

COUNCIL ACTION FORM

SUBJECT: **ZONING TEXT AMENDMENTS RELATING
TO CHILD CARE AS A HOME OCCUPATION**

BACKGROUND:

The City Council, at the request of staff, initiated a text amendment to Home Occupation regulations (Section 29.1304 of the Municipal Code) regarding the various types of home child care facilities. All child care facilities within Ames require either a Special Home Occupation Permit or Special Use Permit, depending on the type of business. The Zoning Board of Adjustment currently conducts a public hearing for each application as the approval authority.

The proposed amendments address two primary issues. The first issue is to align the definition of the child care facilities to the state licensing categories to assist in communicating permit requirements to applicants. The second issue is an effort to streamline the review process and make the smaller child care homes a Permitted Home Occupation approved by staff, rather than a Special Home Occupation. Larger child care facilities would still be subject to Zoning Board of Adjustment approval. The two amendments would help to clarify and streamline the process for establishing a home child care business.

Within the past year, a local advocate of child care providers asked for staff to review the approval process in Ames compared to state requirements. Ames's limit on the number of children does not coincide completely with state licensing regulations for home child care. The City regulations limit all home child care facilities to 11 children while state regulations have limits ranging from 5 to 16 children. The state limits vary based on a number of factors such as age of children; number, age, and education of providers; and hours of care. A full description of the state licensing categories is included as Attachment B.

The amendments are intended to allow two types of child care provider categories to be approved as Permitted Home Occupations by staff. These two types are:

- 1) Unlicensed child care facilities with a maximum capacity of 5 children that are not required to be registered with the state department of human services, and
- 2) Licensed child care facilities with a maximum capacity of 8 children that are registered with the state department of human services as a "Child Development Home A" or as a "Child Development Home C (1 Provider)."

The state department of human services recognizes two other types of home child care facilities, known as "Child Development Home B," and "Child Development Home C (2 Providers)." These allow for up to 12 and 16 children, respectively, provided there is an additional provider present. The state also regulates the minimum age of the provider

and sets specific limits for the number of children of particular ages in each facility. The amendments do not modify the approval process for these types of homes and they will continue to require approval as a Special Home Occupation.

One additional state category is “Licensed Center.” The City currently allows these in most residential zoning districts with a Special Use Permit and in commercial zoning districts with minor development site plan. These types of facilities are not home occupations because of the size and nature of the operations.

An additional change with the proposed ordinance removes the adult day care facility from the paragraph of home child care facilities and lists it out separately. This is done for clarity and has no impact on the regulations.

The existing ordinance and the proposed changes in bold and strike out are found in Attachment A.

Planning and Zoning Commission Recommendation:

At the meeting of January 18, 2017, the Planning and Zoning Commission recommended approval of the proposed amendments 5-0. The Commission discussed several aspects, including whether the State has ever changed the requirements or limitations on home day care providers and whether the city can pass regulations more stringent than the state. No one in the audience spoke in favor or in opposition.

ALTERNATIVES:

1. The City Council can adopt the proposed amendments regarding home child care facilities.
2. The City Council can decline to adopt the proposed amendments regarding home child care facilities.
3. The City Council can recommend alternative language for the proposed amendments home day care facilities to return at a later meeting.

CITY MANAGER’S RECOMMENDED ACTION:

These changes are intended to reduce the application process burden on the smaller home day care providers that regularly needed to seek approval from the Zoning Board of Adjustment. The Zoning Board of Adjustment has routinely approved these types of applications with little to no public comments or conditions on the projects. The City processes about two applications a year on average. The proposed amendment retains City authority to review and approve, or conditionally approve, an application if there are unique circumstances for providers. The Home Occupation permit is also cheaper for the applicant and saves City staff resources required for processing ZBA cases.

Therefore, it is the City Manager’s recommendation that the City Council act in accordance with Alternative #1.

ATTACHMENT A: EXISTING AND PROPOSED LANGUAGE

Sec. 29.1304. HOME OCCUPATIONS.

This Section is intended to protect residential areas from potential adverse impacts of activities defined as home occupations; to permit residents of the community a broad choice in the use of their homes as a place of livelihood in the production or supplementing of personal/family income; to restrict incompatible uses; to establish criteria and develop standards for the use of residential structures or dwelling units for home occupations. It is not the intent to eliminate certain businesses and occupations that may be compatible with residential areas.

(1) Permitted, Special and Prohibited Home Occupations.

(a) The following are Permitted Home Occupations:

- (i) Home sewing or tailoring;
- (ii) Studios for painting, sculpturing, ceramics or other similar arts;
- (iii) Writing or editing;
- (iv) Telephone answering, scheduling of appointments, and other office activities where there are limited visits to the home;
- (v) Production of crafts such as handiwork, model-making, weaving, lapidary, and cabinet-making for the purpose of selling the product;
- (vi) Tutoring and giving lessons, limited to 4 students at any one time;
- (vii) Catering, home-cooking and preserving for the purpose of selling the product;
- (viii) Computer programming, services provided over the Internet and other similar activities;
- (ix) Mail order businesses where products are shipped directly from the supplier to the customer; and
- (x) Offices for architects and engineers.
- (xi) Home child care providers designated by the state department of human services as either Non-Registered Home, Child Development Home "A", or Child Development Home "C" (1 Provider).**

(b) The following are Special Home Occupations:

- (i) Home child care providers designated by the state department of human services as either Child Development Home "B", or Child Development Home "C" (2 Providers). Child care providers designated by the state department of human services as a "Licensed Center" are not eligible for approval as a Home Occupation.** ~~Family day care home for the care of six or fewer preschool children and for the care of five or fewer school-age children. The care of school-age children shall be limited to before and after school care for less than two hours at a time. Or in the alternative a day care home for the care of six or fewer adults;~~
- (ii) Home adult day care for the care of no more than six adults (not permanent residents).**
- (iii) Physicians and other licensed medical practitioners;
- (iv) Barbershops and beauty parlors;
- (v) Small repair shops (including small appliances, mower repair, blade sharpening and similar uses);
- (vi) Real estate and related services;
- (vi) Insurance agents;

- (viii) Bed-and-breakfast operations;
- (ix) Home professional offices, lawyers and members of similar professions, and
- (x) All other activities not included on either the permitted or prohibited list.

