



## *City of Annapolis*

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### DEPARTMENT OF PLANNING AND ZONING

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CHRISTOPHER N. JAKUBIAK, AICP  
DIRECTOR

**February 27, 2025**

#### **MEMORANDUM**

**To:** Planning Commission

**From:** Eric Leshinsky, Chief of Comprehensive Planning

**Via:** Christopher Jakubiak, Director

**Re:** Ordinance O-1-25: Expansion of Child Care Options in Annapolis

**Attachments:**

- O-1-25 First Reader
- O-1-25 Amendment 1
- O-1-25 Amendment 2
- O-1-25 Fiscal Impact Report

#### **SUMMARY**

The purpose of O-1-25 is to define and expand the variety of child care facility types permitted within the city in alignment with State of Maryland standards. The proposed legislation amends the nomenclature and definitions of the facility types, amends the standards for the facilities, and amends the locations where they are permitted.

#### **ANALYSIS**

##### ***Overview***

O-1-25 expands on O-13-24 (Expanded Daycare Act) which was adopted by the City Council in October 2024. Whereas O-13-24 focused exclusively on expanding the number of zoning districts where child care facilities are permitted, O-1-25 focuses on the facility types themselves.

The major component of O-1-25 is aimed at establishing consistency between the City Code and the State of Maryland Code in regard to various child care facility types. Whereas the two principal child care facilities currently permitted within the city are *“Day care, family”* and *“Daycare centers, group”*, the proposed legislation amends the types to be *“Family Child Care Homes”* and *“Child Care Centers”*. O-1-25 would also permit *“Child Care Centers”* in conjunction with public school facilities and religious institutions, similar to the current treatment of *“Daycare centers, group”*. The primary distinction between current facility type *“Day care, family”* and the proposed facility type *“Family Child Care Homes”* is the potential for expanded capacity. Whereas the current facility allows for a maximum of 8 children, the new facility type allows for 9-12 children as a *“Large Family Child Care Home”*. This distinction is consistent with Education Article, §9.5-11 401 of the Maryland Code.

Each facility type is bound to certain definitions and standards, generally aligned with Maryland Code. However, there are three areas of the standards specific to Annapolis aimed at optimizing the opportunities for expanded child care options:

- Regarding *“Family Child Care Homes”*, the current requirement for *‘Day care, family’* that no more than one non-resident of the home be employed at any one time is struck. This provision would allow for more job opportunities at child care facilities and greater staffing flexibility.
- Regarding *“Child Care Centers”*, although the proposed legislation does not change the parking requirements from what are currently required for *“Daycare, centers, group”*, Amendment 1 does remove the off-street parking requirements.
- Regarding *“Child Care Centers”*, although the proposed legislation seeks to allow this facility type to be permitted within the Resource Conservation area of the Critical Area (in addition to *“Family Child Care homes”*), Amendment 2 removes this provision. The fact that *“Family Child Care Homes”* does have an option for a larger capacity of 9-12 children would allow for expanded service within the Resource Conservation Area.

### ***Impact of Legislation***

The proposed legislation expands on the legislation adopted in October 2024 in seeking to address a shortage in daycare facilities that has become a problem for residents as it not only limits the availability of daycare options but also drives up the cost of childcare where it exists. This condition is not unique to Annapolis and is a well-documented national problem affecting a wide range of cities across the country. Maryland saw a 15% decrease in childcare providers statewide between 2020 and 2024, and while the COVID-19 pandemic accelerated the decline in providers, this trend has been happening for many years prior to the pandemic. According to a recent 2023 State of the Economy report from the Maryland Office of the Comptroller, between 2019 and 2023, the increase in average annual cost of childcare ranged between 14% and 30% across program types (family childcare providers and center-based programs) and ages (0 to 23 months, 2 to 4 years, and 5 years). The rising cost of childcare and lack of options is of course particularly acute for lower income families who have limited ability to absorb the

increasing costs. To offset this issue, the Maryland General Assembly in its last general session passed a \$63 billion budget that allocates \$328.5 million for the child care scholarship program, more than five times 2024's original amount. The collateral economic impact of limited childcare options is even greater when considering the number of working age adults who must forgo paying jobs because they can't afford childcare.

At present, Annapolis has approximately 85 daycare facilities of varying sizes and types within the city limits. While this number might seem substantial, it is difficult to ascertain the precise capacity of each facility, and many may only serve a small group of families. Their locations are scattered across all wards, with higher concentrations in Wards 3, 4, and 7. The current facilities are located in a variety of zoning districts but a large majority are located in residential zoning districts, particularly the R2 and R3 zones.

The proposed legislation would expand the capacity and viability of home-based child care facilities within residential districts by allowing for up to 12 children and by allowing for more non-resident employees. Amendment 1 to the proposed legislation would eliminate parking requirements for center-based child care facilities thereby reducing a major development cost and expanding the sites where these facilities can be located.

