

**P15-04**  
**Town of Spring Lake**  
**Zoning Ordinance Text Amendment**  
**Day Care Facilities**

REVISIONS AND AMENDMENTS TO THE TOWN OF SPRING LAKE ZONING ORDINANCE, CODE OF ORDINANCES, CHAPTER 42 ZONING BY AMENDING ARTICLE I. DEFINITIONS, SECTION 42-8. DEFINITIONS BY UPDATING THE PROVISIONS FOR DAY CARE FACILITY AND RELIGIOUS WORSHIP ACTIVITY; AMENDING ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 42-63. DISTRICT USE REGULATIONS, TABLE OF USES AND SECTION 42-65. INCIDENTAL USES, (A) HOME OCCUPATIONS; AND AMENDING ARTICLE IV. SPECIAL USES, SECTION 42-91. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES, (C) DAY CARE FACILITIES, AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (SPRING LAKE)

**AMEND Article I. In General, Section 42-8. Definitions, specifically the terms *Children's day care facility* and *Religious worship activity*, as indicated below:**

**ARTICLE I. IN GENERAL**

**Sec. 42-8. Definitions.**

~~Children's day care facility:~~ means a building or dwelling regularly used for recreational or

~~(1) Day care home means a premises regularly used for residential purposes and licensed by the state to provide~~ supervisory care of nine or more persons (adults or children), six, but not including to exceed 12, children unrelated to the operator's own family members, during any 24-hour period. It does not matter where it is located, whether the same or different persons attend and whether or not it is operated for profit but not including foster homes. The following are not included: public schools; private schools, as described in N.C. GEN. STAT. § 110-86(2); religious worship facilities when operated on the principal campus of and in conjunction with the religious worship facility; summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and bible schools normally conducted during vacation periods.

~~—(2) Day care center means a premises or building regularly used for commercial, recreational or supervisory care of eight or more children unrelated to the operator, but not including foster homes, located outside of a designated residentially zoned district.~~

*Religious worship activity* means any premises ~~a church, temple or synagogue~~, the principal purpose of which is religious worship and in which the principal structure is the principal place of worship. Accessory uses may include religious education classrooms, assembly rooms, kitchens, library room or reading room, recreation hall and a one-family dwelling unit (parsonage), but excluding food sales, second hand shops, festivals, bazaars ~~day care nurseries~~ and facilities for residence or training of religious orders, unless otherwise authorized by this chapter.

**AMEND Article III. Permitted Principal Uses and Structures, Section 42-63. District use regulations, clarifying the terminology for type of approval required for the entire table and MODIFYING the districts and type of approval required for *Day care facilities* as indicated below:**

### ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES

#### Sec. 42-63. District use regulations.

[Editor's note: For table below:

S = special use, Board of Adjustment (quasi-judicial decision);

X = permitted use, Town Board decision (non-public hearing);

C = conditional use, Planning Board recommendation then Town Board decision (public hearing required)

and the entire table of uses will be included with this amendment to get the table consistent with an amendment approved by the Town Board in November 2009.]

TABLE OF PERMITTED AND CONDITIONAL USES

Permitted Uses	RR	R-15 R-10 R-6	R-5 R-5A	R-6A	O & I	C-1	CB	HS(P)	C(P) C-3	M-1	M(P) M-2
<del>Children's day care facility homes</del>	<u>S</u> €	<u>S</u> €	<u>S</u> €	<u>S</u> €	<u>X</u> €	<u>X</u>	<u>C</u>	<u>X</u>	<u>X</u>	<u>S</u> <sup>1</sup>	<u>S</u> <sup>1</sup>
<del>Children's day care centers</del>					€	€	€		€		

<sup>1</sup>Only as incidental to an approved use in an approved industrial park.

