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MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *JS*
Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: October 23, 2015

SUBJECT: ZC 15-17 Hearing Report - Request for Text Amendment to the Zoning Regulations Chapters 1, 2, 5, 6, 7 and 31 – Child Development Homes

I. APPLICATION

At the July 27, 2015 public meeting, the Zoning Commission set down a proposal by the Office of Planning (OP) on behalf the State Superintendent of Education (OSSE) that requests various text amendments to add “expanded child development home” as a new use to the Zoning Regulations. The proposal corresponds to the definition of an Expanded Child Development Home in the current Department of Health (DOH) Child Care regulations which are administered by OSSE. Additional amendments regarding the number of employees, the area to be used for a child development home and an expanded child development home care, and the classification of child development homes and an expanded child development homes as home occupations are also proposed. In summary, the proposals would:

1. Amend the Child Development Home definition and add a definition for Expanded Child Development Home,
2. Require special exception review for an expanded child development home with ten (10) to twelve (12) children;
3. Allow a child development home to have two (2) non-resident employees,
4. Allow an expanded child development home to have up to three (3) non-resident employees,
5. Add child development home and expanded child development home as home occupations;
6. Allow an expanded child development home as an accessory use in the R, SP, CR and C zones;
7. Clarify that the use of basements for home occupations are allowed; and
8. Amend the reference to elderly care homes

II. ANALYSIS

Background

DCMR Title 29, Chapter 3, Child Development Facility Regulations has three (3) categories of child care facilities “child development homes” “expanded child development homes” and “child development centers”. Child development homes and expanded child development homes are operated in private homes occupied by the operator of the facility, while child development centers are located in a facility that is not the residence of the operator.

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CASE NO. 15-17
EXHIBIT NO. 11
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In DCMR 29, Chapter 3 regulations, a child development home is allowed to care for up to six (6) children (DCMR 29, § 351 1) while an expanded child development home allows more than six (6) children up to a maximum of twelve (12) children (DCMR 29, §357 1)

The Zoning Regulations allows child development homes and child development centers and their definitions are similar to those of DCMR 29, Chapter 3. However, the Zoning Regulations do not identify “expanded child development home” as a use. Due to the lack of this definition, the Zoning Administrator has been defining homes with more than 6 children and up to a maximum of 12 children as a child development center and requiring a BZA approved special exception¹. With that approval, the home is then subject to the different building and fire code requirements which are usually for larger child development centers. These conflicts in the requirements of the different agencies discourage providers from creating or expanding their in-home services due to added and unnecessary cost and the extended length of time to obtain a permit.

In conversations with OSSE and representatives of child development homes, it was emphasized that child development homes are preferred over child development centers by many parents but are experiencing a lack of available space, particularly when trying to place two children under the age of two in the same home. Currently, there are approximately one hundred and twenty seven (127) child development homes and two (2) expanded child development homes licensed by OSSE. Today, many would-be providers and existing providers experience a long process to obtain a license and are deterred by the conflicts and/or duplication of regulations.

To try and address the problems, a group consisting of representative of OP, OSSE, the Department of Consumer and Regulatory Affairs (DCRA) and Fire and Emergency Services (FEMS) convened to review the different regulations pertaining to the child development homes. Generally, it was found that the regulations conflicted, were repetitive, were inadequate to address the safety of children, were difficult to understand, and in some cases did not meet best practice standards set in other jurisdictions. The group has recommended changes to the relevant regulations to streamline the process, make the process predictable and increase inspections to ensure that safety standards are maintained. As part of the review, it was requested that amendments be made to the Zoning Regulations to add the expanded child development home category and other amendments. Additionally, OSSE is in the process of making changes to the regulations that govern child development homes to ensure stronger health and safety standards for Child Development Facilities.

Subsequent to set down, OP worked with Office of the Attorney General (OAG) to refine proposal to make the text amendment legally and technically sufficient. In addition, OP worked with Mary’s Center, a non-profit organization that works with both providers and parents to facilitate or bring together providers and families providing the care.

The proposed changes as follows (old text is marked with ~~strikethrough~~ and new text is shown in **bold and underline**).

