

**City of Fayetteville Staff Review Form**

**2021-0329**

**Legistar File ID**

**5/18/2021**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Mary Mcgetrick

4/27/2021

DEVELOPMENT SERVICES (620)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

**ADM-2021-000027: Administrative CC Item (City Council UDC Amendment):** Submitted by Planning Commission, an amendment to 163.05 - Child Care; Nursery School to encourage affordable in-home childcare as part of the recommended goals of the City of Fayetteville's 2040 Plan.

**Budget Impact:**

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>    No    </u>	Current Budget           \$           -
	Funds Obligated         \$           -
	Current Balance         \$           -
Does item have a cost? <u>    No    </u>	Item Cost
Budget Adjustment Attached? <u>    No    </u>	Budget Adjustment
	Remaining Budget       \$           -

V20180321

Purchase Order Number: \_\_\_\_\_

Previous Ordinance or Resolution # \_\_\_\_\_

Change Order Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Comments:



**MEETING OF MAY 18 2021**

**TO:** Mayor, Fayetteville City Council

**THRU:** Susan Norton, Chief of Staff

**FROM:** Mary McGetrick, Long Range Planning Manager

**DATE:** April 27, 2021

**SUBJECT: ADM-2021-000027: Administrative CC Item (City Council UDC Amendment):**  
Submitted by Planning Commission, an amendment to 163.05 - Child Care; Nursery School to encourage affordable in-home childcare as part of the recommended goals of the City of Fayetteville's 2040 Plan.

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**RECOMMENDATION:**

City Planning staff recommends approval of an ordinance to amend section of the Unified Development Code as approved and forwarded by the Planning Commission.

**BACKGROUND:**

Goal Six of Fayetteville's comprehensive land use plan, City Plan 2040, is to create opportunities for attainable housing. Within this goal is the objective to make housing relatively more affordable by influencing cost of living items. Within Fayetteville, many families struggle with the costs associated with childcare. While the U.S. Department of Health and Human Services defines affordable childcare as 7% of a household income per child, within Fayetteville those costs are inflated to approximately 26%<sup>1</sup> per child in most cases for facilities that operate legally within the City. Regulatory requirements have had a negative impact, putting permitting obstacles between individuals that may be considering opening an in-home facility and the resources that they need to be successful. Notably, the City's current process that requires conditional use permit (CUP) approval from the Planning Commission does not align with the State of Arkansas, which allows homes with 5 or fewer children to be in a home without licensing requirements.

**DISCUSSION:**

The additional regulatory requirements placed by the City of Fayetteville have influenced in-home childcare providers to operate without a permit or provide childcare at all. The NWA Child Care Association estimates that there are between 200 and 300 facilities operating that do not have proper permitting. Of those operating without a permit, many attempt to hide their operations, which is an obstacle for resource providers those of the NWA Child Care Association. Resources range widely, from continuing education for providers to childcare vouchers and access to rent or utility assistance. The uncertainty of continued operation, the costs of CUP application processes, and the requirement to come before the Planning Commission have increased burdens on the potential providers, which, according to the NWA Child Care Association, has resulted in most in-home facilities operating illegally within the City.

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<sup>1</sup> Care.com cost of childcare

A representative from the NWA Child Care Association has informed staff that these insecurities and regulatory burdens have influenced advocates to focus on other cities in the region, such as Springdale, Bentonville, and Rogers. This leaves a growing gap within the City of Fayetteville for a much-needed service for additional childcare providers and parents. If a family has more than one child, the childcare costs alone can quickly remove people from our workforce. In some cases, this results in single family homes relying on government assistance. With more children, the burden does not reduce per child as much as many would expect. Typically, there is only a 20%-25% discount per child for childcare in Fayetteville. This means that in a facility that charges 25% of a household income for childcare per child, and provides a discount per additional child, that a home with 3 children would spend 65% of the household income for childcare alone. A 2019 investigative story by the University of Arkansas' newspaper, the Arkansas Traveler, indicated a monthly infant daycare cost of \$588 and \$1,084 for an infant and toddler. This leaves a gap in the household income where required costs for transportation, housing, and basic living expenses would not be met.

The proposed ordinance amendment will have a positive effect for those that utilize in-home childcare. Affordable and accessible in-home childcare options have the impact of reduced transportation costs. Rather than driving longer distances to larger facilities, this ordinance revision supports expanding facilities embedded into neighborhoods. Additionally, in-home facilities have reduced overhead expenses. A reduction in overhead expenses translates to higher individual earnings from the provider while offering rates lower than corporate facilities.

The focus of this revision is to align City ordinance with the State of Arkansas' standards. This includes allowing five children in a home, removing the local stipulation for dedicated outdoor space that is proportional to the number of children, and removing the burden of Conditional Use Permit review by the Planning Commission for facilities with five or fewer children. The amendment allows facilities to open up to additional resources like those promoted by the NWA Child Care Association, which translates to safer facilities overall. This will assist in increasing the stock of facilities, and invites advocates back to our community to promote safer facilities through resource availability.

**BUDGET/STAFF IMPACT:**

NA

**Attachments:**

- Proposed UDC Code Changes in strikethrough-highlight
- 164.24 - Child Care; Nursery
- Letter of Support, Tamera Rowland  
NWA Family Child Care Association

## Planning Commission Recommendation

### 151.01 – Definitions

Registered Child Care Family Home (zoning) – A child care facility licensed by the Arkansas Department of Human Services in which five (5) or fewer children are cared for in the caregiver’s own residence.