**AMEND Article III. Permitted Principal Uses and Structures, Section 42-65. Incidental uses, UPDATING the minimum requirements pertaining to home occupations and including in those requirements provisions for *small home day cares* as indicated below:**

## Sec. 42-65. Incidental uses.

- (a) Home occupations. ~~A H~~home occupations ~~shall be~~ are permitted ~~only~~ as an accessory incidental use to any dwelling unit and may be conducted in the principal structure or an accessory structure on the same lot as the principal structure ; provided ~~that, further,~~ home occupations shall be permitted subject to the following limitations:
- (1) The principal person or persons providing the business or service resides in the dwelling on the premises ~~No display of products shall be visible from the street;~~
  - (2) The area used for the business or service does not exceed 25 percent of the combined floor area of the structures or 500 square feet, whichever is less ~~No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and which does not cause noises or other interference in radio and television reception;~~
  - (3) All work associated with the home occupation is conducted inside the designated building(s) ~~No accessory buildings or outside storage shall be used in connection with the home occupation;~~
  - (4) One attached sign not more than two square feet in area is allowed ~~Not over 25 percent of the total actual floor area or 500 square feet, whichever is less, shall be used for a home occupation;~~
  - (5) The property contains no outdoor display or storage of goods or services associated with the home occupation ~~Only residents of the dwelling may be engaged in the home occupation; and~~
  - (6) The home occupation causes no change in the external appearance of the existing building and structures on the property; ~~Traffic generation shall not exceed the traffic volumes generated by nearby residents.;~~
  - (7) One additional off-street parking space is allowed;
  - (8) Wholesale sales of goods do not occur on the premises;
  - (9) The home occupation employs no more than one person who does not reside on the premises;

- (10) The home occupation does not create any parking congestion, noise, vibration, odor, glare, fumes or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;
- (11) One vehicle, no heavier than ¾ ton, used in connection with the home occupation is permitted and shall be located on the premises in such a manner so as not to disrupt the quiet nature and visual quality of the neighborhood;
- (12) A small home day care shall be permitted as accessory to any dwelling unit, provided that the following additional conditions are met, as well as the other conditions of this section:
- a. If an outdoor play area is provided, it must be located in the side and/or rear yard of the property, provided that the yard area is not adjacent to any street, and the outdoor play area is fenced with a solid (opaque) fence; and
  - b. No more than eight children who are unrelated to the operator can be cared for during any 24-hour period.
- (13) All Federal, State, and local regulations, including the County Environmental Health regulations are complied with in the conduct of the home occupation.

**AMEND Article IV. Special Uses, Section 42-91. Specific conditional uses; requirements, specifically sub-section (c) currently entitled *Day care home* as indicated below:**

#### **ARTICLE IV. SPECIAL USES**

**Sec. 42-91. Development standards for individual ~~Specific conditional uses; requirements.~~**

[Editor's note: This section title was amended by the Town Board in November 2007.]

(c) *Day care* facilities ~~home~~. All day care facilities shall comply with the following:

- (1) ~~(5)~~ There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any required off-street parking for the owner/operator and employee(s) ~~Must have adequate off-street parking; and~~
- (2) All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not

adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG CODE § R312.2 (2006 or more restrictive subsequent amendment);~~The applicant must be the property owner or have permission from the owner to operate a day care home and must occupy the dwelling.~~

- (3) Provide a minimum of two off-street parking spaces, plus one off-street parking space for each employee;
- (4) Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district;
- (5) For day care facilities located within any residential zoning district, the following provisions must be complied with ~~Regardless of any other requirement in this chapter, the following specific provisions shall be met as minimum standards prior to the approval of any day care home as a special use in a residentially zoned area. The following requirements are minimum standards which must be met by the applicant and may not be varied by the board of adjustment. Once the following requirements are met, the applicant shall be entitled to apply for a special use permit:~~
  - a. Minimum lot size of 10,000 square feet land area;
  - b. The required minimum setbacks shall be as follows:
    1. Front yard: 30 feet from any public or private street;
    2. Rear yard: 35 feet;
    3. Side yard: 20 feet; and
    4. Corner lots shall provide a minimum of 30 feet from both (all) streets;
  - c. Subject property must abut and have direct access to a minor collector or minor arterial or higher street classification, as identified on the *Functional Classification map* ~~Minimum distance to another day care home as defined herein, whether conforming or nonconforming, shall be 500 feet (measurement based on center of lot);~~
  - d. ~~All children's outside play areas shall be enclosed with at least a four-foot high fence~~ All outside pets shall be enclosed in a separately fenced area.