BZA 19392, 18455, 18468

Chapter 1, THE ZONING REGULATIONS, § 199 DEFINITIONS, § 199.1, is amended as follows:

1. Insert the following new definition, which is consistent with that of the Child Development Facility Regulations (DCMR 19, Chapter 3), in alphabetical order

Expanded Child Development Home – a dwelling unit used in part for the licensed care, education, or training for more than six (6) individuals, up to a maximum of twelve (12) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in dwelling unit, provided that no more than six (6) of the individual may be under two (2) years of age. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

2. Amend the definition of “Caregiver” to add a reference to an “expanded child development home ”

Caregiver -- an individual who is responsible for the supervision and administration of a child development home, **expanded child development home**, or child/elderly development center

3. Amend the definition of “child development home” to clarify that the number of children allowed includes children four years and younger who reside in the home

Child development home -- a dwelling unit used in part for the licensed care, education, or training of no more than six (6) individuals fifteen (15) years of age or less **including all individuals age four (4) and younger who reside in the dwelling unit.** Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended as follows:

1. Section 202, ACCESSORY USES (R-1) is amended to repeal Subsection 202.4 Subsection 202.4 presently permits a child development home as a matter of right accessory use. Under these amendments, the use would be permitted only as a home occupation, which requires a permit.
2. Subsection 202 5 presently requires elderly care homes to meet the requirements stated in § 202 4 (a) through (e) Since those paragraphs are proposed to be repealed, it is necessary to add their content to § 202 5 § 202.5 is amended to add new paragraphs (a) through (e) as follows

202.5 The elderly day care home shall be permitted as an accessory use in an R-1 District incidental to the uses permitted in this chapter ~~if the requirements of the child development home are met~~ **provided:**

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver;**
- (b) There is used no more than one (1) sign or display, which shall not exceed one hundred forty-four square inches (144 sq. in.) in area;**
- (c) No stock in trade is kept nor any commodity sold upon the premises;**
- (d) No person is employed other than a member of the caregiver's immediate family residing on the premises; and**
- (e) No mechanical equipment is used except such as is permissible for purely domestic or household purposes.**

3. Section 203, HOME OCCUPATION (R-1)

Currently, there is a conflict in the interpretation of § 203 4(b) as to whether a home occupation is allowed in the basement of a home. This section is amended to include the floor area of a basement within the calculation of its floor area limitation and to add a cross-reference to §§ 203 7 (e)(2), (f), and (l). Paragraphs (d), (l), and (m) of the subsection are amended to reference child development homes and/or expanded child development homes.

In § 203 5(l) there is a cap of eight daily trips which include visitors, customers, and deliveries for home occupation sites. This is not a realistic cap for a child care development home or an expanded child development home with up to nine children since drop-off and pick-up activities alone could create up to 18 daily trips. The Department of Transportation's (DDOT) threshold for a traffic analysis is 25 peak-hour trips, thus a facility with up to nine children would have minimal to negligible traffic impacts on traffic network. With an increase of in-home child care facilities supply, it is hoped that residents will have the opportunity to choose options within walking distance from their homes. Homes with between ten and twelve children would be allowed only by special exception at which time traffic impacts would be considered as part of that review.

In regards to the "no more than 8 clients on the premises in any hour" in § 203 5(m), it is unclear if it means parents with children, the children alone, or just parents. Again, this would not be possible if clients and customers include both parents and children. This section is therefore amended to exempt child development homes and expanded child development homes expanded from the requirements.

§ 203 4 is amended as follows.

203.4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§ 203 5 and 203 6, and with the following conditions and requirements:

- (a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes,
- (b) Except as provided in §§ **203.7 (e)(2), (f), and (l)** and 203.8(d), no more than the larger of two hundred fifty square feet (250 sq. ft.) or twenty-five percent (25%) of the floor area of the dwelling, ~~excluding~~**including** basement ~~but excluding~~ any accessory structure, shall be utilized in the home occupation,
- (d) **Except as provided in §§ 203.7 (a) and (e)(1).** no more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;
- (e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;
- (f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use that is exclusively residential;
- (g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure;
- (h) Neither the practitioner nor any other person shall use any equipment or process that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home,
- (i) The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home,
- (j) The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood;
- (k) No more than two (2) vehicles may be used in the practice of the home occupation;
- (l) **Except for Child Development Homes and Expanded Child Development Homes,** vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis,
- (m) **Except for Expanded Child Development Homes,** the practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period, and
- (n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not

exceed any of the standards set forth in paragraphs (a) through (m) of this subsection

