

# Planning Commission Staff Report

November 18, 2021



<b>Case No:</b>	21-LDC-0013
<b>Project Name:</b>	Changes to the Child Care Regulations – Land Development Code Text Amendment
<b>Applicant:</b>	Louisville Metro
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	All Council Districts
<b>Case Manager:</b>	Joel P. Dock, AICP, Planning Coordinator

## REQUEST

An amendment to the Land Development Code (LDC) related to changes in the child care regulations.

## SUMMARY

To provide greater and more equitable access to child care, Planning and Design Services (PDS) conducted a review of zoning regulations within the LDC that restrict the location, capacity, and delivery of child care. The Greater Louisville Project informs us, "The first five years of a child's life provide the building blocks for lifelong learning and health. While Louisville has a large ecosystem of individuals, businesses, and organizations that support early childhood development, many families across Louisville face barriers to accessing those resources." Upon review of the LDC, barriers to access become apparent. For example, a child care center is restricted from requesting a conditional use permit in the R-4 or R-5, single-family residential zoning districts. A zoning map amendment is the only path to opening a center and providing care for more than 8 children in these zoning districts, which occupy the largest amount of land in Louisville-Jefferson County, KY.

Further, the LDC does not give specific attention to child care. The current definition for *Day Care Center* includes both adult and child care "for more than eight clients." It does not address home based or in-home child care. In-home child care is regulated as a *home occupation* and restricted to 6 or fewer children. Oddly enough, the ability to have 7 children is not permitted as a home occupation or as a child care center. This exemplifies the lack of attention paid to child care within the Land Development Code.

Regulations for child care across multiple cities were also reviewed, including Nashville, Austin, TX, Indianapolis, and Cincinnati. Regulating child care in the context of zoning varied between cities but there were many similarities. Several cities use a tiered capacity approach to regulate the location of care. For example, Charlotte, NC includes a tier for 6-12 children permitted in a residence, 13-79 in multi-family, office, and mixed-districts, and child care centers for over 80 children in higher intensity zones and suburban settings. Cities also offered prescriptive relief to expand opportunity for the reuse of religious buildings or to dedicate land within proposed subdivisions for child care.

Child care in the Commonwealth of Kentucky is regulated and licensed by the Department of Community Based Services, Division of Child Care. The Division of Child Care provides 2 primary forms of home-based care. The first form of care is a certified family child care home. This form of care allows for up to 6 unrelated children in a primary residence. The second allows for up to 12 children to be cared for in a primary residence. The LDC does not currently allow for this second tier of care without the issuance of a conditional use permit or zoning change. It should be noted again that a conditional use permit is not able to be requested in the R-4 and R-5 zoning districts. For more information on state requirements for child care please see *Attachment 2*.

The proposed recommendations to amend the text of the LDC intend to recognize child care formally within the LDC by independently defining adult care and child care. The proposal also independently defines child care homes and child care centers to allow for prescriptive recommendations for child care in different contexts, such as child care centers in residential areas versus industrial areas. It also allows for both models of regulated home-based care to be permitted in residential zones.

The recommendations intend to appropriately expand where child care centers may be located. Definitions and permitted locations are summarized below:

#### Child Care

- Definition - Care for a child in a center or home that regularly provides full or part-time care, day and/or night, and includes developmentally-appropriate play and learning activities. This term includes nursery and kindergartens but does not include schools, care provided as an accessory to a school or provided during services conducted in a religious building. Child Care is further regulated by Kentucky Administrative Regulations Title 922 (922 KAR).

#### Child Care Homes

- Definition - Child care for up to 12 children at the primary residence of the care giver. The use shall be clearly incidental and secondary to the principal use as a residence.
- Permitted - Residential zoning districts and locations where home occupations are currently permitted, including TNZD and PRD districts

#### Child Care Centers

- Definition - Child care for any size group of children.
- Permitted - Office, employment, and commercial zoning districts
- Conditional use permit – Residential and industrial zoning districts, including TNZD and PRD districts
- Permitted use with special standards - Industrial zoning districts
- Permitted use with special standards - Residential zoning districts

If the special standards cannot be met for a child care center in the residential or industrial zones, a conditional use permit may be requested. The specific text of the proposed amendments to the Land Development Code are detailed in *Attachment 1* beginning on page 7 of this report.

