



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-22-00003: AMENDMENT TO ARTICLES 1, 8, AND 23 TO UPDATE REGULATIONS FOR FAMILY CHILD CARE HOMES

APPLICANT: Urban County Planning Commission

PROPOSED TEXT: See attached documentation
(Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

STAFF REVIEW:

In response to recent amendments to Kentucky Revised Statutes (KRS) related to certified in-home childcare programs, the Planning Commission initiated a petition for a Zoning Ordinance Text Amendment in order to reconcile local regulations with relevant state laws. The proposed text replaces the existing definition in the Zoning Ordinance for “Family Childcare” with two new definitions to better reflect the two in-home childcare programs regulated by the Cabinet for Health and Family Services.

The Zoning Ordinance currently allows for two levels of in-home childcare businesses. Currently, the Zoning Ordinance defines Family Childcare in Article 1. The use is further regulated in Article 8, where in zones allowing single family dwelling units, Family Childcare for up to six (6) children is allowed as an accessory use and Family Childcare for seven (7) to twelve (12) children is allowed as a conditional use, subject to review and approval by the Board of Adjustment. For both accessory and conditional uses, the specified number of children currently includes any children living or being cared for on the premises.

KRS 199.8982 which regulates the Family child-care home certification program was amended in 2021 related to requirements on a local government regulating certified family child-care homes. The text of that legislation states that the availability of adequate child-care as an essential business is vital to the Commonwealth’s state and local economies. The amendment requires local governments that have adopted land use regulations pursuant to KRS 100 to specifically name family child-care homes for conditional use permits within the residential zones of the planning unit where they are not a fully permitted use pursuant to KRS 100.237. This new regulation has lead staff to draft the proposed language (attached). The proposed language will bring the Zoning Ordinance into compliance with this regulation and will further reconcile the manner in which in-home childcare is regulated locally, within Fayette County, with the manner in which it is regulated at the state level by the Kentucky Cabinet for Health and Family Services (CHFS).

The proposed text replaces the definition for “Family Childcare” with two new definitions, which reflect the two in-home childcare programs regulated by CHFS. According to KRS, a “Type II Childcare center” is a licensed in-home childcare center where care is provided for seven (7) to twelve (12) children, including children related to the licensee. To obtain this licensure from CHFS, the licensee



must have a relevant degree, or a combination of training and experience, and must complete fifteen (15) hours of training annually. A “Family Childcare Home” is a certified in-home childcare center where care is provided for six (6) or fewer children who are not related to the operator. This use is further regulated to allow for the care of up to four (4) children related to the operator in addition to the six (6) unrelated children. Certified providers must have a high school diploma/GED or a Commonwealth Care Credential, must complete six (6) hours of training within three (3) months, and complete nine (9) hours of training annually.

Home-based work, including home-based childcare, has been regulated in the Zoning Ordinance for many years with success, but regular revisions are important to insure that access to this type of employment is equitable and to mitigate potential negative impacts on neighbors. Because CHFS allows for additional related children in a Family Childcare Home, the proposed change will allow a bit more flexibility for in-home childcare at the accessory use level in our local Zoning Ordinance.

In addition to the necessity of this Zoning Ordinance text amendment to reconcile our local regulations with those at the state level, the proposed modifications to Article 1, Article 8 and Article 23 are in agreement with the 2018 Comprehensive Plan. Theme C, Diversity Policy #6 explicitly calls for an increase in flexibility on types of home occupations allowed. Theme A, Density Policy #3 calls for the creation of opportunities for additional neighborhood supportive uses, especially in areas where services are lacking.

Providing opportunities for individuals to conduct business in their homes by providing childcare creates flexible job opportunities further allowing individuals to utilize their homes for work in ways that are unlikely to have significant impacts on the surrounding neighborhood, allowing context-sensitive employment opportunities and upward mobility (Theme C, Diversity Policy #5, Theme C, Diversity Policy #2, Theme A, Goal #3.a, Theme C, Goal #1a). In-home childcare not only creates opportunities for individuals to work in their homes, but also provides an essential service within neighborhoods. Conveniently located childcare options near their homes are beneficial to parents and caregivers who work outside the home (Theme A, Density Policy #3, Theme C, Livability Policy 6).

The Staff Recommends: **Approval** of the proposed text amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, in the following ways:
 - a. The amendment responds to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
 - b. The proposed changes will maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities (Theme C, Diversity Policy #5).
 - c. The amendment will encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County (Theme C, Policy #2).
 - d. The amendment will strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal #1.a).
2. The amendment will modernize the Zoning Ordinance, reconciling its requirements with relevant state laws.



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