



MEETING OF OCTOBER 3, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

DATE:

SUBJECT: **ADM-2023-0028: Administrative Item (Amend UDC Chapters 151, 163, and 164): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 151.01, 163.05, and 164.24. The proposed code changes would update childcare family home requirements to align with state law.**

RECOMMENDATION:

City staff and the Planning Commission recommend approval of an amendment to the Unified Development Code amending §151.01, 163.05, and 164.24 to update childcare family home requirements to align with state law.

BACKGROUND:

The Arkansas State Legislature passed a law during the 2023 Regular Session “concerning the compliance of childcare facilities with local regulations when seeking licensure under the Childcare Facility Licensing Act.” In reviewing the requirements as set forth by Act 60 (included in attached Planning Commission memo), staff identified areas in the Unified Development Code (UDC) that require updating to align with the new law.

DISCUSSION:

This item addresses the regulatory changes needed to align with new State requirements. In summary, the changes now permit in-home childcare facilities to be regulated as strictly residential uses, rather than with any heightened standards beyond those within the Arkansas Fire Prevention Code. A license will still be required by the State for these facilities. Staff identified changes necessary in UDC sections 151.01 - Definitions, 163.05 - Child Care; Nursery School, and 164.24 - Registered Child Care Family Homes. Proposed UDC changes are attached as clean text and strikethrough.

When the Planning Commission considered the item in their September 11, 2023 meeting, there was unanimous support. The item was placed on the consent agenda, and a vote of 9-0-0 followed. No public comment was received either prior to or during the public hearing.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Proposed Ordinance Amendment - EXHIBIT A (#4), Proposed Ordinance Amendment in Strikeout (#5), Planning Commission Staff Report (#6)

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Legislation Text

File #: 2023-1098

ADM-2023-0028: Administrative Item (Amend UDC Chapters 151, 163, and 164): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 151.01, 163.05, and 164.24. The proposed code changes would update childcare family home requirements to align with state law.

AN ORDINANCE TO AMEND §151.01 DEFINITIONS, §163.05 CHILD CARE; NURSERY SCHOOL, AND §164.24 REGISTERED CHILD CARE FAMILY HOMES OF THE UNIFIED DEVELOPMENT CODE TO ALIGN THE CITY'S CHILDCARE FAMILY HOME REQUIREMENTS WITH STATE LAW

WHEREAS, recent changes to state law adopted by the Arkansas General Assembly in Act 60 of 2023 require amendments to the City of Fayetteville's regulations regarding home child care facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals the definition of "Registered Child Care Family Home" in § 151.01 **Definitions** and enacts a new definition as follows:

"Registered Child Care Family Home (zoning) – A childcare setting in which the caregiver provides child care in a family residence or a residence with a homelike environment and is registered or licensed by the State of Arkansas pursuant to Ark. Code Ann. § 20-78-201, et seq."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends § 163.05 **Child Care; Nursery School** as follows:

"All such establishments, other than Registered Child Care Family Homes authorized pursuant to §164.24 of the Unified Development Code, shall be located on lots which:

1. Minimum Lot Area. Contain a minimum lot area of 250 square feet per child.
2. Minimum Outdoor Play Space. 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.
3. Number of Children. In an RSF zone, a child care facility may be approved as a conditional use of no more than ten (10) children, or the number of children approved by the state's licensing board, whichever is fewer."

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 164.24 **Registered Child Care Family Homes** and enacts a replacement § 164.24 as follows:

” 164.24 – Registered Child Care Family Homes

Registered Child Care Family Homes shall be allowed by right in any zoning district in which residential uses are permitted. Operators of registered child care family homes shall ensure a current copy of his or her license issued by the State of Arkansas is on file with the City of Fayetteville.”