(c) The following are prohibited Home Occupations;

- (i) Animal hospitals;
- (ii) Dancing studios or exercise studios;
- (iii) Private clubs;
- (iv) Restaurants;
- (v) Stables and kennels;
- (vi) Repair or painting of motor vehicles, including motorcycles; and
- (vii) Firearm sales



Child Care Provider Portal

[Home](#)

Requirements for the Different Types of Child Care Providers in Iowa

	Non-Registered Home	Child Development Home A	Child Development Home B	Child Development Home C (2 Providers)	Child Development Home C (1 Provider)	Licensed Center
State Regulated						
Maximum Capacity	5*	8*	12*	16*	8*	* Varies by licensing
Facility & Records Inspection	Once per fiscal year	Once per fiscal year	Once per fiscal year	Once per fiscal year	Once per fiscal year	Once per year, full review every 2 years
Minimum age of caregiver	18 yrs	18 yrs	20 yrs	21 yrs	21 yrs	Lead teacher 18 yrs
Iowa child abuse registry check						
Iowa criminal records check						
National criminal records check						
Experience required			2 years or 1 year with a child related degree	5 years or 4 years with a child related degree	5 years or 4 years with a child related degree	A combination of experience and education
Minimum education required			High school or GED	High school or GED	High school or GED	Lead teacher high school or GED
Non-smoking environment						

Fire extinguisher & smoke detectors						
2 direct exits						
Space requirements						
Quiet area for sick children						
Reference letters	Provide 3 letters of reference					
<ul style="list-style-type: none"> • A home provider's own preschool children ARE included in their legal capacity. Their school-age children are not unless they are being home-schooled. • Child Development Home A: Limit of 6 preschool children with a maximum of 4 aged 24 months or younger. Of these no more than 3 can be 18 months of age or younger. They can also care for 2 school-agers for less than 2 hours at a time. • Child Development Home B: Limit of 6 preschool children with a maximum of 4 children aged 24 months or younger. Of these no more than 3 can be 18 months of age or younger. They can care for 4 school-agers (which can be full-time when school is not in session.) 2 additional part-time preschool or school-age children can be in care for a total of no more than 180 hours per month. When there are more than 8 children are present for more than 2 hours, an assistant 14 years or older needs to be present. • Child Development Home C (2 providers): Limit of 12 preschool children with a maximum of 4 aged 24 months or younger. They can care for 2 school-agers for less than 2 hours at a time. 2 additional part-time preschool or school-age children can be in care for a total of no more than 180 hours per month. Whenever there are more than 8 children or if 4 children 18 months of age or younger are present, the business co-provider needs to be present. • Child Development Home C (1 provider): Limit of 8 children with a maximum of 4 aged 24 months or younger. Of these no more than 3 can be 18 months of age or younger. • Center and preschool staff to children ratios: babies up to 23 months 1:4; 2 year olds 1:6; 3 year olds 1:8; 4 year olds 1:12; 5 year olds and older 1:15. • Record checks are required for household members age 14 and older. • Child abuse registry checks are required for household members age 14 and older. 						

If you have concerns about any child caregiver, contact your county Department of Human Services.

Version: 02.22.00 Build: 1 Deployment Date: 9/14/2012 7:16:38 AM

Questions? Contact the Centralized Child Care Unit at: 1-866-461-3216

Copyright 2011, Iowa Department of Human Services



ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW SUBSECTION 29.1304(1)(a)(xi) AND REPEALING SUBSECTION 29.1304(1)(b) AND ENACTING A NEW SUBSECTION 29.1304(1)(b) THEREOF, FOR THE PURPOSE OF ALLOWING HOME CHILD CARE AS A PERMITTED HOME OCCUPATION ; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Subsection 29.1304(1)(a)(xi) and repealing Subsection 29.1304(1)(b) and enacting a new Subsection 29.1304(1)(b) as follows:

“Sec. 29.1304. HOME OCCUPATIONS.

...

(1) Permitted, Special and Prohibited Home Occupations.

(a) The following are Permitted Home Occupations:

...

(xi) Home child care providers designated by the state department of human services as either Non-Registered Home, Child Development Home “A”, or Child Development Home “C” (1 Provider).

(b) The following are Special Home Occupations:

(i) Home child care providers designated by the state department of human services as either Child Development Home “B”, or Child Development Home “C” (2 Providers). Child care providers designated by the state department of human services as a “Licensed Center” are not eligible for approval as a Home Occupation.

(ii) Home adult day care for the care of no more than six adults (not permanent residents).

(iii) Physicians and other licensed medical practitioners;

(iv) Barbershops and beauty parlors;

(v) Small repair shops (including small appliances, mower repair, blade sharpening and

similar uses);

(vi) Real estate and related services;

(vi) Insurance agents;

(viii) Bed-and-breakfast operations;

(ix) Home professional offices, lawyers and members of similar professions, and

(x) All other activities not included on either the permitted or prohibited list. ”

...

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor