

ITEM#: 25
DATE: 01-10-23
DEPT: P&H

COUNCIL ACTION FORM

SUBJECT: TEXT AMENDMENT REGARDING STANDARDS FOR HOME OCCUPATIONS

BACKGROUND:

On June 14, 2022, Governor Reynolds signed into law House File 2431, which pertains “to the regulation of home-based businesses”. The Ames Zoning Ordinance refers to home-based businesses as home occupations (they are otherwise the same). **The new state regulations pre-empt certain local laws and limit how a city can regulate home-based businesses, principally regarding “no-impact” businesses. In order to continue to apply standards to home occupations, the City must modify its zoning standards to comply with state law.**

Home occupations are considered a secondary or accessory function to the primary use of a dwelling unit as a residence. An occupant of the residence must be employed at the business. **Home occupations currently are allowed in all residential zoning districts subject to permitting requirements and performance standards of Article 13 of the Zoning Ordinance. Generally, a large range of uses is permissible with review by the Zoning Board of Adjustment.**

The current Ames code (Attachment A) contains lists of specific uses, such as catering, day care, engineering offices, beauty parlors, etc. The Code categorizes allowable uses into those that are Permitted, which are reviewed through an administrative process (\$25 fee), and those that are Special, which are reviewed through a public process by the Zoning Board of Adjustment (\$75 fee). The Code also contains a prohibited uses section, such as auto repair, firearm sales, kennels, restaurants, dance studios. The City applies certain standards to home occupations regarding limitations of up to 10 vehicle trips a day, class sizes, storage, equipment usage, etc.

The new state law (Attachment B) does not allow cities to regulate home-based businesses by use (with some exceptions); but does allow them to regulate by intensity of use and potential impacts to a neighborhood including parking on the street and any noise, odor, or pollution emanating from the property in question. In order to comply with this new law, changes to the current City standards are needed.

At the October 11 meeting, City Council reviewed options to modify the City standards and directed staff to allow home occupations by right, subject to specific criteria. This approach is fairly permissive in that it will allow for a wide range of home occupations that previously required review and approval by the Zoning Board of Adjustment as Special Home Occupations. The City Council previously determined that a two-classification system was not needed, and to establish criteria similar to the City’s current criteria for all

uses. No exception process to exceed the limitations is allowed. If a home occupation is not in compliance with the adopted criteria, the business must: 1) modify operations to come into compliance or 2) cease operations.

PROPOSED ORDINANCE:

Planning, Legal, and Inspections staff have worked together to substantially rework the home occupation regulations (Attachment C) to incorporate state requirements and modify the City's current standards to fit the goal of having uniform standards for all types of home occupations as directed by Council. Key issues addressed with the proposed changes are: 1) intensity of use for a home occupation within buildings and yards, 2) employee limits, 3) customer limits, 4) parking requirements, and 5) prohibited uses. Additionally, child day care facilities are reclassified as a separate use from home occupations, although the standards remain the same as they are current applied through the home occupation process.

Notable changes include:

1. Increasing the amount of the dwelling unit floor area that can be occupied by the business to not exceed 50%. (This change is to conform to state law in general.)
2. Allowing business activity in the rear or side yard when screened by a 6-foot-high fence. (This change is based upon allowances described in state law in general.)
3. Clarifying the criteria for parking of one vehicle on a driveway, but not storage of vehicles, equipment, trailers, etc. Parking on the street is only permissible for one vehicle related to the business. Customer parking on the street is not regulated, however we continue to have the standard that a second on-site parking space is required when two customers are likely present concurrently. (Previously the ZBA had some discretion regarding how to apply parking requirements, these changes are to create enforceable standards without a permit)
4. Establishing hours of operations from 6:30 a.m. to 7:00 p.m. if there are off-site employees or customers. (The ZBA could previously set hours of operation)
5. Setting a new maximum occupancy for employees and clients, including a maximum of five clients at a time. Employees limited to primary residents and up to two off-site employees coming to the site. (This change is to conform to state law in general.)
6. Modifying the list of prohibited uses. The list is increased from the current restrictions due to the lack of discretionary review process. (This change is due to a single review process and is allowed by state law in general.)
7. Moving the child day care regulations out of home occupations and into their own, separate section within Article 13 of the Zoning Ordinance due to their unique operational aspects that would likely not meet home occupation standards.

Staff has also proposed to modify certain definitions as needed. This includes an update to the Garage/Rummage Sale definition to clearly define that a sale is for three days or less and only three are allowed in a year.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission met on November 16, 2022, to consider the proposed text amendment. The Commissioners discussed the differences between the current and proposed code, the new day care regulations, and how Home Occupations would be regulated without permits.

The Commission voted 5-0-0 to recommend that the City Council amend the Home Occupation as presented.

ALTERNATIVES:

1. Approve on first reading a text amendment regarding home occupation regulations as presented in Attachment A.
2. Direct staff to prepare modifications to the proposed text amendment and return for Council consideration at a later date.
3. Do not approve the proposed text amendment.

CITY MANAGER'S RECOMMENDED ACTION:

The current City regulations regarding home occupations are unenforceable and must be changed to comply with the new state requirements. The Municipal Code has been rewritten so that it regulates impacts and externalities. The former application and review process has been eliminated. Uses will be allowed by right with no appeal process. Any home occupation that is not in compliance with the adopted criteria must alter how it operates or cease to operate. Citations for noncompliance will be Municipal Code Infractions and subject to fines.

Staff has written the new regulations with an eye towards ease of enforceability and clarity of use. Consistent with City Council's initial direction, where possible, existing standards were retained for ease of administration and consistency with prior experiences. **The amended code sections modify the standards to comply with state law while still allowing the City to control for any negative impacts of home occupations through enforcement actions. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1.**

Attachment A
Current Zoning Code Requirements for Home Occupations

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.
 - (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;
 - (vii) Insurance agents;
 - (viii) Home professional offices, lawyers and members of similar professions, and
 - (ix) 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
 - (d) Rummage/garage sales are not included in the listing of permitted, special or prohibited home occupations and are not defined as home occupations, provided no more than 3 sales per year are conducted. In addition, sale of garden produce is not defined as a home occupation provided no more than 3 sales per year are conducted.
- (2) Permit and Review Procedures.
- (a) Permitted Home Occupations. Applicants must submit an application to the Planning and Housing Department. The application will be reviewed by the staff, and the applicant will be notified of the decision of the Department. If the applicant is aggrieved, the decision may be appealed to the Zoning Board of Adjustment within 30 days.
 - (b) Special Home Occupations. Applicants must submit a Special Home Occupation Permit to the City Clerk for consideration by the Zoning Board of Adjustment. Applications will then be reviewed by the Planning and Housing Department. A staff report will be prepared and sent to the Zoning Board of Adjustment.
The Board may grant the Special Home Occupation Permit if it reasonably concludes from the evidence that the home occupation proposed will meet the criteria set out in Section 29.1304(3). The Board may, if warranted by the evidence, impose such additional conditions as may be deemed necessary to protect the legitimate use and enjoyment of neighboring properties. Any failure to obtain such Special Home Occupation Permit when required, or to comply with the criteria and conditions set out when issued, shall constitute a violation of this Section and shall be grounds for revocation of the Special Home Occupation Permit after notice and hearing by the Zoning Board of Adjustment.
 - (c) Prohibited Home Occupations. No person will be allowed to operate prohibited home occupations.
- (3) Criteria. All home occupations must meet the following criteria:
- (a) Area to Be Used.
 - (i) The activity shall be conducted in a manner that will not alter the normal residential character of the premises, or in any way cause a nuisance to adjoining residents, nor shall there be any structural alteration to accommodate the occupation. There should be no emission of smoke, dust, odor, fumes, glare, noises, vibration, electrical or electronic disturbances detectable at the lot line that would exceed that normally produced by a single residence. Special noise exceptions will be allowed for day care homes due to the nature of the clients using the facility.
 - (ii) The activity shall be located within the principal building or within an accessory structure. It shall occupy no more than 25% of the total floor area of the residence and shall not exceed 400 square feet of an accessory building. Exception: For family day care homes, the entire dwelling unit may be used to serve the various

