

AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING THE CITY'S REGULATIONS AS THEY RELATE TO THE DAYCARE LAND USE IN SECTION 117-99

Background:

Nixa Planning & Development recently received an application for a Daycare business to be located in General Commercial zoning. During the review process staff found that Section 117-99 - Table of Approved Uses, does not allow daycares in the commercially zoned districts, except for Neighborhood Commercial with an approved special use permit. Further research showed that in the past Special Use Permits (SUPs) had been approved to allow Daycares to operate in commercial zoning. Approving SUPs to allow this use in commercial zoned districts is not an option with the current code language.

Analysis:

In the time since these SUPs were granted, current staff is not aware of any objections or concerns resulting from the Daycares that received SUP's. Staff has examined ordinances from surrounding communities and found that in all cases Daycare centers were an approved use in all commercially zoned districts. Staff proposes to amend the Table of Approved Uses to allow this type of business practice as a right without the time and expense of acquiring a Special Use Permit. The proposed amendments will remove a similar use (child care homes) that is not defined by the city and replace it with a use (child day-care center) that is defined by the city. This amendment will also remove the requirement for daycares to acquire a special use permit in order to operate in residential zoned districts. This will conform with Missouri HB-1662, which restricts a political subdivisions ability to regulate home occupations.

Sec. 117-99. - Table of approved uses.

USE DESCRIPTION	AG	R-1	R-4	R-3	R-5	CC	NC	O	GC	HC	M-1	M-2	R-MHS	R-MHC
I. RESIDENTIAL														
Child care homes		§	§	§	§		§							

II. BUSINESS, PROFESSIONAL, & PERSONAL SERVICES														
Child Day-Care Center							X		X	X				

Planning and Zoning Commission:

A public hearing for this item was held March 4th at the regularly scheduled Planning and Zoning Commission meeting. No one approached the Commission to speak on this item. The P&Z Commission voted unanimously (7-0) to recommend approval to the Nixa City Council.

Recommendation:

Staff recognizes the need for day care options in Nixa, this amendment would mirror the surrounding communities and help to expand locations where daycares can operate. Staff recommends approval of this code amendment.

MEMO SUBMITTED BY:

Scott Godbey | Director of Planning and Development

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1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING SECTION**
2 **117-99 OF THE NIXA CITY CODE TO MODIFY PROVISIONS RELATING TO DAY**
3 **CARE USES.**

4 _____
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6 **WHEREAS** during a review of the City Code, Planning and Development staff
7 became aware that Section 117-99 currently does not allow day care uses as permitted
8 uses in commercially zoned districts, other than the Neighborhood Commercial district;
9 and

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11 **WHEREAS** this Council Bill, if approved, would modify the City Code to authorize
12 the “Child Day-Care Center” use as a permitted use in the NC, GC, and HC zoning
13 districts; and

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15 **WHEREAS** the Planning and Zoning Commission held a public hearing to consider
16 the amendments contained herein at their March 4, 2024, regular meeting; and

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18 **WHEREAS** after said public hearing, the Commission recommended approval of
19 said amendments; and

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21 **WHEREAS** the City Council desires to adopt the amendments contained herein.

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23 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
24 **NIXA, AS FOLLOWS, THAT:**

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26 **SECTION 1:** Chapter 117, Article IV, Section 117-99 of the Nixa City Code is
27 hereby amended as set forth herein:

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29 (1) The following use descriptions are modified as follows:

- 30
31 a. The “Child care homes” use shall be deleted from the table of approved uses.
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33 b. The “Child day-care center” use shall be added to the “Business, Professional,
34 & Personal Services” section of the table of approved uses and such use shall
35 be authorized within the NC, GC, and HC zoning districts.
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37 **SECTION 2:** Aside from the modifications described in Section 1, all other portions
38 of Section 117-99 of the Nixa City Code shall remain unmodified.

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40 **SECTION 3:** The City Attorney, when codifying the provisions of this Ordinance, is
41 authorized to provide for different section numbers, subsection numbers, and different
42 internal citation references than those provided herein when such section numbers,
43 subsection numbers, or internal citation references are in error or are contrary to the intent
44 of this Ordinance.
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46 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
47 affect any suit or proceeding now pending in any court or any rights acquired, or liability
48 incurred nor any cause or causes of action occurred or existing, under any act or
49 ordinance repealed hereby.

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51 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
52 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
53 the validity of the remaining portions of this Ordinance. The Council hereby declares that
54 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
55 phrase thereof, irrespective of the fact that any one or more sections, subsections,
56 sentences, clauses, or phrases be declared invalid.

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58 **SECTION 6:** This Ordinance shall be in full force and effect from and after its final
59 passage by the City Council and after its approval by the Mayor, subject to the provisions
60 of section 3.11(g) of the City Charter.

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ADOPTED BY THE COUNCIL THIS 25th DAY OF March, 2024.

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ATTEST:

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PRESIDING OFFICER

CITY CLERK

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APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2024.

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ATTEST:

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MAYOR

CITY CLERK

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APPROVED AS TO FORM:

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CITY ATTORNEY

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