DCRA requires child development home operators to obtain a Home Occupation Permit (HOP). In the current Zoning Regulation, a child development home is not classified as a home occupation. The amendment to specifically state that a child development home and an expanded child development home are allowed as home occupations would codify what is now practiced

OSSE and providers have requested that the non-resident employees in child development homes be increased from one to two. The child development regulations allow child development home providers to serve up to six (6) children with a ratio of one adult caregiver to every 2 children, 2 years of age or younger in the group. However, providers have expressed the desire to hire assistance as in many cases there is a need for slots to accommodate children below two years of age and providers need assistance that is not available or cannot be provided by a household member. This request to allow a non-resident employee would be similar to § 202.2(c) which allows physician or dentist office as an accessory use and also allows *“Exclusive of domestics, not more than two (2) persons who do not reside on the premises may be employed. No person so employed shall be a physician or dentist,”*

With the increased number of children in expanded child development homes it is requested that a higher number of children under two (2) years be allowed. Under OSSE’s regulations, there must be a ratio of one caregiver per two children under the age of two. The maximum number of children receiving custodial care is limited by fire and building code requirements, which take into account the number of residents in the dwelling (adults and children residing in the dwelling) in addition to caregivers. The child care regulations at DCMR 29, § 357.2(a) require that *“Expanded Child Development Home shall have at least two Caregivers”*. To be consistent with these requirements, it is recommended that expanded child development homes be allowed to have up to three (3) non-resident employees to be reflective of the increased number of children allowed. Additionally, it is recommended that the maximum number of children receiving custodial care under the age of two (2) years be limited to six (6).

While an expanded child development home allows more than six (6) children up to a maximum of twelve (12) children OSSE has requested to have extra review of expanded child development homes with between 10 and 12 children allowed by the special exception under § 203.10. § 203.10 would also be amended to be consistent with § 202.5(a) which allows up to three (3) non-residents to be employed in child development homes expanded

Amend subsection 203.7 is as follows.

203.7 The following uses shall be allowed as home occupations, provided, that the conditions specified in §§ 203.4 through 203.6 are met at the time of the establishment of the home occupation, and maintained on a continuing basis. The uses listed under this subsection shall include similar uses in each category.

- (a) **Child development home provided no more than two (2) persons who are not a resident of the dwelling unit shall be engaged or employed in the child development home;**

- (b) Computer programming,
- (c) Cosmetologist, hair stylist, or barber;
- (d) Dressmaking, sewing, and tailoring,
- (e) **Expanded child development home for between seven (7) and nine (9) individuals fifteen (15) years of age or less; provided:**
 - (1) **No more than three (3) persons who are not a resident of the dwelling unit shall be engaged or employed;**
 - (2) **A minimum of thirty five square feet (35 sq. ft.) of floor area per individual is provided including basement but excluding any accessory structure shall be utilized for the Expanded Child Development Home; and**
 - (3) **No more than three hundred and twenty square feet (320 sq. ft.) of the floor area of the dwelling including basement but excluding any accessory structure shall be utilized for the Expanded Child Development Home;**
- (f) **Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 and subject to the provisions of § 203.10; provided a minimum of thirty five square feet (35 sq. ft.) of floor area per individual is provided including basement but excluding any accessory structure.**
- (g) Home crafts, such as model-making, rug weaving, and lapidary work;
- (h) Home office of a businessperson, sales person, or manufacturer's representative; provided, that the dwelling is not used as a gathering point for workers who are on the way to another work site,
- (i) Home office of a physician or dentist, provided, that the physician or dentist may not also establish an accessory use pursuant to § 202,
- (j) Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (k) of this subsection, or other professional person,
- (k) Mail order business;
- (l) Painting, sculpturing, writing, composing, photography, or other fine arts occupations practiced by an individual in a home studio, provided, that no more

than sixty percent (60%) of the floor area of the dwelling unit may be devoted to the studio,

- (m) Telephone answering service and sales by telephone,
- (n) Tutoring of not more than five (5) students at any one time, and
- (o) Typing or word processing service.

