



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** The Urbana Plan Commission  
**FROM:** Lily Wilcock, Planner I  
**DATE:** March 1, 2019  
**SUBJECT:** Plan Case 2370-T-19: **An application by the Urbana Zoning Administrator to amend Article II (Definitions), and Article V (Use Regulations) and Table V-1 of the Urbana Zoning Ordinance to clarify the regulations of day care home occupations and allow Day Care Facilities to be a permitted use in all business districts**

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### **Introduction**

The Zoning Administrator requests an amendment to the Zoning Ordinance regarding home occupations and Day Care Facilities to align with the regulations of the Illinois Department of Children and Family Services (DCFS), allow Day Care Facilities as a permitted use in business districts, and correct inconsistencies.

### **Background**

#### **2016 Text Amendment - Plan Case 2270-T-16**

A 2016 Zoning Ordinance text amendment (Plan Case 2270-T-16) revised the Home Occupation regulations (Section V-12) to be more flexible and to allow more types of home occupations. Previously, there were two types of home occupation, Type A and Type B. The 2016 text amendment made changes to those, and also added Type C, which requires a Conditional Use Permit but allows more intensive home occupations.

The 2016 text amendment also addressed Day Care Homes. While Day Care Homes had long been treated as home occupations, the home occupation regulations did not specifically address their specific needs, which are different than for standard home-based businesses. At the time, staff found that there was no mention of Day Care Homes in the home occupation regulations; however, Article II, Definitions, identified Day Care Homes as home occupations and identified Day Care Facilities as not being home occupations. Without specific mention of Day Care Homes in the regulations (Section V-12), Day Care Homes would be considered a Type B by default, with only three visits allowed per day. Three visits may not be enough for two children or two adults to be cared for in a commercial operation. Furthermore, two children is under the requirement for DCFS to license and recognize your business as a Day Care Home.

Staff corrected this with the text amendment, and Day Care Home regulations were added to Section V-12 of the Zoning Ordinance.

Those changes added specific maximums for the number of children or adults allowed for each category of Home Occupation. Staff chose those maximums by considering the estimated impact to the neighborhood, but did not research other state regulatory agencies (e.g. DCFS) and their practices when deciding how many children or adults should be allowed, or what state regulations(regulators?) require of Day Care Home operators.

**Proposed Text Amendment**

Staff recently determined that the maximums that were adopted in 2016 differ from DCFS for Day Care Homes, which makes it difficult to operate a Day Care Home for children as a Home Occupation in Urbana while complying with the State’s rules.

In addition, our current regulations do not specifically address exterior play equipment. This means that Day Care Homes are treated the same way as any other Home Occupation, and no Home Occupation-related equipment can be stored outside. DCFS strictly requires that all Day Care Homes have access to the outside and recommends play equipment in the yard. The proposed text amendment addresses this inconsistency.

The last substantive change in this text amendment pertains to the definition of Day Care Facilities and which zoning districts they can operate in. Currently, Day Care Facilities are not allowed as Home Occupations. Staff feels that if someone has a large enough home on a large enough lot, and the desire to run a day care business, they should be able to apply for a Type C Home Occupation and a Conditional Use Permit.

In the proposed changes, the maximum number of children or adults allowed in a Day Care Home, Home Occupation Type B, is eight. A resident that meets the stringent DCFS requirements could have more than 8 children with a Type C Home Occupation permit and a Conditional Use Permit. This would be considered a Day Care Facility, and the definition of Day Care Facility has been changed accordingly.

Number of Children	Current Regulations	Proposed Regulations	DCFS Regulations
Less than 3	Type B	Type A	???
3 to 8(?)	Type C, CUP	Type B	???
More than 8(?)	Type C, CUP	Type C (w/CUP)	???

Staff recommends that the Plan Commission approve the attached text amendment to close the gap between DCFS regulations and Urbana’s Home Occupation regulations for Day Care Homes and Facilities. The current regulations make it difficult for Day Care Home operators to comply with both the City and DCFS, and the proposed changes should eliminate that difficulty.

**Discussion**

This memorandum explains the more significant Zoning Ordinance changes and summarizes the minor changes. Exhibit A outlines all of the proposed changes using a strikethrough and underline notation system. A ~~strikethrough~~ is used to indicate ~~deleted language~~, while an underline is used to indicate added language. Staff suggests a number of grammatical corrections and organizational changes as well.

The following summarizes the miscellaneous proposed changes organized by Zoning Ordinance article. Changes are listed in bullet points, followed by a brief explanation in italics.