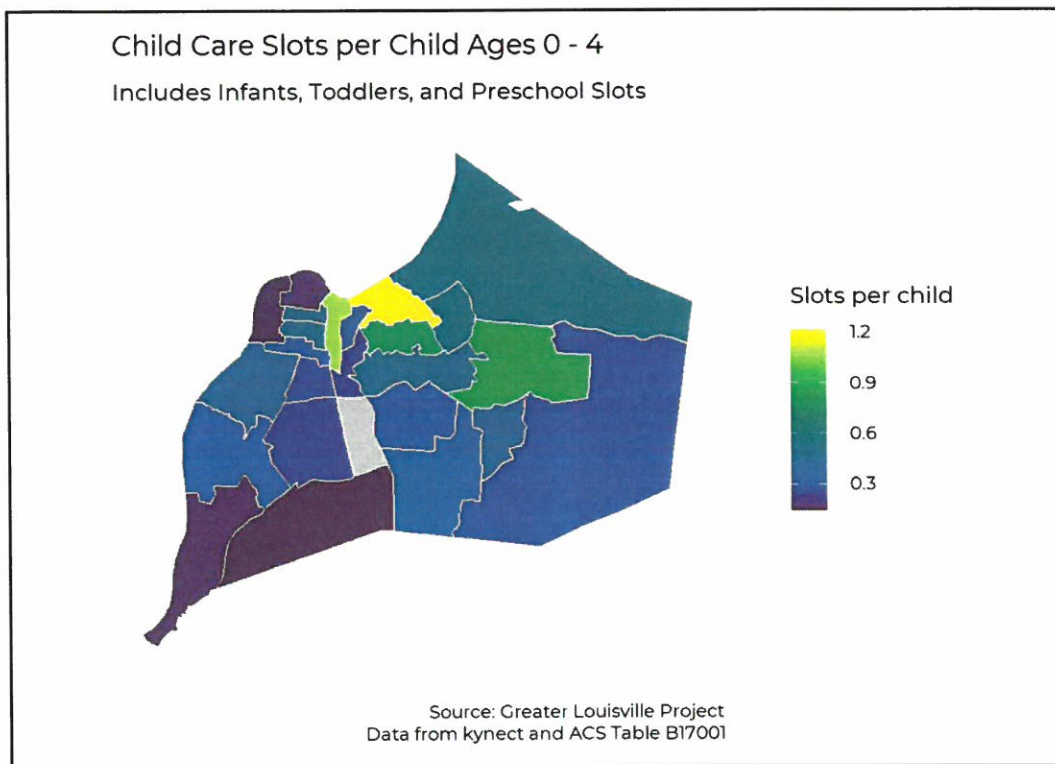
The proposed changes will not impact the current status or regulation of Adult Care, except that the ability to request a conditional use permit is to be restored in the R-4 and R-5, single family zoning districts.

### **PLANNING COMMITTEE MEETING**

The Planning Committee convened on November 3, 2021 to discuss and review the proposed recommendations.

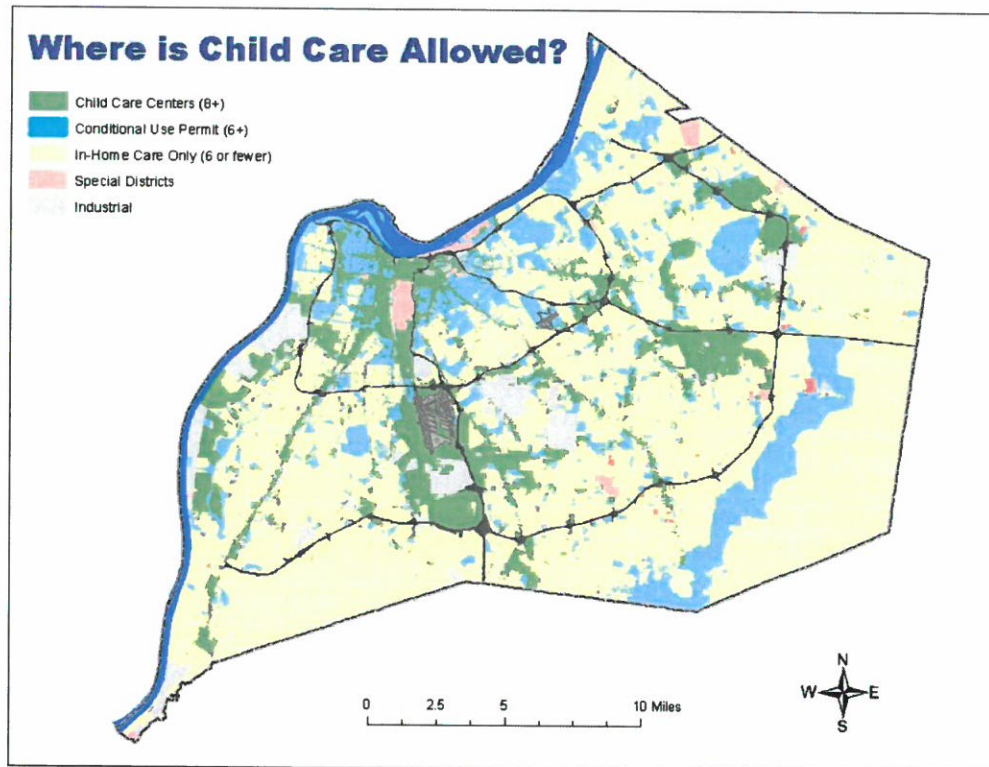
### **STAFF ANALYSIS**

Prior to the Covid-19 pandemic, the Blueprint for Kentucky's Children indicated that ½ of Kentucky communities are child care deserts where families have limited or no access to child care, 14% of parents quit a job, did not take a job, or greatly changed their job due to problems with child care, and child care took up 36% of single-parents income. The Greater Louisville Project revealed current spatial inequities in the local child care environment. They found that the lowest availability for child care by spaces available per child 0-4 was lowest in west and southwest Louisville:



The Covid-19 pandemic exacerbated existing issues in the child care environment. Child care providers closed, and a greater number of parents left the workforce citing child care as a reason for leaving or not returning (Metro United Way). The Kentucky Chamber of Commerce indicates that approximately 100,000 women left the workforce during the pandemic citing issues with school or child care as the reason.