The nuances of the legislation, particularly the two types of "*Family Child Care Homes*" proposed, will likely add to review times on development applications by Planning & zoning staff. However, there could be substantial benefits from the proposed code changes and the number annual development application for child care facilities is unlikely to overburden review staff.

### ***Conclusion***

While the bulk of the proposed legislation is focused on aligning City code standards with State code standards, there are elements which could have a significant impact on the pressing issue of child care options in the city. This is timely and worthwhile legislation which complements the Expanded Childcare Act adopted in 2024.

### **CODE COMPLIANCE AND RECOMMENDATION**

Based on the above analysis, the staff recommends approval of the proposed O-1-25 with the two amendments.

1 **..Title**

2 **Expansion of Child Care Options in Annapolis** – For the purpose of allowing large family  
3 child care homes pending zoning approval; removing City restrictions on hiring home-operated  
4 child care service employees who live outside the home; combining sections dealing with child  
5 care centers; updating the related City Code sections to align with state child care standards; and  
6 address the requirements of Title 21 concerning child care in Annapolis.

7 **..Body**

8  
9 **CITY COUNCIL OF THE**  
10 **City of Annapolis**

11  
12 **Ordinance 1-25**

13  
14 **Introduced by: Alderman Schandelmeier**

15  
16 **Referred to:**

17 Planning Commission  
18 Rules & City Government Committee  
19 Environmental Matters Committee  
20 Annapolis Education Commission  
21

22 **AN ORDINANCE** concerning

23  
24 **Expansion of Child Care Options in Annapolis**

25  
26 **FOR** the purpose of allowing large family child care homes pending zoning approval; removing  
27 City restrictions on hiring home-operated child care service employees who live outside  
28 the home; combining sections dealing with child care centers; updating the related City  
29 Code sections to align with state child care standards; and address the requirements of Title  
30 21 concerning child care in Annapolis.

31  
32 **BY** repealing and reenacting with amendments the following portions of the Code of the City  
33 of Annapolis, 2024 Edition:

34 **21.54.100**

35 **21.64.190**

36 **21.64.200**

37 **21.48.010**

38 **21.48.020**

39 **21.50.010**

40 **21.50.020**

41 **21.50.030**

42 **21.50.040**

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**Explanation:** ~~Strikethrough~~ indicates matter stricken from existing law.  
Underlining indicates a change to the City Code.  
Underlining & black - copyediting or reformatting of existing Code section  
Underlining & red - new matter added to the code.

21.50.050  
21.50.060  
21.50.070  
21.50.080  
21.50.090  
21.50.100  
21.50.110  
21.50.120  
21.50.240  
21.50.250  
21.66.130  
21.72.010

**BY** repealing the following portions of the Code of the City of Annapolis, 2024 Edition:  
21.64.210

**SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

**Title 21 - PLANNING AND ZONING**  
**Division V - Regulations of General Applicability**  
**Chapter 21.64 - Standards for Uses Subject to Standards**

**~~21.64.190 Day care, family.~~**

~~A. Operators of family day care homes must be residents of the principal building on the zoning lot, and not more than one nonresident of the zoning lot may be employed in the family day care home at any given time.~~

~~B. No off-street parking provided for a family day care shall be located in a required front yard. In the instance of a family day care home in the R1, R1-A, R1-B, R2, and R2-Neighborhood Conservation districts involving a nonresident employee, one additional off-street parking place shall be provided.~~

~~C. No family day care shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard, or other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no family day care home exists.~~

**~~21.64.200 Day care centers, group.~~**

~~A. There shall be provided thirty-seven and one-half square feet of usable outdoor recreation area for each child that may use the space at any one time. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently~~

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buffered from adjacent residential areas. Usable outdoor recreation area shall be limited to:

1. Those areas that are not covered by buildings, structures or required off-street parking spaces;
  2. That area outside the limits of the required front yard and all transitional yards;
  3. Only that area which is developable for active outdoor recreation purposes; and
  4. An area which occupies no more than eighty percent of the combined total areas of the required rear and side yards.
- B. The use shall comply with Article 88A of the Annotated Code of Maryland and the State Department of Human Resources regulations regarding group day care centers.
- C. All such uses shall be located so as to permit the safe pick-up and delivery of all persons on the site.

**21.64.210 Day care centers, group, in conjunction with public school facilities or with a principal religious institution.**

- A. The use is subject to review and approval by the Department of Planning and Zoning.
- B. A minimum usable outdoor recreation area of fifty square feet per child shall be provided. Such area shall be located to ensure a safe and secure play area and be sufficiently buffered from adjacent residential areas.
- C. A safe on-site drop-off and pick-up area shall be provided.
- D. Adequate on-site parking sufficient to accommodate the users of the facility shall be provided, with signage to reserve spaces for the day care center.
- E. The center shall comply with all the licensing requirements under Article 88A of the Annotated Code of Maryland.