## **Proposed Text Changes**

### Article II. Definitions

1. Split the definition for “Day Care Home” into “Day Care Home, Children” and “Day Care Home, Adults.” Amend the definition for “Day Care Facility.”

These definitions have been rewritten to make them more understandable, and in some cases to move regulatory language from the definitions section into the proper section of the Zoning Ordinance. Day Care Homes for children are regulated by the Illinois Child Care Act of 1969 and Day Care Homes for adults are regulated by the Illinois Department of Public Health (IDPH).

### Article V. Use Regulations

2. Add and amend Day Care Home, Child and Day Care Home, Adult Section V-12.A Regulation of Home Occupation.

Suggested changes reflect coherence with licensure requirements for child Day Care Homes by DCFS. Type A Home Occupation is defined as less than three children or adults. Additionally, Exterior Visibility and Vehicles and Customer Visits have been changed to reflect the needs of Day Care Homes with three or fewer children.

3. Amend Section V-12.B Regulation of Home Occupation.

Suggested changes reflect coherence with licensure requirements for child Day Care Homes by DCFS. Type B Home Occupation is defined as four to eight children or adults in a Day Care Home.

Like the Type A home occupation, there is an exemption for exterior visibility for play equipment. In addition, day care pick-ups and drop-offs are exempt from being considered customer and client visits. Finally, the Zoning Administrator may require a drop-off zone as a condition of approval of Home Occupations, as some areas traffic patterns are unique and may require extra attention to mitigate negative traffic impacts.

4. Include Day Care Facilities as a permitted Home Occupation, Type C in Section V-12.C. Regulation of Home Occupation

Day Care Facility was added to the Type C Home Occupations, which requires a Conditional Use Permit. This clarifies the Zoning Ordinance for administration without changing the process needed to establish a Day Care Facility in a residential home.

5. Amend the use of Day Care Facilities in Table V-1. Table of Uses

Day Care Facilities are not permitted by right in commercial districts or the Conservation Recreation Education (CRE) district. Non-home-based Day Care Facilities are allowed by right only in the Mixed Office Residential (MOR) district; otherwise, they require a Conditional Use Permits in any district they are allowed in. After considering the use intensity relative to other permitted uses in the affected zoning districts, staff recommends changing the Table of Uses

(Table V-1) to allow Day Care Facilities by right in all commercial districts and the CRE district and in the Campus Commercial District (CCD) with a Special Use Permit. Conditional Use Permits will still be required for Day Care Facilities in residential districts.

## Summary of Findings

1. The proposed amendment will assist with daily administration and enforcement of the Zoning Ordinance by updating regulations to meet current professional practices.
2. The proposed amendment is consistent with the goals and objectives of the 2005 Urbana Comprehensive Plan regarding updating sections of the Zoning Ordinance.
3. The proposed amendment will update the Zoning Ordinance to ensure that the regulatory environment more closely matches the goals and policies of the City.
4. The proposed amendment conforms to notification and other requirements for the Zoning Ordinances as required by the State Zoning Act (65 ILCS 5/11-13-14).

## Options

The Plan Commission may forward the amendment in whole or with specific suggested changes to City Council. If the Plan Commission feels that a certain change requires additional analysis and discussion, a separate Plan Case can be created and discussed at a later meeting.

The Plan Commission has the following options in Plan Case 2370-T-19:

1. Forward the case to City Council with a recommendation to approve the text amendment as presented;
2. Forward the case to City Council with a recommendation to approve the text amendment as modified by specific suggested changes; or
3. Forward the case to City Council with a recommendation to deny the text amendment.

## Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission forward Plan Case No. 2370-T-19 to the Urbana City Council with a recommendation to **APPROVE**, in its entirety, the proposed multipart text amendment to the Zoning Ordinance

Attachments: Exhibit A: Proposed Zoning Ordinance Changes

## Section II-3. Definitions

~~Day Care Home: Any facility, in a home, for the care of no more than a total of five children or dependent adults, including those of the proprietor, during all or part of the day, of a commercial nature of a type commonly called "day nurseries," "nursery schools," or "private kindergartens," etc., which provide essential personal care, protection, supervision, or training of preschool or school-age children or dependent adults. A day care home shall be considered a home occupation.~~

Day Care Home, Child: A dwelling unit used during the day or night for the care of no more than eight children, excluding residents of the dwelling unit, for fewer than 24 hours per day. The term "children" has the meaning set forth in Section 5 of the Children and Family Services Act, 20 ILCS 505/5, as amended. A child day care home is deemed to be a home occupation. If required, the operator must be licensed under the Child Care Act of 1969, 225 ILCS 10/1 et seq., as amended.