The relationship between the availability of child care and the location of where child care is allowed is apparent upon consideration of the following map:



Most of the land is restricted to home care at no more than 6-children. The proposed recommendations will match the capacity permitted in a primary residence allowed by the Division of Child Care or up to 12 children. These areas will also be eligible for requesting a conditional use permit for a child care center. These areas will also allow for child care centers at specific locations subject to special standards, generally including corner commercial structures and religious buildings, dedication on proposed subdivisions, multi-family development sites, and on corner lots. If the standards cannot be met, a conditional use permit will be an option. Residential structures are required to remain in this context. See *Attachment 1* for detailed recommendations.

Areas of employment shown in grey will be eligible for child care to be provided as an employee benefit. If the standards cannot be met, a conditional use permit will be an option. The ability to request special permission by way of a conditional use permit ensures that child care can be provided across all of Louisville Metro.

The proposed amendment advances the following goals and objectives of Plan 2040:

- Community Form Goal 1, Objective d and f: Innovative development policies promote resilience and are responsive to existing and future trends. Infill development, revitalization and adaptive reuse are encouraged.
- Community Form Goal 1, Objective b: Diverse land uses are encouraged to promote quality of place and walkability in all neighborhoods.
- Community Form Goal 4, Objectives b & c: Revitalization is supported within historic neighborhoods. Adaptive reuse of historic structures is promoted and incentivized.

- Mobility Goal 3, Objectives a, b, & e: Development in existing and emerging mixed-use centers is encouraged. Walkable neighborhoods are promoted. Land use policies support transit to improve mobility and air quality.
- Economic Development Goal 1, Objectives b, d, e, f, h, and i: Targeted business sectors (e.g., advanced manufacturing, business services, food and beverage, lifelong wellness and aging care, logistics, and hospitality and tourism) are supported. Redevelopment of underused commercial, industrial and residential land is facilitated. A consistent and efficient planning and zoning climate is promoted. Equitable economic opportunities are increased. Small business and entrepreneurship is cultivated.
- Economic Development Goal 2, Objectives a, b, c, and e: Quality of life is enhanced throughout Louisville Metro. The economic value of neighborhoods is protected and improved. Population and employment centers are connected. Land use policies promote equitable distribution of accessible housing, recreation, and other community services.
- Livability Goal 2, Objective a: Neighborhoods have access to the resources necessary to maintain health and well-being, including healthy food, medical services and recreational opportunities.

## **PUBLIC OUTREACH & NOTIFICATION**

Five events beginning with a virtual open house hosted via Cisco Webex Video Teleconferencing on October 5, 2021 were held. A summary of the virtual open house and presentation are available on the dedicated webpage for child care changes, available here:

<https://louisvilleky.gov/government/planning-design/changes-childcare-regulations>

Four events were in-person at parks throughout Louisville Metro:

- Petersburg Park - October 9, 2021
- California Park - October 10, 2021
- Iroquois Park - October 12, 2021
- Hounz Lane Park– October 14, 2021

Notification for these events was provided on the PDS website, provided to registered users of all council districts signed up to receive electronic notification for development, mailed via USPS to child care providers not associated with a school, posted on social media through Develop Louisville's Facebook account, and provided to several family/social support organizations. Local media coverage also provided additional awareness of these events.

A questionnaire and place for public comment were also made available on the webpage. A copy of submitted comments, as well as those received at events are included with the public hearing material.

Preliminary recommendations were posted on the website on October 25, 2021, along with a summary of state requirements.

Notification of the Planning Commission public hearing was conducted in accordance with KRS 100 requirements. In addition, staff provided notice to those registered neighborhood groups and individuals on the list for electronic notification for development proposals.

## **STAFF FINDING**

The proposed amendments advance the goals and objectives of Plan 2040, as well as its CHASE principals, and provide for the appropriate expansion of child care at dispersed locations throughout Louisville Metro to meet the needs of families and care givers. The proposed amendments respond to trends in the child care environment that have been greatly impacted by Covid-19 and promote infill development and re-use by allowing child care in non-residentially built structures and on corner lots. The amendments also promote diverse land uses to create walkable neighborhoods where access to child care can be readily provided close to home and at a greater capacity than was previously allowed.

In recognizing the specific needs of the child care industry, targeted changes can be made to increase access and availability of child care. For instance, 45 of the 70 home care providers are west of I-65 where there is a lower availability of spaces per child. The targeted approach to increasing in-home capacity to 12 children allows for these operators to explore expansion or for new operators to come online to increase the availability of child care. This also promotes small business and entrepreneurship as in-home providers can explore an increased capacity without the burden of application fees and public hearing associated with a conditional use permit.

