

21-LDC-0013

Land Development Code (LDC)
Text Amendment – Child Care



Planning Commission

Joel P. Dock, AICP, Planning Coordinator

November 18, 2021

Current Regulations - Home Care

- In-home child care regulated as Home Occupation – LDC 4.4.5
 - It is NOT defined in the LDC
 - One non-resident employee (Conditional use permit required for additional staff)
 - Registration required
 - Exempted from several requirements
 - Area/size
 - Operating hours

NOTE: Uses generally acceptable as home occupations include:

In-Home Day Care (6 or fewer individuals)(in effect within Louisville Metro only)*

In-Home Day Care (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.*

Current Regulation – Child Care Centers

- **Child Care and Adult Care Center definitions are combined:**

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.

Current Regulations – Permitted Locations

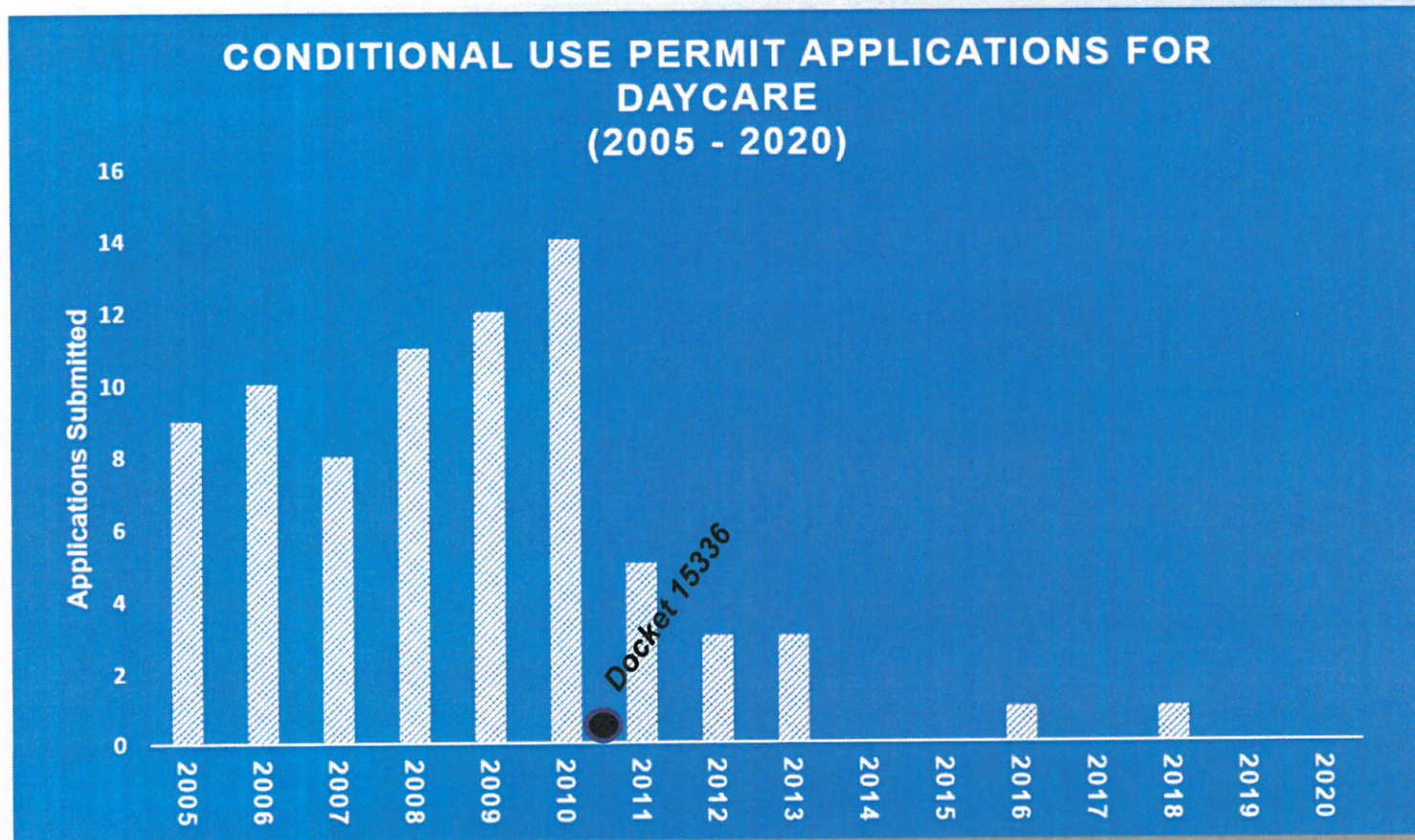
- Home Occupations: R-R to OTF, TNZD

Land Use Activity	Residential															Commercial						Industrial						Standards						
	Single Family							Multi-family					Apt./Office																					
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2		M-3	PRO	PEC	W-1	W-2	W-3
Heliports	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	4.2.57
Home occupations	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	C/PS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.2.28 4.4.5