Day Care Home, Adult: A dwelling unit used during the day or night for the care of no more than eight adults, excluding residents of the dwelling unit, for fewer than 24 hours per day.

~~Day Care Facility: Any facility, other than a day care home, for the care of children or dependent adults, including those of the proprietor, during all or part of the day, of a commercial nature of a type commonly called "day nurseries," "nursery schools," or "private kindergartens," etc., which provide essential personal care, protection, supervision, or training of preschool or school-age children or dependent adults. A day care facility shall not be considered a home occupation.~~

Day Care Facility: A facility, other than a Day Care Home, used during the day or night for the care of children or adults for fewer than 24 hours per day. The term "children" has the meaning set forth in Section 5 of the Children and Family Services Act, 20 ILCS 505/5, as amended.

~~Nursery: See "Day care home," "Day care facility."~~

## Section V-12. Regulation of Home Occupation.

In recognition of the growing importance of home-based businesses in the local economy, the Urbana Zoning Ordinance permits certain such activities at different intensities and subject to varying requirements as set forth below.

Any person seeking a ~~Home Occupation~~home occupation shall submit an application to ~~be reviewed by~~ the ~~Urbana~~-Zoning Administrator. Upon approval, ~~Home Occupations~~home occupations shall be permitted as follows:

- A. Home Occupation, Type A – A home-based occupation that has minimal impact on the property and surroundings beyond the scope of residential use, involving only the occupants of the subject dwelling, and resulting in only incidental traffic associated with the occupation. Such home occupations ~~may~~ include, but are not limited to, private consulting, non-retail based arts and crafts studios, internet-based business, ~~and~~ telecommunication-based commuting, ~~and~~ ~~Child Day Care Homes with fewer than three children and are not required~~ are considered a Home Occupation, Type A. Definitions of Day Care Homes, Child and Day Care Homes, Adult are found in Article #-children or and adults. Type A Home Occupations do not require a Certificate of Occupancy or Conditional Use Permit. ~~They are and are~~ permitted with the following criteria:

1. Employees - ~~There are no~~No persons, other than members of the household, residing in the dwelling unit, are engaged in the home occupation. ~~;~~ and
  2. Signage - There are no signs on the premises identifying the home occupation other than a nameplate, not more than three square feet in area, only permitted as a wall-mounted sign and not internally illuminated. ~~;~~ and
  3. Exterior Visibility - The occupation is wholly operated and contained within the dwelling; and there is no activity, construction, or display ~~which~~that would indicate from the exterior of the building or dwelling unit that the building or dwelling unit is being used for any purpose other than residential, ~~except~~except for the signage provisions set forth in Section V-12.A.2. No storage of materials or equipment ~~are stored~~visible from outside the dwelling unit ~~or visible from a public right-of-way~~ is permitted. Day Care Homes are exempt from the Exterior Visibility~~exterior visibility~~ provisions. ~~;~~ and
  4. Vehicles and Customer Visits - No more than two commercial or business vehicles used in conjunction with the home occupation may be on the premises at any one time; and no more than six vehicle visits are permitted per day. ~~;~~ and
  5. Parking - No more than two commercial or business vehicles, trucks, or trailers used in conjunction with the home occupation may be parked on the premises or on an abutting street. ~~;~~ and
  6. Equipment - No mechanical or electronic equipment is used ~~which~~that creates objectionable noise, odors, or electronic impulses, or otherwise ~~create~~creates a nuisance discernible beyond the property lines of the premises.
- B. Home Occupation, Type B - A home-based occupation that exceeds the limitations of a Type A Home Occupation and involves a minor amount of traffic from individuals not residing in the household. Such activity may involve scheduled visits with outside clients or customers and employ up to two individuals not residing in the household. Type B home occupations may include, but are not limited to, music lessons, professional consultations, and personal services such as clothing alterations or shoe repair. Type B Home Occupations ~~shall~~ require approval by the Zoning Administrator and ~~the~~ issuance of a Certificate of Occupancy. The following restrictions and conditions ~~shall~~ apply to Type B Home Occupations:
1. Employees - No more than two persons, other than members of the household residing in the dwelling unit, are engaged by~~in~~ the home occupation. ~~;~~ and
  2. Vehicles and Parking - No more than two commercial or business vehicles, trucks, or trailers used in conjunction with the home occupation may be parked on the premises or on an abutting street at any time. Up to two ~~(2)~~ additional off-street parking spaces may be required by the Zoning Administrator to accommodate vehicles. The Zoning Administrator may waive or reduce the off-street parking requirement ~~may be waived or reduced with approval from the Zoning Administrator~~ based upon demand generated by the use, location of the home occupation, and on-street parking supply. ~~and~~. No exterior storage of vehicles, other than those owned by members of the household residing on the premises, is permitted.
  3. Customer/Client Visits - No more than 10 visits per day from customers, clients, or home deliveries are permitted, with no more than three visitors present at any given time, excluding Day Care Home pick-ups and drop-offs. The Zoning Administrator may require a drop-off zone as a condition of approval for the Home Occupation Permit based on demand generated by the use, safety, and on-street parking supply. ~~;~~ and