Subsection § 203.10(c) is amended to allow expanded child development homes to have up to three non-resident employees as specified in § 203.7 (e) (1)

203 10 A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104; provided.

- (a) The proposed use and related conditions shall be consistent with the purposes set forth in § 203 1 and shall generally comply with the requirements of §§ 203 4 through 203 8, subject to specific findings and conditions of the Board in each case;
- (b) An applicant for a home occupation that is permitted by §§ 203 6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203 4 through 203.8, provided that the general purposes and intent of this section are complied with,
- (c) **Except as provided in § 203.7 (e) (1),** in no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession,
- (d) Any request to modify more than two (2) of the requirements found in §§ 203 4 through 203.8 shall be deemed a request for a variance. However, a person with a demonstrated physical handicap may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and
- (e) In considering any request for approval under this subsection, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this section

The following zone districts are amended to reflect the proposed changes to Chapters 1 and 2

Chapter 5, SPECIAL PURPOSE DISTRICTS, § 502, ACCESSORY USES (SP), § 502.6, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

502 6 A child development home or an expanded child development home shall be permitted as an accessory use in an SP District incidental to the uses permitted in this chapter; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation

Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS

§ 601, MATTER OF RIGHT USES (CR), § 601.5, is amended by twice inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

601 5 A child development home or an expanded child development home shall be permitted as a matter of right as an accessory use in a CR District, provided, the dwelling unit in which the child development home or an expanded child development home is located is the principal residence of the caregiver and the use shall otherwise meet the definition of a home occupation

Chapter 7, COMMERCIAL DISTRICTS is amended as follows:

Section 702, ACCESSORY USES AND BUILDINGS (C-1), § 702.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

702 2 A child development home or an expanded child development home shall be permitted in a C-1 District as an accessory building and use incidental to the uses permitted in §§ 701 through 711; provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation

Section 722, ACCESSORY USES AND BUILDINGS (C-2)

Section 722.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

722.2 A child development home or an expanded child development home shall be permitted in a C-2 District as an accessory building and use incidental to the uses permitted §§ 721, 722, and 726 through 734, provided.

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 742, ACCESSORY USES AND BUILDINGS (C-3)

Section 742.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

742.2 A child development home or an expanded child development home shall be permitted in a C-3 District as an accessory building and use incidental to the uses permitted in §§ 741 through 744, provided.

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 752, ACCESSORY USES AND BUILDINGS (C-4)

Section 752.2, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

752.2 A child development home or an expanded child development home shall be permitted in a C-4 District as an accessory building and use incidental to the uses permitted in §§ 751 through 754; provided

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation

Section 761, C-5 (PAD) DISTRICT USES

Section 761.4, is amended by inserting the phrase “or an expanded child development home” so that the subsection reads as follows:

761.4 A child development home or an expanded child development home shall be permitted in the C-5 (PAD) District as an accessory use incidental to the uses permitted in this section, provided

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3104, SPECIAL EXCEPTIONS, is amended by inserting alphabetically the following new special exceptions into the chart appended to § 3104.1:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
<u>Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age or less.</u>	<u>Any R District</u>	<u>§ 203.7(f).</u>

III. COMPREHENSIVE PLAN

The proposal is not inconsistent with the Comprehensive Plan. The Comprehensive Plan Policy CSF-2.2.1 Adequate Child Care Facilities encourages “*new and expanded child care facilities in all residential, commercial and mixed use areas in an effort to provide adequate affordable childcare facilities throughout the district*.” Further, the Comprehensive Plan recommends zoning actions to be taken to facilitate these facilities.

Action CSF-2 2.A. Review and Address Zoning Issues

Review and assess the zoning regulations to identify barriers to the development of child care centers in the District. The assessment should consider ways of reducing any barriers that are identified, provided that child safety and neighborhood quality of life issues can be adequately addressed. 1107.5

In November 2012² OSSE reported that there were approximately 20,284 children under the age of 3 living in the District, but there were only enough licensed slots for 5,337 or 26% of these children. Further, there are approximately 127 licensed Child Development Homes licensed for these approximately 762 children. The proposed amendments would therefore offer the opportunity for additional slots in licensed expanded child development homes. The proposed amendments will not lessen the quality of life for the neighborhoods as they will be required to meet the accessory use and home occupation requirements and the additional children would not generate any excessive noise or traffic.