- Child Care Centers: R-8A through EZ-1, PRO, PEC, TNZD
- Child Care Centers Permitted with Special Standards: M-1
- Child Care Centers allowed by Conditional Use Permit (CUP): R-R through R-3 and U-N through R-7

Land Use Activity	Residential															Commercial						Industrial						Standards						
	Single Family							Multi-family					Apt./Office																					
	R-R	R-E	R-1	R-2	R-3	R-4	R-5	U-N	R-5A	R-5B	R-6	R-7	R-8A	OR	OR-1	OR-2	OR-3	OTF	C-N	C-R	C-1	C-2	C-3	CM	EZ-1	M-1	M-2		M-3	PRO	PEC	W-1	W-2	W-3
Day care centers, day nurseries, nursery schools and kindergartens	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	PS	-	-	P	P	-	-	-	4.3.11
Day care facilities (providing care for more than 6 children)	C	C	C	C	C	-	-	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.2.19
Department or variety stores	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	-	-	-	P	-	-	-	

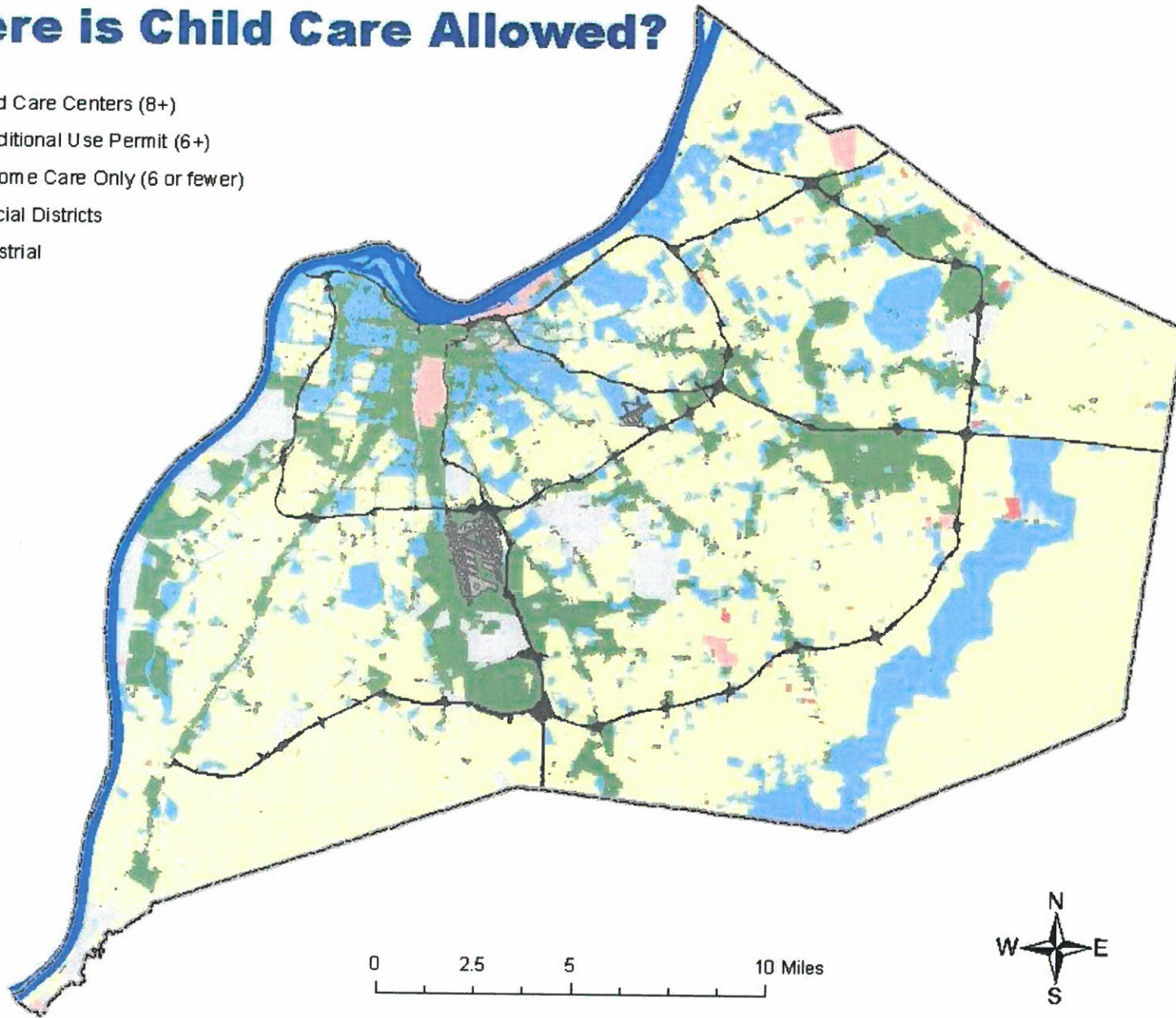
Current Regulations – Conditional Use Permit (CUP)



Case 15336 (2011) made the R-4 and R-5 zoning districts ineligible to request a CUP for 6 or more children – 60% of land area of Jefferson County

Where is Child Care Allowed?