Allowing for expanded child care also intersects housing affordability and the workforce as child care could be provided in closer proximity to homes and employers. Lastly, the proposed amendments allow neighborhoods to have the resources to maintain health and well-being – accessible child care.

## **REQUIRED ACTIONS**

**Recommend** to the Louisville Metro Council and legislative bodies of cities with zoning authority that the proposed text amendments be **approved, approved with modifications, or denied.**

## **ATTACHMENTS**

1. Proposed Text Amendments
2. Summary of Kentucky Child Care Requirements

## 1. Proposed Text Amendment

*The Planning Commission must make a recommendation to Metro Council and the legislative bodies of cities with zoning authority to approve, approve with modifications, or deny the LDC text amendments. The proposed changes are presented as specific amendments to the Louisville Metro version of the LDC. The cities with zoning authority in Louisville Metro have different versions. If any of the cities consider incorporating the amendments into its LDC, staff will assist the city in preparing specific amendments that reflect the nature of the changes recommended in this report.*

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### Louisville Metro Land Development Code

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## Chapter 1, Part 2 Definitions

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### 1.2.2 Definitions

For the purposes of Chapters 1 through 11 the following terms, phrases, words, and their derivations shall have the meaning contained herein, except where the context clearly requires otherwise.

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Adult Care Center – Supervision and care regularly provided for adults during part of the day and less than 24 hours. This term includes adult day care, adult day health care, and Alzheimer’s respite care. This term does not include family care home (mini-home), rehabilitation home, residential care facility, nursing homes and homes for the infirm or aged, assisted living residences, hospital, or clinic. Adult Care is further regulated by Kentucky Administrative Regulations Title 907 (907 KAR).

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~~Child Care Center – See “Day Care Center.”~~

Child Care – Care for a child in a center or home that regularly provides full or part-time care, day and/or night, and includes developmentally-appropriate play and learning activities. This term includes nursery and kindergartens but does not include schools, care provided as an accessory to a school or provided during services conducted in a religious building. Child Care is further regulated by Kentucky Administrative Regulations Title 922 (922 KAR).

Child Care Center – Child care for any size group of children.

Child Care Home – Child care for up to 12 children at the primary residence of the care giver. The use shall be clearly incidental and secondary to the primary use as a residence.

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~~Day Care Center – Any facility whatsoever which cares for more than eight clients not related to the operator by blood, marriage, adoption or foster care responsibility and usually under 18 years old, away from the client’s own home, for periods of less than twenty-four hours per day per client. Occasional extended stays may also be provided. Such facilities may be for profit or non-profit. This term includes Adult Day Care Center, Child Care Centers, Nursery Schools and Kindergartens, when not accessory to an elementary school; but does not include~~

~~Group Care Facilities, Residential Social Service Facilities, any center under the jurisdiction of the State Board of Education, any private school except those solely below first-grade level or any center operated by a religious institution on the same lot as the religious assembly structure.~~

Day Care – See “Child Care” or “Adult Care Center”

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## **Chapter 2, Part 2 Residential Zoning Districts**

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### **2.2.1 R-R Rural Residential District**

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#### **A. Permitted Uses**

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Child Care Homes

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### **2.2.2 R-E Residential Estate District**

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#### **A. Permitted Uses**

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Child Care Homes

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### **2.2.3 R-1 Residential Single Family District**

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#### **A. Permitted Uses**

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Child Care Homes

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### **2.2.8 U-N Urban Neighborhood District**

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Child Care Homes

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*Note: All uses permitted in the R-1 Residential Single Family District are permitted in the R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, & R-7 districts; thus, child care homes would be permitted in each district.*

### **2.2.13 R-8A Residential Multi Family District**

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#### **A. Permitted Uses**

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Adult Care Centers

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Child Care Centers

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~~Day care centers, day nurseries, nursery schools and kindergartens~~



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## Chapter 2, Part 3 Office/Residential Zoning Districts

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### 2.3.1 OR Office/Residential District

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#### A. Permitted Uses

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[Adult Care Centers](#)

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[Child Care Centers](#)

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~~Day care centers, day nurseries, nursery schools and kindergartens~~

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*Note: All uses permitted in the OR Office/Residential District are permitted in the OR-1, OR-2, OR-3, & OTF districts; thus, adult care centers, child care homes and child care centers would be permitted in each district.*

## Chapter 2, Part 4 Commercial Zoning Districts

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### 2.4.1 C-N Neighborhood Commercial District

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#### A. Permitted Uses

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[Adult Care Centers](#)

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[Child Care Centers](#)

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~~Day care centers, day nurseries, nursery schools and kindergartens~~

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### 2.4.2 C-R Commercial Residential District

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#### A. Permitted Uses

All uses permitted in the R-7 Residential Multi Family District, as well as the following use(s):

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[Adult Care Centers](#)

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[Child Care Centers](#)

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~~Day care centers, day nurseries, nursery schools and kindergartens~~

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### 2.4.3 C-1 Commercial District

