



## Legislation Text

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**File #:** 20-1990, **Version:** 1

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### **Subject:**

Re-adoption of emergency ordinance to permit a temporary waiver of zoning restrictions for child day care in commercial zones, industrial zones, and for public, semi-public, and private institutions in other zones.

### **EXPLANATION AND SUMMARY :**

On August 19, Town Council approved an emergency ordinance to permit a temporary waiver of zoning restrictions for child day care in commercial zones, industrial zones, and for public, semi-public, and private institutions in other zones. Town Council re-adopted the ordinance on September 14, 2020, with an expiration date of January 31, 2021.

The emergency ordinance is currently valid until January 31, 2021, unless extended, amended, rescinded, or readopted by Town Council prior to that date. The maximum extension would be for six months from the expiration date of January 31, 2021.

### **Background on Emergency Ordinance**

On July 21, 2020, the Fairfax County Schools Superintendent announced that “the 2020-21 school year will begin with virtual learning for all students” until health conditions are reassessed to determine when in-person instruction can resume safely. The decision to reopen schools virtually, due to the COVID-19 pandemic, has created a demand for child day care centers in Fairfax County and the Town of Vienna.

The Town of Vienna Code currently only allows “family day homes” and child day care centers under a Home Occupation Permit for seven or fewer children or as a Conditional Use Permit for more than seven children in RS-16 Single Family Residential, RS-12.5 Single Family Residential, RS-10 Single Family Residential, and RM-2 Multi-Family Residential zones. The Town Code does not allow day care centers to be located in the Town’s commercial and industrial, zoning districts and may impose restrictions in other zones.

Existing business in Vienna have expressed interest in filling the demand for day care services. However, an emergency ordinance is required to allow these businesses to operate and offer such services.

The attached proposed emergency ordinance will be valid only for establishments located in commercial and industrial zoning districts where they already are approved to operate by right and for other public, semi-public, and private institutions in other zones. It gives the Town Manager authority to issue temporary emergency commercial child day care use permits to existing Town of Vienna businesses in commercially zoned districts who have:

- a current and valid business license
- a child day care (CDC) license from the Virginia Department of Social Services
- a diagram showing the onsite location of available parking and pick-up/drop-off locations.

The Town Manager also may waive parts of the Town Code as they relate to engaging in child day care activities inside or outside of a wholly enclosed building. Specific regulations regarding signs, reviews required by the Board of Architectural Review, required parking spaces, and requirements for an amended certificate of occupancy also may be waived.

Provisions of the emergency ordinance shall remain in full force and effect until July 4, 2021, unless extended, amended, rescinded, or readopted by Town Council.

**Strategic Plan Initiative:** *Vienna is an influential and well-governed community.*

**Departmental Recommendation :** Town Council has authority to adopt an emergency ordinance to allow operation of child day care centers as referenced above. The Planning and Zoning Department views the emergency ordinance as an effective approach to temporarily meet demand for child day care during the covid-19 pandemic.

**Finance Recommendation :** N/A

**Purchasing Recommendation :** N/A

**Town Attorney Recommendation :** The Governor of Virginia has maintained the state of emergency due to the ongoing Covid-19 pandemic and the Town Council may re-adopt and extend the emergency ordinance related to the provision of zoning waivers for the operation of child day care centers in the discretion of the Town Council.

**Town Manager's Recommendation :** The Town Manager recommends Town Council re-adopt an emergency ordinance related to operation of child day care centers as reference above.

Cost and Financing:

Account Number:

Decision Needed by This date: 1/4/2021

## PROPOSED/SUGGESTED MOTION

"I move to re-adopt an emergency ordinance related to operation of child day care centers by existing businesses in commercial and industrial zoning districts and by public, semi-public, and private institutions in other zones, subject to conditions outlined by staff. This emergency ordinance will expire on July 4, 2021."

Or

Other action deemed necessary by Council.