**Section 21.64.190 - Family Child Care**

**A. Family Child Care Homes.**

1. Family Child Care Homes and Large Family Child Care Homes shall meet requirements of Education Article § 9.5 of the Maryland Code and COMAR § 13A.15.
2. Family child care home providers shall be residents of the principal building on the zoning lot.

**B. Zoning Requirements.**

1. No off-street parking provided for a family **child** care **home** shall be located in a required front yard.
2. Family **child** care homes in the R1, R1-A, R1-B, R2, and R2-Neighborhood Conservation districts involving a nonresident employee shall have off-street parking for non-resident employees pursuant to §21.66.130.

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3. No family ~~child~~ care home shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard, or other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no family ~~child~~ care home exists.

**Section 21.64.200 - Child Care Center.**

**A. Child Care Centers.**

Child Care Centers shall meet requirements of Education Article §9.5 of the Maryland Code and COMAR § 13A.15.

**B. Zoning Requirements -- Generally.**

1. **Outdoor Space.** Except for Educational and Religious Affiliated Child Care Center requirements in Subsection C, the following shall apply:

- a. There shall be provided 37 and one-half square feet of usable outdoor recreation area for each child that may use the space at any one time.
- b. Such usable outdoor recreation area shall be identified on the site plan and shall be sufficiently buffered from adjacent residential areas.
- c. Usable outdoor recreation area shall be limited to:
  - i. Those areas that are not covered by buildings, structures or required off-street parking spaces,
  - ii. That area outside the limits of the required front yard and all transitional yards,
  - iii. Only that area which is developable for active outdoor recreation purposes, and
  - iv. An area which occupies no more than eighty percent of the combined total areas of the required rear and side yards.

2. **Drop-off/Pick-up.** All such uses shall be located so as to permit the safe pick-up and delivery of all persons on the site.

**C. Zoning Requirements - Educational and Religious Affiliated Child Care Centers.**

- 1. The use is subject to review and approval by the Department of Planning and Zoning.
- 2. A minimum usable outdoor recreation area of 50 square feet per child shall be provided. Such area shall be located to ensure a safe and secure play area and be sufficiently buffered from adjacent residential areas.
- 3. A safe on-site drop-off and pick-up area shall be provided.

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4. Adequate on-site parking sufficient to accommodate the users of the facility shall be provided, with signage to reserve spaces for the day care center.

**Title 21 - PLANNING AND ZONING**  
**Division V - Regulations of General Applicability**  
**Chapter 21.54 - Development Requirements--Resource conservation areas.**

**Section 21.54.100 - Development requirements—Resource conservation areas.**

C. New commercial, industrial and institutional development is not permitted except as provided for in the City's growth allocation provisions or as listed below. Additional land may not be zoned or used for industrial, commercial, or institutional development, except as provided for in the City's growth allocation provisions:

1. A home occupation as an accessory use on a residential property and as provided for in the City's zoning ordinance;
2. A cemetery; provided lot coverage is limited to fifteen percent of the site or twenty thousand square feet, whichever is less;
3. A bed and breakfast facility located in an existing residential structure;
4. ~~A day care facility in a dwelling where the operators live on the premises and there are no more than eight children~~  
Child care facilities, including Child Care Centers and Family Child Care Homes pursuant to § 21.64.190 -- § 21.64.210;
5. A group home or assisted living facility with no more than eight residents.
6. Other similar uses determined by the Director of Planning and Zoning to be similar to those listed above and approved by the Critical Area Commission.

**Title 21 - PLANNING AND ZONING**  
**Division III - Base District Regulations**  
**Chapter 21.48 - Use Tables**

**Section 21.48.010 - Table of Uses—Residential Zoning Districts.**

Uses
<del>Day care, family</del> <u>Family Child Care Homes, Large Family Child Care Homes</u>
<del>Daycare centers, group,</del> <u>Child Care Centers</u> in conjunction with public school facilities
<del>Daycenters, group,</del> <u>Child Care Centers</u> , including <del>day</del> <u>child</u> care centers accessory to a principal religious institution

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**Section 21.48.020 – Table of Uses—Commercial and Industrial Zoning Districts; and**  
**Section 21.48.030 – Table of Uses—Office and Mixed Use Zoning Districts**

Uses
<del>Daycare centers, group,</del> <u>Child Care Centers</u>
<del>Daycare centers, group,</del> <u>Child Care Centers</u> in conjunction with a principal religious institution

**Title 21 - PLANNING AND ZONING**  
**Division III - Base District Regulations**  
**Chapter 21.50 – Bulk Regulations Tables**