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#### A. Permitted Uses

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Adult Care Centers

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Child Care Centers

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~~Day care centers, day nurseries, nursery schools and kindergartens~~

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*Note: All uses permitted in the C-1 Commercial District are permitted in the C-2, C-3, C-M, PEC, & EZ-1 districts; thus, adult care centers, child care homes and child care centers would be permitted in each district.*

**Chapter 2, Part 6 Special Purpose Districts**

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**2.6.2 PRO Planned Research/Office District**

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**A. Permitted Uses**

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Adult Care Centers

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Child Care Centers

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~~Day care centers, day nurseries, nursery schools and kindergartens~~

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**Chapter 2, Part 7 Planned Zoning Districts**

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**2.7.1 Planned Village Development**

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**2.7.1.C Development Guidelines and Standards – Table 2.7.1.**

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~~day care center~~ Child and Adult Care Centers

~~family day care home~~ Child Care Homes

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**2.7.2 Planned Transit Development (PTD) District**

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**PTD District Land Use Table**

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**Civic use**

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~~Day care center, day nurseries~~ Child and Adult Care Centers

~~family day care center~~ Child Care Homes

**2.7.3 Planned Residential Development (PRD) District**

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**A. Permitted Uses**

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Child Care Homes

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**2.7.4 Traditional Neighborhood Zoning District – General Provisions**

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TNZD Land Use Table

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Land Use Category	Neighborhood General	Neighborhood Transition-Center	Neighborhood Center
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Home Occupations	P	P	P
<u>Child Care Homes</u>	<u>P</u>	<u>P</u>	<u>P</u>

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<del>Day Care Centers</del> <u>Child and Adult Care Centers</u>	<del>X</del> <u>P/CU</u>	P	<del>X</del> <u>P/CU</u>
<del>Family Day Care Home</del>	<del>X</del>	<del>P</del>	<del>X</del>

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**2.7.5 Traditional Neighborhood Zoning District – Old Louisville/Limerick**

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**Table 2.7.5: Table 1 Old Louisville/Limerick TNZD Land Uses - General**

TNZD Land Use Category	Neighborhood General	Neighborhood Transition-Center	Neighborhood Center	Neighborhood Center Transition: Edge Transition	Neighborhood General Campus Edge Transition	LDC Section Providing Special or Conditional Use Standards
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Home occupations	PS	PS	PS	PS	NP	4.4.5
<u>Child Care Homes</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>n/a</u>

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<del>Day care centers, nurseries and Kindergartens</del> <u>Child and Adult Care Centers</u>	<del>NP</del> <u>P/CU</u>	P	P	P	<del>NP</del> <u>P/CU</u>	<u>4.2.19</u>
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**2.7.5 Table 2 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood General**

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Land Use Category	Description of Permitted Uses
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Other Uses	
Accessory Uses	A use which is clearly incidental to, customarily found in association with, and serves a principal use; is subordinate in purpose, area, or extent to the principal

	use served; and is located on the same building site as the principal use, including parking areas.
<u>Child Care Homes</u>	<u>Child care for up to 12 children at the primary residence of the care giver. The use shall be clearly incidental and secondary to the primary use as a residence.</u>

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**Table 2.7.5: Table 4 Old Louisville/Limerick TNZD - Uses Permitted Where Mapped in the Neighborhood General**

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<b>Land Use Category</b>	<b>Description of Uses Permitted Where Mapped</b>
<b>Commercial Uses</b>	

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Corner Lot Commercial	<p>Corner Lot Commercial Uses, as listed below, are permitted where mapped, subject to the following standards.</p> <p>The following uses are permitted for existing structures, originally built as corner lot commercial buildings, on the first floor only. Any floor may be used for office uses as permitted for Neighborhood Center—Transition and/or for residential uses.</p> <p>New construction is permitted only where Corner Lot Commercial uses are identified on the District Plan Map, provided total gross floor area of commercial/retail use does not exceed 5,000 square feet on the first floor and is accessible from the public sidewalk. Any floor may be used for office and/or residential uses.</p> <p>Replacement structures shall not to exceed the footprint of the previous contributing principal structure, unless approved by governing authorities in accordance with standards for new construction.</p> <p>Corner lot Commercial Uses ****</p> <p>20. <del>Day care centers, day nurseries, nursery schools and kindergartens</del> <u>Child and Adult care Centers</u> ****</p>
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**Table 2.7.5: Table 5 Old Louisville/Limerick TNZD - Uses Permitted as Conditional Uses in the Neighborhood General**

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<b>Land Use Category</b>	<b>Description of Uses Permitted as Conditional Uses</b>
<b>Other Uses</b>	

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Bed and Breakfast Inns	Bed and Breakfast Inns as permitted by Section 4.2.9 of this Land Development Code.
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<a href="#">Child and Adult Care Centers</a>	<a href="#">Child and Adult Care Centers as permitted by Section 4.2.19 of this Land Development Code</a>
Nursing Homes and Homes for the Infirm and Aged	Nursing Homes and Homes for the Infirm and Aged as permitted by Section 4.2.38 of this Land Development Code.

