



Date of Council Meeting: March 12, 2013

TOWN OF LEESBURG TOWN COUNCIL MEETING

Subject: Initiating amendments to the Leesburg Zoning Ordinance to (1) address changes to licensing requirements by the Virginia of Department of Social Services (VDSS) for child care facilities, and (2) to consider changes to by-right and Special Exception (SE) permitting for child care facilities.

Staff Contact: Tracey Shiflett, AICP, Assistant Zoning Administrator

Recommendation: Adopt the initiation and pass to the Planning Commission for consideration and recommendation to Council.

Issue: In 2012 VDSS changed their licensing procedures to require home based child care providers to obtain local zoning approval before a license will be issued or renewed. Prior to this change VDSS did not check with, nor did VDSS require applicants for Day Home Facilities to verify compliance with local regulations prior to issuance of licenses or renewal of licenses. As a result, VDSS had permitted up to 12 children to be cared for in a home even though Town regulations limit home occupations to a maximum of 5 children by-right while 6 or more children requires special exception approval as a Child Care Center. Additionally, Staff has determined that VDSS has been licensing public and private recreation providers to care for children, apparently unaware of the fact that those uses also require a special exception as a Child Care Center under current Town regulations.

Fiscal Analysis: A thorough fiscal analysis has not been conducted; however it can be assumed that as a result of the new VDSS regulations that require the Town to sign off on all applications, additional fees and BPOL payments will likely increase when new or previously unlicensed businesses are required to obtain Town Business Licenses.

Background: Town Council is asked to consider initiating these amendments to better align the Town of Leesburg Zoning Ordinance (TLZO) with VDSS regulations and to better reflect the current and emerging trends in child care.

Currently TLZO Sec 9.4.3.C permits home-based child care for five (5) or fewer children; not including the operator's children, in all residential districts as a Home Occupation. Child care facilities with more than 5 children are required to obtain SE approval to operate as a Child Care Center. However, the VDSS can license home-based child care providers for up to twelve (12) children not including the operator's children. The difference in how VDSS and the TLZO defines child care facilities is causing confusion for the home-based child care providers-when those providers ask the Town to sign off on their VDSS applications and they are told they must either obtain a special exception for 12 or reduce the number of children to 5 first.

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Obtaining a Home Occupation Permit is usually a quick process. However, because of the public notice and meeting scheduling requirements, obtaining a SE will take a longer period of time. New child care providers seeking a license to care for more than 5 children generally have enough time to apply for a SE prior to starting their business. However, some existing home-based child care providers who did not first obtain Town permits for their home-based child care use and are pushing deadlines for license renewal are having to apply for a special exception to remain in business. Otherwise, their only option is to reduce the number of children to comply with the Home Occupation regulations while the special exception process runs its course. This has the potential to create a hardship on both the provider and the parents who have been relying on the provider to care for their children.

From the information available on the VDSS website there appears to be 14 child care providers in the Town who are licensed for a maximum of 12 children. Of this total only 3 currently have special exception approval. The recent applications for special exception by 4 providers are a direct result of the changes in VDSS licensing procedures. Thus, another intent of the amendments is to determine whether more types of child care uses can be permitted by right with the use of specific use standards that will assure neighboring properties are not adversely impacted.

Licensure of indoor recreation providers as day care facilities is complicated by the fact that the current performance standards for child care centers in TLZO Sec 9.3.4 are designed to more specifically regulate stand-alone child care centers and are not well suited to centers located in a shopping center or at a recreation facility. For instance, the standards require 100 square feet of outdoor recreation space per child using the outdoor play area at any one time and fencing around that play area. However, many of these facilities that are situated in a shopping center cannot provide outdoor play areas since they have no yards.

In conclusion, staff recommends that Town Council initiates amendments to the Zoning Ordinance that address child care uses in accordance with VDSS standards and direct Staff and Planning Commission study these issues and make recommendations to Town Council regarding these issues. The goal is to adopt zoning regulations that are more closely tailored for home-based child care uses on the one hand, and more progressive to fit the larger childcare facilities in commercial zoning districts.

Attachments: (1) Initiation Resolution

PRESENTED March 12, 2013

RESOLUTION NO. _____

ADOPTED _____

A RESOLUTION: INITIATING AMENDMENTS TO ARTICLE 9 AND ARTICLE 18 OF THE LEESBURG ZONING ORDINANCE TO REVISE DEFINITIONS PERTAINING THERETO HOME-BASED CHILD CARE SERVICES AND DAY CARE CENTERS

WHEREAS, Home-Based Child Care Services are permitted as a Home Occupation in all residential zoning districts, Day Care Centers are by right uses in the B1, B3 and B4 Districts and permitted by Special Exception in the B1, B2 and I1 Districts and all Residential Districts except R8; and

WHEREAS, The Town's Zoning Ordinance includes performance standards for Home-Based Child Care Services and Day Care Centers; and

WHEREAS, the Virginia Department of Social Services regulates and licenses child care facilities including public and private sports and recreation facilities that provide child care services; and

WHEREAS, the Virginia Department of Social Services has issued regulations requiring that child care facilities produce evidence of compliance with local Zoning Regulations as part of their licensure and re-licensure process, and;

WHEREAS, the definitions for child care facilities and the number of children permitted in those facilities in the Town's Zoning Ordinance are different than the definitions and number of children permitted by the Virginia Department of Social Services which creates confusion for child care providers; and

WHEREAS, some licensed child care providers are unaware of the requirement to obtain zoning approval in order to operate their child care business creating a hardship for the provider and parents of the children in their care when applying for re-licensure; and

A RESOLUTION: INITIATING AMENDMENTS TO ARTICLE 9 AND ARTICLE 18 OF THE LEESBURG ZONING ORDINANCE TO REVISE DEFINITIONS PERTAINING THERETO HOME-BASED CHILD CARE SERVICES AND DAY CARE CENTERS

WHEREAS; the Town's Zoning Ordinance may be amended from time to time by the Town Council to address community health, safety and welfare needs;

THEREFORE, BE IT RESOLVED, by the Council of the Town of Leesburg in Virginia that Planning and Zoning Department staff is directed to investigate initiating a zoning ordinance text amendment to amend the definitions of child care facilities to match those used by the Virginia Department of Social Services, provide for the by-right use of child care centers in recreation facilities licensed by the Virginia Department of Social Services, and to establish enhanced performance standards that would protect the surrounding neighborhood which would allow for an increase in the number of children that can be cared for by Home-Based Child Care Services with a Home Occupation Permit.

PASSED this ___ day of _____, 2013.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council