having been made in Minute Book _____, and recorded in full in Ordinance Book _____, Page(s)_____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the _____ day of _____, 2003.