- Section 21.50.010 – Bulk Regulations Table R1 District;**  
**Section 21.50.020 – Bulk Regulations Table R1-A District;**  
**Section 21.50.030 – Bulk Regulations Table R1-B District;**  
**Section 21.50.040 – Bulk Regulations Table R2 District;**  
**Section 21.50.050 – Bulk Regulations Table R2-NC District;**  
**Section 21.50.060 – Bulk Regulations Table R3 District;**  
**Section 21.50.070 – Bulk Regulations Table R3-NC District;**  
**Section 21.50.080 – Bulk Regulations Table R3-NC 2 District;**  
**Section 21.50.090 – Bulk Regulations Table R3-R District;**  
**Section 21.50.100 – Bulk Regulations Table R4 District;**  
**Section 21.50.110 – Bulk Regulations Table R4-R District;**  
**Section 21.50.120 – Bulk Regulations Table C1 District;**  
**Section 21.50.240 – Bulk Regulations Table P District; and**  
**Section 21.50.250 – Bulk Regulations Table PM District.**

Permitted uses, special exception uses, and uses subject to specific standards
<del>Daycare centers, group,</del> <u>Child Care Centers</u>

**Title 21 - PLANNING AND ZONING**  
**Division V - Regulations of General Applicability**  
**Chapter 21.64 - Standards for Uses Subject to Standards**

**Section 21.66.130 - Table of off-street parking requirements.**

Use	Standard	Additional Provisions
<u>Child Care</u>		

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<u>Child Care Center</u>	<u>One space per five children.</u>	
<u>Family Child Care Home</u>	<u>One space per nonresidential employee.</u>	
Clubs, lodges and meeting halls.	Spaces sufficient to serve 30 percent of the capacity in persons of the facility, plus one space per lodging room, if provided.	
Conference facilities	Spaces sufficient to serve 30 percent of the capacity in persons of the facility.	
Contractors', architects' and engineers' offices, shops and yards	I-1 district: one space per two employees. Other districts: one space per employee.	
<del>Day care, family</del>	<del>One space per nonresidential employee.</del>	
<del>Day care centers, group</del>	<del>One space per five children.</del>	

**Title 21 - PLANNING AND ZONING**  
**Division V - Regulations of General Applicability**  
**Chapter 21.72 - Terms and Definitions**

**Section 21.72.010 - Terms.**

*Strike the definitions for "Day care, family" and "Day care center, group" and after the "Charitable institution" definition insert the following:*

**Child Care.**

**A. Child Care Center** has the same meaning as defined in Education Article, §9.5-301 of the Maryland Code:

1. "Child care center" means an agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage except as otherwise provided for in law or regulation.
2. "Child care center" shall include a nonpublic nursery school in which an instructional program is offered or provided for children who are under the age of 5 years.
3. "Child care center" does not include:

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- a. A nonpublic kindergarten in which an instructional program is offered or provided for children who are at least 5 years old;
- b. A nonpublic elementary school in which an instructional program is offered or provided for children who are in grades 1 through 8;
- c. A child care home, a child care institution, or other child care facility that offers or provides a residential placement for a child and is established, licensed, or registered under Title 9 of the Human Services Article, or Title 10 of the Health - General Article of the Maryland Code; or
- d. A family child care home or large family child care home that is required to be registered or is registered by the state.

**B. Family Child Care Home** has the same meanings as defined in Education Article, §9.5-401 of the Maryland Code:

1. "Family Child Care" and means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.
2. "Family child care home" means a residence in which family child care is provided for up to eight children.
3. "Family child care provider" means an individual who cares for children in a registered family child care home or a registered large family child care home.
4. "Large family child care home" means a residence in which family child care is provided for at least nine children, but not more than 12 children.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect upon passage.

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## **O-1-25**

### **Expansion of Child Care Options in Annapolis**

#### **AMENDMENT 1 – ALD. SAVIDGE**

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#### **Amendment Summary:**

Amendment 1 eliminates off-street parking requirements for child care centers.

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#### **MOTION:**

On page 3, strike lines 33-34 and renumber subsections accordingly.

On page 5, strike lines 1-2.

## **O-1-25**

### **Expansion of Child Care Options in Annapolis**

#### **AMENDMENT 2 – ALD. SAVIDGE**

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#### **Amendment Summary:**

Amendment 2 ensures continued compliance with the intention of the Critical Area's Resource Conservation Area (RCA) in that it would continue the currently allowed practice of having smaller childcare operations run out of homes and continue to prohibit large operations in the RCA.

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#### **MOTION:**

On page 5, in line 21, strike "Child care facilities, including Child Care Center and".



## FISCAL IMPACT NOTE

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**Ordinance:** O-1-25

**Title:** Expansion of Child Care Options in Annapolis

**Date:** December 17, 2024

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This ordinance allows large family child care homes pending zoning approval and removes some restrictions. It has no fiscal impact.

*Prepared by Jake Trudeau, Budget Manager*