

CITY OF CONCORD

In the year of our Lord two thousand and twenty-five

AN ORDINANCE amending the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance

The City of Concord ordains as follows:

SECTION I: Amend the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-2, Zoning Districts and Allowable Uses, by amending Section 28-2-4(k), Table of Accessory Uses, as follows:

TABLE OF ACCESSORY USES

		BASE DISTRICTS																		DEVELOPMENT DESIGN and SUPPLEMENTAL STANDARDS	
		Residential						Commercial				Performance					Other				
	ACCESSORY USES	open space	medm densty	single family	neigh-brhd	down-town	high densty	neigh-brhd	genrl	urban	hwy	centrl busnss	gateway	opprty corrd	office park	civic	insttitl	indust	urban transtl		
Use #	Use Category and Description	RO	RM	RS	RN	RD	RH	CN	CG	CU	CH	CBP	GWP	OCP	OFP	CVP	IS	IN	UT		
A	ACCESSORY TO A PRINCIPAL RESIDENTIAL USE																				
1	Child day care facility Family-based child day care facility	SE P	SE P	SE P	SE P	SE P	SE P	SE P	P	P	P	P	P	P	P	P	P	P	SE P	Section 28-5-9	
1A	Non-Family-based child day care facility	SE	SE	SE	SE	SE	SE	SE	-	-	-	-	-	-	-	P	P	-	SE		

SECTION II: Amend the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, by amending the Glossary as follows:

Child Day Care Facility. *A property and related services that are being utilized by a child day care agency to provide child day care as defined by RSA 170-E:2. [A facility and related services for children who are twelve (12) years of age or younger, provided by a child day care agency as defined in RSA 170-E:2, Definitions.]*

Child Day Care. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

Child Day Care Agency. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

Family-Based Child Day Care Facility. *Shall mean Family Day Care and Family Group Day Care as defined in RSA 170-E:2, Definitions, as most recently amended.*

Family Day Care. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

Family Group Day Care. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

Group Child Day Care Center. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

Infant and Toddler Program. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

Non-Family-Based Child Day Care Facility. *Any of a Group Child Day Care Center, Infant and Toddler Program, or Small Group Child Day Care Center, as defined in RSA 170-E:2, Definitions, as most recently amended.*

Small Group Child Day Care Center. *Shall be as defined in RSA 170-E:2 Definitions, as most recently amended.*

SECTION III: Amend the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-5, Supplemental Standards, by amending Section 28-5-9 Child Day Care Facilities as follows:

28-5-9 Child Day Care Facilities.

All child **day** care facilities shall comply with the following:

(a) As a Principal Use. A child day care facility as a principal use shall be subject to the following standards:

(1) All child day care facilities shall be located on lots that have direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfill the function and meet the standards of a collector street; **and**

~~[(2) All child day care facilities shall be served by municipal water and sewer systems where available. Where municipal utilities are not available, a child day care facility shall be adequately served by a private well for its exclusive use, and a subsurface waste disposal system or other such system as approved by the New Hampshire Department of Environmental Services (NHDES) Water Division (WD);~~

~~(3) Where municipal water service is not available, on-site water storage, distribution facilities, and sprinkler systems shall be designed and installed to provide fire protection and suppression capabilities in compliance with life safety standards; and]~~

(2) [(4)] Outdoor activity areas for child day care facilities shall be enclosed by fences and shall not be located in the front yard of a residential district. Where the lot is located within or adjacent to a residential district, the enclosure shall be a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area.

(b) ***Family-based child day care facility as*** As an Accessory Use to a Principal Residential Use. ***Family-based child day care facilities shall be allowed as an accessory use to any principal residential use. In accordance with NH RSA 672:1, V-a and RSA 674:16, VI as amended, family-based child day care facilities are exempt from site plan review regulations in any zone where a residential use is permitted, and shall be subject to the following:*** [Child day care facilities located within a dwelling unit and providing care for more than three (3) children, shall be subject to the following standards and requirements:]

(1) Shall be subordinate to the principal residential use; and

(2) The principal residential use shall comply with the off-street parking requirements of Article 28-7, Access, Circulation, Parking, and Loading Requirements.

~~[(1) The child day care facility is subordinate to a single family detached dwelling;~~

~~(2) The maximum capacity of a child day care facility shall be twelve (12) children;~~

~~(3) A child day care facility providing care for six (6) or more children shall be located on a lot which conforms to the minimum dimensional standards established in Section 28-4 1(h), Table of Dimensional Regulations, of this ordinance;~~

~~(4) A dwelling within which a child day care facility is located shall be served by the municipal sewer system, or a certificate shall be obtained from the New Hampshire Department of Environmental Services (NHDES) Water Division (WD) indicating that the on-site subsurface disposal system has adequate capacity and is functioning properly to allow for use by the child care facility in addition to the principal residence;~~

~~(5) There is on-site parking for the principal residential use in accordance with the requirements of Article 28-7, Access, Circulation, Parking and Loading Requirements, of this ordinance;~~

~~(6) The facility is located on a street on which on-street parking is allowed within two hundred (200) feet of the premises and the street is of a width and capacity such that on-street parking will not represent a safety hazard; and~~

~~(7) Outdoor activity areas for child day care facilities shall not be located in the front yard and shall be enclosed by a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area.}~~

(c) Non-family-based child day care facility as an Accessory Use to a Principal Residential Use. Non-family-based child day care facilities located within a principal residential use and providing care for more than three (3) children, shall be subject to the following:

(1) Shall be subordinate to the principal residential use;

(2) Maximum capacity shall be no more than twelve (12) children;

(3) Shall be located on a lot which conforms to the minimum dimensional standards established in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance if providing care for six (6) or more children;

(4) On-site parking for the principal residential use shall be provided in accordance with the requirements of Article 28-7, Access, Circulation, Parking, and Loading Requirements, of this ordinance;

(5) Shall be located on a street on which on-street parking is allowed within two hundred (200) feet of the premises;

(6) Outdoor activity areas for non-family-based child day care facilities shall not be located in the front yard and shall be enclosed by a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area; and

(7) In addition to the requirements set forth herein, when permitted by Special Exception, the Non-family-based child care facility shall satisfy criteria set forth in Article 28-9-3, b, 2 of this Ordinance.

(d) ~~((e))~~ As an Accessory Use to a Principal Nonresidential Use. Child day care facilities accessory to, and for the primary use and benefit of the owners and employees of, a principal nonresidential use shall be subject to the following ~~[standards and requirements]~~:

- (1) All child day care facilities shall be serviced by municipal water and sewer systems. The water service shall be adequate for both domestic use and fire protection;
- (2) ***Unless a conditional use permit has otherwise been granted by the Planning Board in accordance with Section 28-9-4(b) of this ordinance,*** where the child day care facility is located in a separate building more than five hundred (500) feet from the building in which the principal nonresidential use is located, parking shall be provided for the child day care facility in accordance with Section 28-7-2(e), Table of Off-street Parking Requirements, of this ordinance, in addition to the parking required for the principal nonresidential use; and
- (3) Outdoor activity areas for child day care facilities shall be enclosed by fences. Where the facility is located within or adjacent to a residential district, the outdoor activity area shall be enclosed by a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area. Where the abutting residential district is the Open Space Residential (RO) District, and the adjacent lots in the RO District are undeveloped and less than half of the area of the lots is comprised of buildable land areas, the fence may be non-opaque.

SECTION IV: This ordinance shall take effect on adoption.

Explanation: Matter removed from the current ordinance appears in ~~struck through~~.
New items are shown in ***bold italic*** font.