### 164.24 – Registered Child Care Family Homes

Registered Child Care Family Homes shall be allowed by-right in any zoning district in which the following conditions are met:

- (A) Minimum Lot Area. A Registered Child Care Family Home shall have a minimum lot area of 250 square feet per child.
- (B) Minimum Outdoor Play Space. A Registered Child Care Family Home shall provide a minimum outdoor play space of 75 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time. Outdoor play space shall be fenced and secured.
- (C) Number of Children. A Registered Child Care Family Home is permitted for no more than five (5) children.
- (D) Registration with the State of Arkansas. A caregiver operating a Registered Child Care Family Home shall ensure a current copy of his or her license issued by the Arkansas Department of Human Services is on file with the City of Fayetteville.

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02/11/2021

For the Attention of the Fayetteville Planning Commission

Dear Commissioners,

I am writing in support of ADM2021-000027. First, I would like to thank you for taking the time to research the present condition of regulated child care in Fayetteville and consider the options to increase the availability of affordable, quality care for children in your city. In-home child care is a perfect solution.

I have been in Early Childhood Education for more than 25 years as a Nationally Accredited Family Child Care Home, a Center Director of Head Start and currently the Administrator of the NWA Family Child Care Association which sponsors the USDA Food Program (CACFP). I am passionate about quality care for children!

In Arkansas a home is required to license through the Department of Human Services when a provider cares for six or more children from more than one (1) family at the same time. (102.4 page 2 of the minimum licensing requirements booklet). <https://humanservices.arkansas.gov/wp-content/uploads/2020-Child-Care-Family-Home.pdf>

If a person keeps 5 or less children no regulation is required through the state, however a provider can choose to become voluntarily registered. (103 page 7). <https://humanservices.arkansas.gov/wp-content/uploads/2020-Registered-Child-Care-Family-Home.pdf>

When a provider is regulated through the state (whether it be voluntarily registered or licensed) you can be confident of many things that keep children healthy and safe. (notations referencing the licensing manual: <https://humanservices.arkansas.gov/wp-content/uploads/2020-Child-Care-Family-Home.pdf>)

- 1.) All residents of the home, frequent visitors and volunteers have gone through an extensive background check including FBI, child maltreatment and the Arkansas State Police. (107 page 7)
- 2.) Caregivers are found to be qualified and receive training in supervision, appropriate guidance, nutrition, child development, infant care and more. (303 page 16)
- 3.) The home has been inspected, is clean, in good repair and maintained in a way to protect the health and safety of children. (800 page 29)
- 4.) The home is covered by Child Care Liability Insurance with a minimum of \$100,000 per occurrence. (101.8 page 2)
- 5.) The outside play environment is safe and free of hazards. (900 page 30)
- 6.) The home is meeting Arkansas Health Department General Health requirements (1100 page 36) and receives on going guidance and directives on health issues that arise such as the current COVID pandemic. <https://humanservices.arkansas.gov/divisions-shared-services/child-care-early-childhood-education/important-covid-related-information/>
- 7.) In addition to practicing monthly drills for fire and tornado the home is listed with the Office of Emergency Management and has a plan on file for natural disasters. (1200 page 41)
- 8.) The home is monitored by the Fayetteville Fire Marshall at least once per year, Child Care Licensing at least 3 times per year and the CACFP (if participating) at least 3 times per year.

I'm outlining these points to reiterate the importance of regulation for child care facilities. However, the dilemma for in home care providers in many cases, is the startup cost and process. In Fayetteville a conditional use permit will cost a person over \$100. Factor in the time and energy to accomplish the tasks (application, identifying adjacent property owners, certified letters, planning commission meeting and city council meeting) and most providers won't go to the trouble for less than five children. Inadvertently, they choose to go "underground" and keep children without any one knowing. The Fayetteville Planning Commission has an opportunity to open the door to more providers choosing regulation because providers will be able to achieve it fairly easy for the nominal cost of a \$15 license fee, the cost of background checks and insurance.

In addition to the safer, healthier environment for children, there are so many opportunities for the provider to become a quality home and professional. When regulated a provider has the opportunity to participate in:

- 1.) Professional development through the University of Arkansas and Arkansas State University.
- 2.) Higher education using the T.E.A.C.H. grant through the Arkansas Early Childhood Association. <https://arkansasearlychildhood.org/teach/>
- 3.) Encouragement and support to progress in quality through the Arkansas Better Beginnings Program. <https://arbetterbeginnings.com/>
- 4.) Incentive and maintenance grants through the Department of Human Services.
- 5.) Reimbursement for food costs through the CACFP.
- 6.) Networking and peer support through the NWA Family Child Care Association and ECEP Family Child Care Network.

In conclusion, I want to be clear what I support. I feel that a home keeping five or less children shouldn't be required to obtain a conditional use permit. However, I do feel a child is best served by a provider who is regulated by the Department of Human Services Child Care Licensing. I would be glad to answer any questions or clarify any information covered. Feel free to contact me at any time.

Thank you for your consideration,

Tamera Rowland

NWA Family Child Care Association  
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nwafcca@gmail.com