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**Table 2.7.5: Table 6 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood Transition—Center**

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<b>Land Use Category</b>	<b>Description of Permitted Uses</b>
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~~Day care centers, day nurseries, nursery schools, and kindergartens~~ [Child and Adult Care Centers](#)

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**Table 2.7.5: Table 9 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood Center**

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<b>Land Use Category</b>	<b>Description of Permitted Uses</b>
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~~Day care centers, day nurseries, nursery schools, and kindergartens~~ [Child and Adult Care Centers](#)

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**Table 2.7.5: Table 13 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood Center Transition: Edge Transition**

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<b>Land Use Category</b>	<b>Description of Permitted Uses</b>
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~~Day care centers, day nurseries, nursery schools, and kindergartens~~ [Child and Adult Care Centers](#)

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**Table 2.7.5: Table 18 Old Louisville/Limerick TNZD - Uses Permitted as Conditional Uses in the Neighborhood General Campus Edge Transition**

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<b>Other Uses</b>	
Community Service Facility	Community service facility as permitted by Section 4.2.54 of the Land Development Code.

<a href="#">Child and Adult Care Centers</a>	<a href="#">Child and Adult Care Centers as permitted by Section 4.2.19 of this Land Development Code</a>
Nursing Homes and Homes for the Infirm and Aged	Nursing Homes and Homes for the Infirm and Aged as permitted by Section 4.2.38 of this Land Development Code.

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## Chapter 4, Part 2 Conditional Uses

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### 4.2.1 Intent and Applicability

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The following uses are subject to the Conditional Use Permit process:

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4.2.19	<del>Day Care Facilities (providing care for 8 or more persons)</del> <a href="#">Child and Adult Care Centers</a>
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### ~~4.2.19 Day Care Facilities (providing care for more than 6 children)~~ [Child and Adult Care Centers](#)

~~Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.~~

- ~~A. — Signs — There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.~~
- ~~B. — Residential Structure — The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).~~
- ~~C. — Alterations or Improvements to the Structure — Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.~~
- ~~D. — On-Site Drop-off and Pick-up Area — An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.~~
- ~~E. — Parking Spaces — The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the~~

~~premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.~~

- ~~F. Drainage Control—The development plan shall have the approval of the appropriate agency responsible for surface drainage control.~~
- ~~G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.~~
- ~~H. Fence—A fence with a minimum height of 4 feet shall be erected around the outdoor play area.~~
- ~~I. Alterations or Improvements to the Property—Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop-off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.~~
- ~~J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate.~~

Child and Adult Care Centers may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 U-N, R-5A, R-5B, R-6, PRD, R-7, TNZD, M-1, M-2, and M-3 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements:

A. Existing Residential Structure

1. The structure shall remain, or property improved so that the exterior design and ornamentation is residential in character and compatible with the immediately surrounding neighborhood and form district(s).
2. Should the structure remain, there shall be no alterations or improvements which would impair future use of the structure as a residence.
3. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage
4. Outdoor activities shall be limited to the rear yard, except that corner lots may utilize the street side yard. No activity or play equipment in excess of 4' in height is allowed in the required street side yard.

B. Industrial Zoning Districts

1. Child care centers on the same development site as a use permitted within the M-1, M-2, and M-3 zoning districts that do not meet the provisions of Section 4.3.11 of this LDC:
  - a. All special standards outlined within Section 4.3.11 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.11 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would ensure the public health, safety, and welfare of staff and children.

2. Areas designated for outdoor activity shall not be located within 200 feet of any area used for heavy truck idling, loading, or the operation of other heavy equipment or motor driven vehicles.
  3. Review by the Air Pollution Control District (APCD) shall be required. APCD may impose conditions as necessary to protect human health and the environment.
- C. Pick-up/drop-off – An area(s) designated for the safe loading and unloading of passengers shall be assigned off-street or on-street.
1. The location of this area shall be determined by the Planning Director or designee upon consultation with Transportation Planning. The determination should consider hours for pick-up/drop-off, street classification, area of the lot and availability for off-street designation, and vehicle queuing.
  2. If an on-street area is to be used, approval shall also be received from Louisville Metro Public Works. The applicant/developer/owner shall be responsible for all costs associated with an on-street designation.
- D. Parking Spaces - Parking for employees shall be required as determined by the Planning Director or designee. This determination should consider staff-to-child ratios for the age group served, maximum group size limits, licensed capacity, availability of on-street parking within the area, public transit routes, and/or the use of nearby facilities for shared parking.
- E. Drainage Control – Preliminary plan approval must be received by the Louisville Metropolitan Sewer District (MSD).
- F. Fence - A fence shall enclose all areas for outdoor activity.
- G. Signs – In residential zoning districts, there shall be allowed one non-illuminated attached business sign not exceeding 4 square feet in area, regardless of the form district. No changing image signs shall be permitted
- G. Hours – No outdoor activities shall occur between the hours of 9 P.M and 7 A.M, except for pick-up/drop-off.
- H. Buildings – All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.