IV. RECOMMENDATION

The Office of Planning requests the Zoning Commission approve the proposed text amendments to the following sections of the Zoning Regulations (old text is marked with ~~struckthrough~~ and new text is shown in **bold and underline**):

Chapter 1, THE ZONING REGULATIONS, § 199 DEFINITIONS, § 199.1, is amended as follows:

Insert the following new definition in alphabetical order.

² Latest survey available

Expanded Child Development Home – a dwelling unit used in part for the licensed care, education, or training for more than six (6) individuals, up to a maximum of twelve (12) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in dwelling unit, provided that no more than six (6) of the individual may be under two (2) years of age. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Amend the definition of “Caregiver” to add a reference to an “expanded child development home,” so that the definition reads as follows:

Caregiver -- an individual who is responsible for the supervision and administration of a child development home, expanded child development home, or child/elderly development center

Amend the definition of “child development home” to insert the phrase “including all individuals age four (4) and younger who reside in the dwelling unit”, so that the definition reads as follows:

Child development home -- a dwelling unit used in part for the licensed care, education, or training of no more than six (6) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, Section 202, ACCESSORY USES (R-1) is amended as follows:

Repeal 202.4.

Amend 202.5 to read as follows:

202 5 The elderly day care home shall be permitted as an accessory use in an R-1 District incidental to the uses permitted in this chapter ~~if the requirements of the child development home are met~~ provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver;**
- (b) There is used no more than one (1) sign or display, which shall not exceed one hundred forty-four square inches (144 sq. in.) in area;**
- (c) No stock in trade is kept nor any commodity sold upon the premises;**

- (d) No person is employed other than a member of the caregiver's immediate family residing on the premises; and**
- (e) No mechanical equipment is used except such as is permissible for purely domestic or household purposes.**

Section 203, HOME OCCUPATION (R-1) is amended as follows:

203.4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§ 203.5 and 203.6, and with the following conditions and requirements:

- (a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes,
- (b) Except as provided in §§ **203.7 (e)(2), (f), and (l)** and 203 8(d), no more than the larger of two hundred fifty square feet (250 sq. ft) or twenty-five percent (25%) of the floor area of the dwelling, ~~excluding~~**including** basement ~~but excluding~~ any accessory structure, shall be utilized in the home occupation,
- (d) **Except as provided in §§ 203.7 (a) and (e)(1).** no more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;
- (e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;
- (f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use that is exclusively residential;
- (g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure,
- (h) Neither the practitioner nor any other person shall use any equipment or process that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home,
- (i) The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;
- (j) The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood,
- (k) No more than two (2) vehicles may be used in the practice of the home occupation,

- (l) **Except for Child Development Homes and Expanded Child Development Homes,** vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis,
- (m) **Except for Expanded Child Development Homes,** the practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period, and
- (n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection

Subsection 203.7 is amended to read as follows:

203 7 The following uses shall be allowed as home occupations, provided, that the conditions specified in §§ 203 4 through 203 6 are met at the time of the establishment of the home occupation, and maintained on a continuing basis. The uses listed under this subsection shall include similar uses in each category:

- (a) **Child development home provided no more than two (2) persons who are not a resident of the dwelling unit shall be engaged or employed in the child development home;**
- (b) Computer programming;
- (c) Cosmetologist, hair stylist, or barber,
- (d) Dressmaking, sewing, and tailoring;
- (e) **Expanded child development home for between seven (7) and nine (9) individuals fifteen (15) years of age or less; provided:**
 - (1) **No more than three (3) persons who are not a resident of the dwelling unit shall be engaged or employed;**
 - (2) **A minimum of thirty five square feet (35 sq. ft.) of floor area per individual is provided including basement but excluding any accessory structure shall be utilized for the Expanded Child Development Home; and**
 - (3) **No more than three hundred and twenty square feet (320 sq. ft.) of the floor area of the dwelling including basement but excluding any accessory structure shall be utilized for the Expanded Child Development Home;**