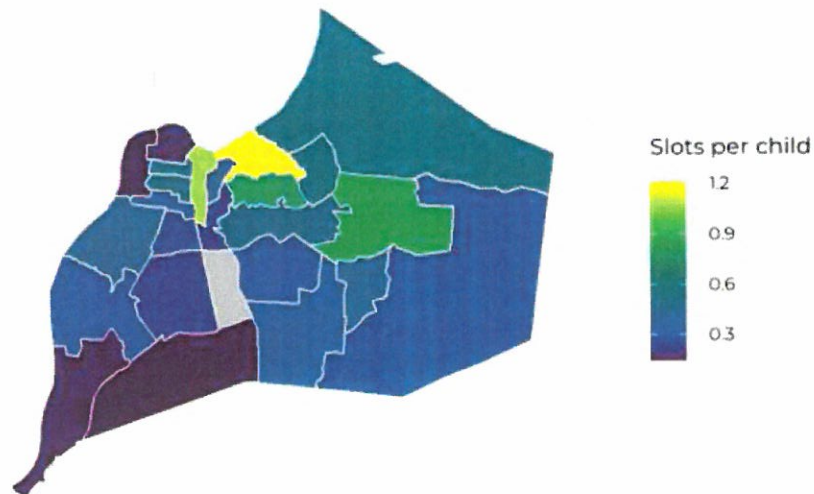
- Child Care Centers (8+)
- Conditional Use Permit (6+)
- In-Home Care Only (6 or fewer)
- Special Districts
- Industrial



Data Review (Prior to Covid-19)



Child Care Slots per Child Ages 0 - 4
Includes Infants, Toddlers, and Preschool Slots



Source: Greater Louisville Project
Data from kynect and ACS Table B17001

The lowest ratio of available spaces per child 0-4 yrs. is in Southwest and West Louisville – 0.3 spaces available for every 1 child

Data Review (Covid-19 Impact)

- **45%** - 45% of surveyed Kentucky parents had to quit a job, not take a job, or change jobs due to a lack of child-care, losing income and earning potential – Metro United Way
- **8%** - The number of childcare providers has decreased by 8% since the start of the pandemic – Greater Louisville Inc.
- **100,000** – 100,000 women have left workforce during pandemic due to child care issues and school closures – KY Chamber of Commerce

Peer City Review

14 City Code Analysis

Cincinnati	Nashville	Indianapolis	Austin	San Antonio
Portland	Seattle	Charlotte	Tucson	Hartford
Lexington	Minneapolis	Gainesville	Memphis	

2021 Summer Internship – Brady Hill

State Requirements

Department of Community Based Services, Division of Child Care

Licensed Early Childhood Provider Type I

- Child care services for 4 or more children in a non-residential setting or 13 or more children in a residential setting.

Licensed Early Childhood Provider Type II

- Primary residence where childcare is regularly provided for 7-12 children including no more than 12 children related to the licensee.

State Requirements

Department of Community Based Services, Division of Child Care

Certified Family Child Care

- Care provided in a caregiver's own home for 6 or fewer children unrelated and no more than 4 related children at any time (total of 10 children).

Registered Early Childhood Professional

- Typically a family member, friend or neighbor who cares for children in his or her own home or the child's home. A registered early childhood provider may not care for more than 3 children unrelated to the caregiver or more than 6 children if they are a sibling group.

Public Outreach

- **Website:** <https://louisvilleky.gov/government/planning-design/changes-childcare-regulations>
 - Questionnaire
- **Press release (9/29/21)**
- **Virtual Open House (10/5/21)**
- **4 in-person events:**
 - Petersburg Park (10/9/21)
 - California Park (10/10/21)
 - Iroquois Park (10/12/21)
 - Hounz lane park (10/14/21)
- **GovDelivery**
- **USPS to child care providers unaffiliated with a school**
- **Planning Committee 11/3/21**



Are you the operator or employee of a childcare program? Yes

If yes, how many children are enrolled in your childcare program? 6

Do you think that childcare is accessible to everyone in Jefferson County? No

What size of childcare program do you prefer? 10 or less children

Do you believe that childcare programs should be available in residential neighborhoods and/or commercial areas? Both

Please provide your comments and ideas:

I have been a state certified child care provider for 22 years. I looked into increasing my capacity to 12 children in my home from 6 and it was too expensive and to intense a process for me for zoning. I currently have about 10 people on a waiting list and people begging me for a spot. I would apply for more kids if it didn't cost so much, take so long or was such a laborious process. I have a wonderful home, driveway and space to be able to increase my child care size. I believe state certified child care programs should increase to 10 instead of 6 without any additional zoning or requirements. It would help alleviate the shortage of child care for children especially in Louisville..