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#### **Chapter 4 Part 3 Permitted Uses with Special Standards**

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#### **4.3.11 ~~Day Care Centers in the M-1 Zoning District~~ Child Care Centers in Industrial Districts**

~~A single day care center may be permitted within the M-1 Industrial District provided the operation is in accordance with the following standards:~~

- ~~A. The access to the day care center shall be separate and apart from any access to a use permitted in an industrial, commercial or office use.~~
- ~~B. Heavy equipment shall not be stored or utilized by a business on the same property as the day care center.~~
- ~~C. No hazardous material may be stored on-site.~~



- ~~D. No truck idling shall be permitted on-site.~~
- ~~E. On-site Drop-off and Pick-up Area. An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice-versa. The design of this area must be approved by the agency responsible for transportation planning.~~
- ~~F. The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be in accordance with Chapter 9, Part 1 of the LDC. The parking layout must be approved by the appropriate agency responsible for transportation planning.~~
- ~~G. Fence. A fence with a minimum height of 4 feet shall be erected around the outdoor play area.~~
- ~~H. The applicant shall receive approval from the Air Pollution Control District which may condition its approval as may be necessary and appropriate to protect human health and the environment consistent with applicable laws and regulations relating to ambient air quality.~~

A child care center may be permitted as a primary use on the same development site as a use permitted within the M-1, M-2, and M-3 zoning districts subject to the following standards:

- A. Entrances – The center shall maintain a building entrance independent from the industrial user of the development site, which includes a designated off-street pick-up/drop-off area set aside for the sole use of the center. This area must be connected to the center's entrance by an ADA accessible walkway.
- B. Use Restrictions – Any industrial user(s) of the development site shall not manufacture, process, treat or store potentially hazardous or nuisance uses as described in Section 4.2.42 of this LDC and shall not hold a conditional use permit to allow a greater intensity of use than is ordinarily permitted within the M-3 zoning district, including scrap metal processing facilities and junkyards, or development sites containing a solid waste management facility or refuse disposal operation.
- C. Trucks and Equipment – Areas designated for outdoor activity shall not be located within 200 feet of any area used for heavy truck idling, loading, or the operation of other heavy equipment or motor driven vehicles.
- D. Fence – A fence shall enclose all areas for outdoor activity.
- E. Parking – Parking for employees shall be required as determined by the Planning Director or designee. This determination should consider staff-to-child ratios for the age group served, maximum group size limits, licensed capacity, availability of on-street parking within the area, public transit routes, and/or the use of nearby facilities for shared parking.
- F. Air Pollution – Review by the Air Pollution Control District (APCD) shall be required. APCD may impose conditions as necessary to protect human health and the environment.

G. Plan – A plan of adequate detail to demonstrate compliance with these requirements shall be reviewed and approved by Planning and Design Services staff. Should the proposal meet the thresholds for Community Design Review, the procedures described by Section 11.6.4 of this LDC shall be followed.

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#### **4.3.26 Smoking Retail Store**

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A. No Smoking Retail Store shall be located within one thousand (1,000 feet) of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

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6. ~~Day Care Center~~ Child or Adult Care Centers

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#### **4.3.28 Child Care Centers in Residential Zones**

A child care center is permitted in any residential zoning district subject to the following standards:

##### A. Permitted Locations

1. On any lot where a non-residential structure is present and in existence prior to the adoption of these standards, including structures for religious buildings, schools, professional offices, and clubhouses but not including child care centers subject to an existing conditional use permit.
2. A lot may be designated for a child care center within any proposed residential subdivision containing 50 or more residential building lots. The lot shall be shown on all preliminary and final subdivision plats and may be subject to conditions of approval and/or binding elements. The area of this lot may be amended in accordance with Section 7.1.91 of this LDC.
3. On a multi-family building or development site, new or existing, consisting of 1 or more acres and at least 20 dwelling units. For new development, dwelling units shall be subject to the maximum density of the applicable zoning district.
4. On a corner lot.

##### B. Existing Residential Structure

1. Existing primary residential structure(s) shall remain.
2. There shall be no alterations or improvements which would impair future use of the structure as a residence

- 3. Exterior alterations and improvements to the structure or property shall comply with the residential dimensional, site, and building design standards of the applicable zoning and form district.
- 4. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage.
- C. Outdoor Activity – Outdoor activity shall be limited to the rear yard; except that corner lots may utilize the street side yard. No activity or play equipment in excess of 4' in height is allowed in the required street side yard.
- D. Fence – A fence shall enclose all areas for outdoor activity.
- E. Hours – No outdoor activity shall occur between the hours of 9 P.M and 7 A.M, except for pick-up/drop-off
- F. Pick-up/drop-off – An area designated for the safe loading and unloading of passengers shall be assigned either off-street or on-street. If an on-street area is to be designated, approval must be received from Louisville Metro Public Works. The applicant/developer/owner shall be responsible for all costs associated with an on-street designation.
- G. Parking – Parking for employees shall be required as determined by the Planning Director or designee. A parking determination should consider ratio requirements for staff to children for the age group served, maximum group size limits, licensed capacity, availability of on-street parking within the area, public transit routes, and the use of nearby facilities for shared parking. Parking should not be located within the front or street side yard.
- H. Plan – A plan of adequate detail to demonstrate compliance with these requirements shall be reviewed and approved by Planning and Design Services staff. Should the proposal meet the thresholds for Community Design Review, the procedures described by Section 11.6.4 of this LDC shall be followed.