- (f) **Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 and subject to the provisions of § 203.10; provided a minimum of thirty five square feet (35 sq. ft.) of floor area per individual is provided including basement but excluding any accessory structure.**
- (g) Home crafts, such as model-making, rug weaving, and lapidary work;
- (h) Home office of a businessperson, sales person, or manufacturer's representative; provided, that the dwelling is not used as a gathering point for workers who are on the way to another work site;
- (i) Home office of a physician or dentist, provided, that the physician or dentist may not also establish an accessory use pursuant to § 202,
- (j) Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (k) of this subsection, or other professional person,
- (k) Mail order business;
- (l) Painting, sculpturing, writing, composing, photography, or other fine arts occupations practiced by an individual in a home studio; provided, that no more than sixty percent (60%) of the floor area of the dwelling unit may be devoted to the studio;
- (m) Telephone answering service and sales by telephone,
- (n) Tutoring of not more than five (5) students at any one time; and
- (o) Typing or word processing service.

Subsection 203.10 is amended to read as follows:

203.10 A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104, provided:

- (a) The proposed use and related conditions shall be consistent with the purposes set forth in § 203.1 and shall generally comply with the requirements of §§ 203 4 through 203.8, subject to specific findings and conditions of the Board in each case;
- (b) An applicant for a home occupation that is permitted by §§ 203 6 through 203 8 may request the Board to modify no more than two (2) of the conditions

enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with,

- (c) **Except as provided in § 203.7 (e) (1)**, in no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;
- (d) Any request to modify more than two (2) of the requirements found in §§ 203.4 through 203.8 shall be deemed a request for a variance. However, a person with a demonstrated physical handicap may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and
- (e) In considering any request for approval under this subsection, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this section.

Chapter 5, SPECIAL PURPOSE DISTRICTS, § 502, ACCESSORY USES (SP)

Amend § 502.6 to read as follows:

502.6 A child development home **or an expanded child development home** shall be permitted as an accessory use in an SP District incidental to the uses permitted in this chapter; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, § 601, MATTER OF RIGHT USES (CR),

Amend § 601.5 to read as follows:

601.5 A child development home **or an expanded child development home** shall be permitted as a matter of right as an accessory use in a CR District, provided, the dwelling unit in which the child development home **or an expanded child development home** is located is the principal residence of the caregiver and the use shall otherwise meet the definition of a home occupation.

Chapter 7, COMMERCIAL DISTRICTS, Section 702, ACCESSORY USES AND BUILDINGS (C-1),

Amend § 702.2 to reads as follows:

702.2 A child development home or an expanded child development home shall be permitted in a C-1 District as an accessory building and use incidental to the uses permitted in §§ 701 through 711; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation

Section 722, ACCESSORY USES AND BUILDINGS (C-2)

Amend § 722.2 to reads as follows:

722.2 A child development home or an expanded child development home shall be permitted in a C-2 District as an accessory building and use incidental to the uses permitted §§ 721, 722, and 726 through 734; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 742, ACCESSORY USES AND BUILDINGS (C-3)

Amend § 742.2 to reads as follows:

742.2 A child development home or an expanded child development home shall be permitted in a C-3 District as an accessory building and use incidental to the uses permitted in §§ 741 through 744, provided.

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver, and
- (b) The use otherwise shall meet the definition of a home occupation

Section 752, ACCESSORY USES AND BUILDINGS (C-4)

Amend § 752.2 to read as follows:

752.2 A child development home or an expanded child development home shall be permitted in a C-4 District as an accessory building and use incidental to the uses permitted in §§ 751 through 754, provided.

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation

**Section 761, C-5 (PAD) DISTRICT USES,
Amend § 761.4 to read as follows:**

761.4 A child development home or an expanded child development home shall be permitted in the C-5 (PAD) District as an accessory use incidental to the uses permitted in this section, provided

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3104, SPECIAL EXCEPTIONS is amended by inserting alphabetically the following new special exceptions into the chart appended to § 3104.1:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
<u>Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age or less.</u>	<u>Any R District</u>	<u>§ 203.7(f).</u>