needs of day care (e.g., kitchen, bathroom, napping rooms, play areas, etc.). However, the day care can provide care to no more than one person per 35 square feet of the total dwelling unit, exclusive of baths, hallways, closets, kitchens, and dining areas. The dining area may be included in the square footage calculation if used by day care participants for activities other than meals.

- (b) Signs. Any sign utilized at the home occupation shall be limited to one flush-mounted sign on the main residential structure, which shall not exceed one square foot in area. Such sign shall not be lighted and nonreflecting materials shall be used. The legend shall show only the name of the occupant and the type of occupation. Color shall be consistent with the residential character.
 - (c) Equipment. There shall be no mechanical equipment used except as customary for domestic household purposes. Any merchandise or stock in trade sold, repaired or displayed shall be stored entirely within the residential structure or in any accessory building. No storage is to be visible from lot lines.
 - (d) Employment. The activity shall employ only members of the household residing in the dwelling unless approval for the employment of up to two (2) non-family members is granted by the Zoning Board of Adjustment.
 - (e) Traffic. The activity shall not generate significantly greater traffic volumes than would normally be expected in a residential area. Not more than 10 vehicular visits per day shall be allowed. An exception to the number of visits allowed per day may be permitted for family day care homes and adult day care due to the number of children or adults allowed on-site and the need for parent or caregiver contact during the day. The delivery and pick up of materials or commodities to the premises by commercial vehicles shall not interfere with the delivery of other services to the area.
 - (f) Parking Criteria.
 - (i) Only one delivery vehicle associated with the activity may be parked on the street near the premises for not more than 4 consecutive hours.
 - (ii) One additional on-site parking space is required above the normal parking requirement where 2 or more clients are likely to visit the premises concurrently.
 - (iii) No more than 4 client vehicles during any given hour shall be allowed on the site. This requirement shall not be construed to prohibit occasional exceptions for such events as meetings, conferences, demonstrations, or similar events that are in no way a nuisance to adjoining residences.
 - (g) Class Size. If the home occupation is the type in which classes are held or instructions given, there shall be no more than 4 students or pupils at any given time. The Board may approve up to 6 students if it finds that the additional students will not generate additional traffic. Day-care homes may have up to 6 children or adults at a time. Additional children or adults will require a Special Home Occupation Permit for a day-care center.
 - (h) Number of Home Occupations. The total number of home occupations within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit shall not be greater than the impact of one home occupation. This will be determined by using the home occupation criteria.
- (4) Family Day Care in Multifamily Dwellings. In addition to the criteria of Section 29.1304(3), Family Day Care in multifamily dwellings shall comply with the following additional criteria.

- (a) A defined outdoor play area is available on-site that provides not less than 75 square feet per child based on the maximum number of children that will be attending the day care at any given time, or a public or neighborhood park is located within 300 feet of the site. This provision only applies to day care provided to children five years of age and older.
- (b) An area designated and posted for guest parking is provided on the site; or at least one parking space must be posted and reserved for use of the day care operation only. Parking spaces otherwise required to meet minimum parking requirements for the residents may not count toward the required guest or reserved parking spaces.
- (c) The day care operator must provide evidence that the owner of the multifamily building has no objections to the day care operation, and that he or she agrees to comply with the required guest or reserved parking provisions.