**Chapter 4 Part 4 Accessory Uses and Miscellaneous Standards**

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**4.4.5 Home Occupations**

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A. Intent.

The intent of this Section is to allow an occupant or occupants of a residence located on residentially zoned property to engage in a home occupation, trade, profession or business within said residence and its accessory structure(s) provided that such an activity does not adversely affect adjacent or nearby residents or the neighborhood as a whole.

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G. Permitted Locations and Maximum Size/Area. ~~(This section does not apply to In-Home Day Care Home Occupations.)~~

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H. Hours of Operation.

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~~3. While In-Home Day Care Home Occupations may operate 24 hours a day, all associated outdoor activity other than pick-up and drop-off of children shall be prohibited between 9 P.M. and 7 A.M.~~

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*NOTE: Uses generally acceptable as home occupations include:*  
~~*In-Home Day Cares (6 or fewer individuals)\*(in effect within Louisville Metro only)*~~  
~~*In-Home Day Cares (7 or fewer individuals)\*(not in effect within Louisville Metro and the City of Prospect)*~~

- Mail Order Operations
- Woodshops
- Beauticians

*The offices of the following professionals:*  
*Accountants, Architects, Attorneys, Engineers, Real estate brokers, Sales and Manufacturing Representatives, Financial advisors, Insurance agents, Landscape architects Counselors, Mediators Travel agents, Therapists, Chiropractors, Psychologists, and Psychiatrists*

~~*\*Plus up to four individuals related to the operator. 922 KAR 2:100 defines "related" as having one of the following relationships with the provider: child, grandchild, niece, nephew, sibling, step-child, or child in legal custody of the provider.*~~

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J. Prohibited Home Occupations

The following uses/activities are prohibited as home occupations unless expressly permitted by other provisions of this Section. If, in the opinion of the permit issuing authority, a use or activity that is proposed as a home occupation is not specifically listed as prohibited, but has characteristics of a use or uses that are listed and could negatively impact the residential character of the neighborhood in which it is proposed, then that use/activity shall be prohibited as a home occupation. Such determinations may be appealed to the Board of Zoning Adjustment.

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~~Daycare Facilities (except as otherwise permitted)~~ Child or Adult care Centers

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K. Registration of Home Occupations.

Prior to the establishment of any home occupation that (i) serves customers, clients or pupils at the site, or (ii) has one or more non- resident employees, the proprietor shall register the occupation. ~~Day care centers as a home occupation shall require a home occupation registration.~~ The registration shall not be transferable and shall not run with the land; it shall terminate upon sale or transfer of the property to a new owner or tenant. The Planning Director shall maintain records of registered home occupations. The registration form shall be the basis for determining compliance with the requirements of this section 4.4.5. Home occupation proprietors shall be responsible for updating their registration forms, at such time as their operations change from the activities described in the registration documents. Any home occupation meeting either criteria (i) or (ii) above that was established before the effective date of this Section shall have one year from the effective date of this Section to register the home occupation.

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*Note: The Department of Community Based Services, Division of Child care requires written documentation from the local authority showing compliance with local zoning requirements. Planning and Design Services confirms zoning for child care centers through a “zoning Confirmation” letter. The current process for home occupation registration is generally the same process. All child care operations will require zoning confirmation.*

## **Chapter 5 Part 2 Traditional Form Districts**

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### **5.2.5 Traditional Workplace Form District**

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#### **B. Intent and Applicability**

The provisions of this section are intended to promote high quality design that is compatible with adjacent non-workplace uses. The TWFD often must accommodate relatively large volumes of traffic and parking while also providing for alternative travel modes.

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5. A mixture of uses on a site especially employee-serving commercial businesses (e.g., ~~day care centers~~ child care centers, auto-servicing, dry cleaners and restaurants).

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## **Chapter 5 Part 3 Suburban Form Districts**

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### **5.3.4 Suburban Workplace Form District**

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#### **C. Intent and Applicability**

The provisions of this section are intended to promote high quality design and a more visually attractive environment in the SWFD, accommodating relatively large volumes of traffic while providing for alternative travel modes. Standards are included to promote:

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- 4 A wide range of employee-serving commercial businesses (e.g., ~~day-care centers~~ child care centers, auto servicing, cleaners, restaurants, etc.); and

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**Chapter 9 Part 1 Motor Vehicle Parking Standards**

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**Table 9.1.3B Minimum and Maximum Motor Vehicle Parking Based on Use**

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GENERAL ACTIVITIES ('LBCS Code)	SPECIFIC ACTIVITIES ('LBCS Code)	MINIMUM REQUIREMENT	MAXIMUM REQUIREMENT
	<del>Daycare, child or adult</del> <u>Child or Adult Care Centers</u>	To be determined by Planning Director or designee.	No more than 25% above minimum

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