4. Exterior Visibility – The occupation is wholly contained within the dwelling and there is no activity, construction, or display ~~which that~~ would indicate from the exterior of the building or dwelling unit that the building or dwelling unit is being used for any purpose other than residential, except for the signage provisions set forth in Section V-12.B.5. No outdoor storage of materials or equipment visible from a public right-of-way is permitted. Day Care Homes are exempt from ~~Exterior Visibility~~ the exterior visibility provisions to allow activities and equipment customary to Day Care Homes, such as outdoor play equipment; ~~and~~
  5. Signage – There are no ~~other~~ signs on the premises identifying the home occupation other than a nameplate, not more than three square feet in area, only permitted as a wall-mounted sign and not internally illuminated; ~~and~~
  6. Nuisance - The occupation does not or will not constitute a violation of any nuisance code; ~~and~~
  - ~~7. Vehicle Storage – There is no exterior storage of vehicles other than those owned by members of the household residing on the premises; and~~
  - ~~8.7. Other – The Zoning Administrator shall~~ may identify and impose other conditions on the Home Occupation ~~home occupation~~ as determined by the specifics of the application ~~in order~~ to meet the intentions of this Ordinance and to protect the health, safety, and general welfare of the City of Urbana.
- C. Home Occupation, Type C – A home-based occupation that may have an impact on the property beyond that associated with Home Occupation Types A and B, or ~~which that~~ exceeds the number of employees or daily visitors set forth in Section V-12.B. ~~above, shall be required to~~ requires obtain a Conditional Use Permit, in accordance with ~~the procedures and criteria set forth in~~ Section VII-2. ~~of this Ordinance.~~ Type C Home Occupations may include, but are not limited to, light assembly and packaging for internet sales, on-site sales of limited goods and services, greenhouses and plant sales, bicycle repair and sales, minor home auto repairs, group-based classes or instruction, Day Care Facilities, or other occupations involving a higher volume of customers or clients than permitted under ~~Type~~ Types A or B.
  - D. Prohibited Home Occupations - Any home-based activity ~~which that~~ may use hazardous materials, or ~~which that~~ otherwise may pose a hazard or nuisance to surrounding properties, ~~shall be is~~ prohibited. Such uses may include, but are not limited to, exterminators, chemical-based lawn care, dry cleaning, and medical diagnostic laboratories.
  - E. A home occupation involving vehicle repair ~~shall be is~~ permitted as a home occupation only if the subject ~~vehicle(s)~~ vehicles are repaired inside a garage, and no inoperable vehicles are stored outside. Any vehicle to be repaired may not queue outside ~~of the~~ garage. Additionally, the garage must meet all applicable building and fire safety codes, and any such work may not violate any of the City's nuisance codes and ordinances. Only minor automobile repairs as defined in Article II are permitted. Additionally, no major automobile repairs as defined in ~~this ordinance~~ Article II are permitted as a home-based occupation.
  - F. More than one home occupation at a single premises may be permitted provided that the cumulative number of total employees and visitors ~~does~~ do not exceed the restrictions set forth in this section.
  - G. Certificates of Occupancy for home occupations issued prior to the effective date of this amendment not meeting the conditions of Section V-12.B shall be considered legally nonconforming.
  - H. The sale of firearms as a home occupation shall require approval of a site security plan by the Urbana Police Chief, or designee, with renewal every three years in compliance with Section VII-5.D. ~~of this Ordinance.~~

TABLE V-1. TABLE OF USES

Principal Uses	R-1	R-2	R-3	R-4	R-5	R-6	R-6B	R-7	AG	B-1	B-2	B-3	B-3U	B-4	B-4E	CCD	CRE	MOR	IN-1	IN-2
Day Care Facility (Non-Home Based)	C	C	C	C	C	C	C			PC	PC	PC	PC	PC	PC	S	P	P	C	C