

**A RESOLUTION REQUESTING THE LAND USE CONTROL BOARD
AMEND 12.3.1 OF THE MEMPHIS/SHELBY COUNTY UNIFIED DEVELOPMENT
CODE IN ORDER TO LIMIT LONG-TERM UNREGULATED “MINI-DAY
CARES” IN RESIDENTIAL NEIGHBORHOODS**

*****Summary of Proposed Ordinance**

The proposed ordinance is designed to prevent residents from operating “mini-day cares”—*i.e.*, day cares in residential homes with 5 to 7 children—in residentially zoned neighborhoods, unless the day care operator follows the special use process.

Currently the Memphis and Shelby County Unified Development Code (“UDC”) allows a resident to provide day care services to 5 to 7 minors at a personal home residence. The proposed ordinance limits the ability of homeowners to operate these mini-day cares in residential neighborhoods, unless the applicant follows the Special Use process, including giving notice to neighbors. This is the same procedure required for larger day care businesses—*i.e.*, day cares with 8 or more minors—that want to operate in residential neighborhoods. This change is proposed in response to constituent concerns about the number of unregulated small day cares operating in residential homes.

The proposed ordinance amends the UDC in two ways. First the proposed ordinance eliminates and deletes the use category currently known as “Family Day Care” home. The current UDC provision on “Family Day Care” home allows a residential homeowner to provide day care to 5 to 7 children in the home. As long as the number of children enrolled remains below seven (7), this category of land use is “by right”. “By right” land use in the UDC means no notice to or input from nearby neighbors is required. Also, under the current ordinance, these day cares are not required to have Special Use Approval nor permission from the Land Use Control Board. Thus, if the current “Family Day Care” home continues without change, these mini daycares may be opened at anytime, or any street, in any residential neighborhood.

Second, the proposed ordinance updates the language used to define “Group Day Care” home. In general, the current UDC provides that Group Day Care is permitted in commercial areas, but not permitted in residential neighborhoods without approval of a Special Use and notice to the neighbors. Group Day Care home is currently defined as businesses giving care to 8 to 12 children. The proposed ordinance modifies the definition of “Group Day Care” home to include any business operation where 5 to 12 minors are cared for outside of their home. Taken together, the two changes—the elimination of the Family Day Care use category and the expansion of the Group Day Care use category—will significantly limit the ability of homeowners to operate a mini-day care business in a residential neighborhood, unless they give notice to neighborhood residents.

These changes create a more uniform treatment of mini daycares (5 to 7 children) and larger day cares (8 to 12 children). If approved, daycare operators, both large and small, will have to operate in commercial areas or give notice to neighbors in order to operate in residential areas. A copy of the proposed Resolution is below. Changes are in yellow.

RESOLUTION NO. _____

A RESOLUTION REQUESTING THE LAND USE CONTROL BOARD AMO AMEND 12.3.1 OF THE MEMPHIS/SHELBY COUNTY UNIFIED DEVELOPMENT CODE IN ORDER TO LIMIT LONG-TERM UNREGULATED “MINI-DAY CARES” IN RESIDENTIAL NEIGHBORHOODS

WHEREAS, according to the National Association of Child Care Resource, approximately 15% of children who receive child care under the age of 5 are in a childcare arrangement at an unregulated day care home.

WHEREAS, under the current Memphis and Shelby County Unified Development Code mini-day care homes—*i.e.*, day cares in residential homes with 5 to 7 children—are permitted to open in residential neighborhoods without neighborhood notice, fire, or environmental inspection.

WHEREAS, other day care businesses, in particular those severing 8 or more children, are required to give neighborhoods notice prior to opening in residential neighborhoods, and receive approval from relevant fire and environmental inspectors;

WHEREAS, all children spending time in a child care arrangement in Memphis and Shelby County should have the same level of protection regardless of whether they receive care in a mini-day care or larger day care business;

WHEREAS, new businesses that open in residential neighborhoods, including day care businesses, have the potential of increasing neighborhood traffic and undermining the settled expectations of neighborhood residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that the Unified Development Code hereby amended as follows:

Article 12 Definitions

12.3 Defined Terms

12.3.1 General Definitions

~~Family Day Care Home: A home (an occupied residence) operated by a person for the purpose of receiving therein a minimum of five and a maximum of seven children under 17 years of age, who are not related to such person and whose parent(s) or guardians(s) are not residents in the same house, for less than 24 hours per day for care, without transfer of legal custody.~~

Group Day Care Home: any facility operated by a person, social agency, corporation or institution, or any other group which receives a minimum of **five** and a maximum of 12 children (and up to three additional school-age children who will be present before and after school, on school holidays, on school snow days, and during summer vacation) for less than 24 hours per day for care outside of their own homes, without transfer of legal custody.

Before a group day care home opens, fire safety and environmental inspectors must approve the facility.

BE IT FURTHER ORDAINED, That the provisions of this Resolution are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Resolution shall continue in full force and

Lee Harris
Memphis City Council