Proposed Regulations

Child Care Defined

- **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, provided during services conducted in a religious building, or other exemption authorized by the Commonwealth of Kentucky. Child Care is further regulated by Kentucky Administrative Regulations Title 922 (922 KAR).
- **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 principal use as a residence.
- **Child Care Center** – Child care for any size group of children.

Proposed Regulations

Adult Care Defined

- **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, or 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).

Proposed Regulations - Permitted Locations

▪ Child Care Homes

- Permitted - Residential zoning districts and locations where home occupations are currently permitted, including TNZD and PRD districts
- Replaces home occupation standards

▪ Child Care Centers

- 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

Proposed Regulations - Permitted Locations

- **Adult Care Center**
- 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.

Proposed Regulations – Summary of CUP

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

- Revised LDC Sec. 4.2.19
- Child or Adult Care
- Existing Residences - Maintain residential structures and potential future use as a residence or make improvements that are compatible with the neighborhood
- Industrial – Demonstrate why special standards of proposed Section 4.3.11 cannot be met – unassociated with employer
- Pick-up/drop-off designation
- Parking Determination
- Outdoor activity restricted between 9 p.m to 7 a.m

Proposed Regulations – Permitted w/ Standards for Industrial M-1, M-2 & M-3

- Revised LDC Sec. 4.3.11
- 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
- Independent Entry
- Use Restrictions
- Min. distance from heavy trucks and loading areas:

Revision to 4.3.11: 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.~~

Revision to 4.2.19.B.a.2: ... of other heavy equipment ~~or motor driven vehicles.~~

Proposed Regulations – Permitted w/ Standards for Residential - R-R to R-7

- New LDC Sec. 4.3.28
- Permitted Locations:
 - Existing non-residential structures, including religious buildings
 - Designated on a proposed major subdivision
 - Within a multi-family development site
 - Corner lots
 - Existing residential structures shall remain and retain the ability for future use as a residence
 - Improvements must meet residential standards

Proposed Regulations – Summary of Permitted w/ Standards for Residential

R-R to R-7

- Outdoor activity in rear yard or street side yard with fence
- No equipment in required street side yard over 4' in height
- Outdoor activity restricted to pick-up/drop-off between 9 p.m and 7 a.m
- Pick-up/drop-off designation
- Parking Determination

*Revision to 4.2.19 & 4.3.28: No **activity** ~~or~~ play equipment in excess of 4' in height is allowed in the required street side yard **of the form district.***

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
- In recognizing the specific needs of the child care industry, targeted changes can be made to increase access and availability of child care.
- 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.
- 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.**

21-LDC-0013
Proposed Findings for the Planning Commission

On a motion by Commissioner _____, seconded by Commissioner _____, the following resolution, based on the staff report, and evidence and testimony heard today, was adopted:

A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING APPROVAL OF TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE RELATED TO CHANGES IN THE CHILD CARE REGULATIONS TO THE LOUISVILLE METRO COUNCIL AND OTHER JURISDICTIONS WITH ZONING AUTHORITY.

WHEREAS, Planning and Design Services (PDS) conducted a review of zoning regulations within the Land Development Code (LDC) that restrict the location, capacity, and delivery of child care and proposed recommendations to provide greater and more equitable access to child care; and

WHEREAS, the Planning Commission finds that the proposed text amendments advance the goals and objectives of Plan 2040 and provide for the appropriate expansion of child care at dispersed locations throughout Louisville Metro to help meet the needs of families and child care providers; and

WHEREAS, the Commission further finds that the proposed amendments respond to trends in the child care environment that have also been adversely impacted by Covid-19; and

WHEREAS, the Commission further finds that the amendments promote infill development and re-use by allowing child care to occupy non-residential structures and corner lots, which also promotes 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; and

WHEREAS, the Commission recognizes that the child care industry has specific needs and targeted changes can be made to increase access and availability of child care; and

WHEREAS, the Commission further finds that the amendments promote small business and entrepreneurship as in-home providers can explore an increased capacity without the burden of application fees and public hearings associated with a conditional use permit; and

WHEREAS, the Commission further finds that the allowing for expanded child care also intersects housing affordability and the workforce as the amendments will allow for child care to be provided in closer proximity to homes and employers; and

WHEREAS, the Commission further finds that the proposed amendments allow neighborhoods to have the resources to maintain health and well-being – accessible child care; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and legislative bodies of cities with zoning authority that the proposed text amendments be **APPROVED** as follows:

-Insert recommended text amendment-