Attachment B
Newly Adopted State Code Regulating Home-Based Businesses

Iowa Code Sec. 414.33

1. For the purposes of this section:
 - a. “Goods” means any merchandise, equipment, products, supplies, or materials.
 - b. “Home-based business” means any business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of the residential property on which the business operates.
 - c. “No-impact home-based business” means a home-based business for which all of the following apply:
 - (1) The total number of on-site employees and clients does not exceed the city occupancy limit for the residential property.
 - (2) The business activities are characterized by all of the following:
 - (a) The activities are limited to the sale of lawful goods and services.
 - (b) The activities do not generate on-street parking or a substantial increase in traffic through the residential area.
 - (c) The activities occur inside the residential dwelling or in the yard of the residential property.
 - (d) The activities are not visible from an adjacent property or street.
2. The use of a residential property for a home-based business is a permitted use. However, this subsection does not supersede any of the following:
 - a. A deed restriction, covenant, or agreement restricting the use of land.
 - b. A master deed, bylaw, or other document applicable to a common interest ownership community.
3. A city shall not prohibit a no-impact home-based business or otherwise require a person to apply, register, or obtain any permit, license, variance, or other type of prior approval from the city to operate a no-impact home-based business.
4. A city may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for any of the following purposes:
 - a. The protection of the public health and safety, including rules and regulations related to fire or building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, or noise control.
 - b. Ensuring that the business is all of the following:
 - (1) Compatible with residential use of the property and surrounding residential use.
 - (2) Secondary to the use of the property as a residence.
 - (3) Complying with state and federal laws and paying applicable taxes.
 - c. Limiting or prohibiting the operation of a home-based business for the purposes of selling alcoholic beverages or illegal drugs, operating or maintaining a structured sober living home, creating or selling pornography, providing nude or topless dancing, or operating any other adult-oriented business.
5. A city shall not require as a condition of operating a home-based business that the property be rezoned for commercial use or that the business owner install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units.

6. In any proceeding alleging that a city regulation does not comply with this section, the city that enacted the regulation must establish by clear and convincing evidence that the regulation complies with this section.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY AMENDING SECTION 29.201, BY REPEALING AND REPLACING SECTION 29.1304, AND BY ENACTING A NEW SECTION 29.1304A THEREOF, FOR THE PURPOSE OF REGULATING HOME OCCUPATIONS, 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 amending Section 29.201, by repealing and replacing Section 29.1304, and by enacting a new Section 29.1304A as follows:

“Sec. 29.201. DEFINITIONS.

...

(13) Animal Boarding House means a place or establishment other than an animal shelter where animals not owned by the proprietor are sheltered, fed, and watered in return for consideration.

(98) Home Occupation means an occupation, profession, activity, or use conducted for financial gain or profits in a dwelling unit or on a residential property that is clearly secondary to the residential use of the dwelling unit or property, ~~does not alter the exterior of the dwelling unit, or affect the residential character of the property or the neighborhood, and does not employ more than 2 persons, not including resident(s) of the dwelling.~~

...

Sec. 29.1304. HOME OCCUPATIONS.

(1) Purpose. 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 any negative impacts on surrounding properties; and to establish criteria and develop standards for the use of residential structures or dwelling units for Home Occupations.

(2) Definitions.

(a) Clients and Customers are visitors to a Home Occupation who are engaging the services offered by the Home Occupation or who are purchasing items sold by the Home Occupation. Clients and customers are not residents of the dwelling

where the Home Occupation is located and are not employed by the Home Occupation.

(3) Regulation.

- (a) Home Occupations are an allowed use, subject to conformance with all codes and standards of the Ames Municipal Code. No permit or license is required.
- (b) A Home Occupation shall be operated and maintained in conformance with the criteria set forth in this section.

(4) Criteria.

- (a) All Home Occupations must comply with City, County, and State regulations for public health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation, or traffic control, solid or hazardous waste, pollution, or noise control.
- (b) Any Home Occupation that does not comply with all of the criteria in this section is prohibited.
- (c) All Home Occupations must comply with the following requirements:

(i) Operation, Impact, and Nuisance.

- a. The Home Occupation operation shall not alter the structure so that it is no longer a dwelling unit.
- b. The activity shall be conducted in a manner that will not alter the normal residential character of the premises.
- c. The use shall be compatible with the residential use of the property and with the surrounding residential uses.
- d. There shall be no emission of smoke, dust, odor, fumes, glare, noises, vibration, or electrical or electronic disturbances detectable at the lot line that would exceed what is normally produced by the residential use of a dwelling unit.
- e. Hours of operation for employees, clients/customers, and deliveries are to be between the hours of 6:30 a.m. and 7:00 p.m.

(ii) Area Limitations:

a. Buildings.

- (1) The Home Occupation must occupy less than 50% of the gross floor area of the dwelling unit but may occupy 50% or more of the gross floor area of an accessory structure.
- (2) Other structures on the property may be used for the Home Occupation, but less than 50% of the sum of the gross floor area of all buildings may be occupied by the business.
- (3) The gross floor area calculation shall not include attics or detached buildings intended for animal use (chicken coops, dog houses, etc.).
- (4) All zoning district requirements for primary structures, detached garages, and accessory structures apply.

b. Yard.

- (1) Home Occupation activity in a yard is prohibited unless it is:
 - (i) In a side or rear yard and
 - (ii) Behind a fence that is:
 - 1. Solid and opaque, and

2. A minimum of 6 feet high.
 - (2) The Home Occupation must occupy less than 25% of the fenced yard area, in addition to the space used in (a)(1).
 - (3) Use of a front yard or a street side yard for Home Occupation purposes is prohibited.
 - (4) Use of a yard may be restricted by other City Codes and zoning standards, such as Outdoor Storage.
- (iii) Signage.
- a. Any sign utilized at the Home Occupation shall be limited to one flush-mounted sign on the main residential structure, which shall not exceed one square foot in area.
 - b. Such sign shall not be lighted and nonreflecting materials shall be used.
 - c. The legend shall show only the name of the occupant and the type of occupation.
- (iv) Traffic.
- a. Not more than 10 vehicular trips related to the business per day shall be allowed. A trip to and from the Home Occupation location shall count as one trip.
 - b. The maximum number of trips shall include those taken by employees, clients/customers, and deliveries.
 - c. The delivery and pick up of materials or commodities to the premises by commercial vehicles shall not interfere with the delivery of other services to the area.
- (v) Parking Criteria.
- a. A property with a Home Occupation shall meet all the standards for parking and driveways in Sec. 29.406, including but not limited to, the minimum number of required parking spaces, paving, and location requirements.
 - b. Trailers, inoperable vehicles, and other Home Occupation-related equipment shall not be stored on the driveway. One operable company vehicle is allowed to park in the driveway.
 - c. Only one delivery vehicle associated with the activity may be parked on the street near the premises for not more than 4 consecutive hours.
 - d. One additional on-site parking space is required above the normal parking requirement where 2 or more clients/customers are likely to visit the premises concurrently.
 - e. No more than 4 client or customer vehicles related to the Home Occupation during any given hour shall be allowed on the site.
 - f. On street parking of equipment, vehicles, trucks, and trailers related to or used for the home occupation is prohibited, with the exception of one vehicle related to the home occupation that may be parked on the street.
- (vi) Maximum Occupancy of the Dwelling Unit for Employees and Clients/Customers.
- a. There is no limitation on primary residents as employees.

- b. No more than two non-residents of the dwelling may be employed by the Home Occupation.
 - c. Employees arriving at the site for work that occurs either on-site or off-site are included as non-resident employees.
 - d. The maximum number of clients/customers at any one time shall not exceed four.
 - e. An exception to the maximum occupancy limitation is permitted for exhibitions of goods or sales of goods that occur for three days or fewer when the occurrence is less than three times a year.
 - (vii) Number of Home Occupations.
 - a. The total number of Home Occupations within a dwelling unit is not limited.
 - b. The cumulative impact of all Home Occupations conducted within the dwelling unit shall not exceed the criteria in this section.
- (5) Rummage/Garage Sales.
- (a) A rummage/garage sale is a sale of household goods and belongings held either outdoors or in a garage.
 - (b) Rummage/garage sales are not Home Occupations, provided the following:
 - (i) The sale does not occur over more than three consecutive days.
 - (ii) No more than three sales per year are conducted.
 - (iii) The maximum number of sales per year is not contingent upon the length of any sale. The number of sales may not increase beyond three by shortening the length of each sale.
- (6) Prohibited Uses. In addition to Home Occupations that do not comply with the criteria, the following uses are prohibited for Home Occupations:
- (a) Alcohol sales
 - (b) Adult-oriented businesses, including:
 - (i) Creating or selling pornography
 - (ii) Providing nude or topless dancing
 - (c) Animal boarding houses, kennels, stables, and veterinary hospitals
 - (i) Exception. An in-home animal boarding house is allowed as a Home Occupation for the boarding of up to six (6) animals. Use of the yard for the keeping of boarded animals is not permitted as part of an in-home animal boarding house.
 - (d) Dancing studios or exercise studios
 - (e) Private clubs
 - (f) Restaurants and bars
 - (g) Repair or painting of motor vehicles (including motorcycles and boats) or of any trailer, camper, etc., pulled by a motor vehicle
 - (h) Firearm training or instruction
 - (i) Shooting ranges
 - (j) Welding or machine shop
 - (k) Dispatch service with cars on-site
 - (l) Dry cleaners
 - (m) Funeral homes or mortuaries
 - (n) Medical and dental offices

- (o) Equipment rental
- (p) Outdoor storage or salvage businesses
- (q) Towing

Sec. 29.1304A. CHILD DAY CARE FACILITIES, HOME-BASED.

- (1) Regulation. A Day Care operated within a dwelling unit that includes a primary resident of the home as an employee is allowed without a permit when it is licensed by the State of Iowa as a Type “A” (e.g., up to six children) or Type “C” 1 adult (e.g., up to eight children).
- (2) A Day Care licensed by the State as a Type “B” or a Type “C” 2 adults or any other type of Day Care requires a Special Use Permit per Section 29.1503. The applicable criteria for a Special Use Permit is listed in Section 29.1503(5).
- (3) Day Care Centers are not a home-based Child Care Facility.
- (4) Dedicated Area. For Family Day Care homes, the entire dwelling unit may be used to serve the various needs of day care (e.g., kitchen, bathroom, napping rooms, play areas, etc.) However, the Day Care can provide care to no more than one person per 35 square feet of the total dwelling unit, exclusive of baths, hallways, closets, kitchens, and dining areas. The dining area may be included in the square footage calculation if used by Day Care participants for activities other than meals.
- (5) Parking and Traffic. Each permitted Day Care must meet and maintain on-site parking to minimum requirements of the Zoning Ordinance. The Board shall consider the proposed parking, along with drop off and pick up, as part of their review to determine if traffic levels and parking are compatible with the area for any Day Care requiring a Special Use Permit. The Board may apply conditions to any Special Use Permits for parking and traffic control as allowed by Section 29.1503.
- (6) Family Day Care in Multifamily Dwellings. Child Care Facilities in multifamily dwellings shall comply with the following additional criteria.
 - (a) A defined outdoor play area is available on-site that provides not less than 75 square feet per child based on the maximum number of children that will be attending the Day Care at any given time, or a public or neighborhood park is located within 300 feet of the site. This provision only applies to day care provided to children five years of age and older.
 - (b) An area designated and posted for guest parking is provided on the site; or at least one parking space must be posted and reserved for use of the day care operation only. Parking spaces otherwise required to meet minimum parking requirements for the residents may not count toward the required guest or reserved parking spaces.
 - (c) The Day Care operator must provide evidence that the owner of the multifamily building has no objections to the Day Care operation, and that he or she agrees to comply with the required guest or reserved parking provisions.

...”

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

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

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

Passed this _____ day of _____, 2023.

Renee Hall, City Clerk

John A. Haila, Mayor

DRAFT