

ORDINANCE 2024-02

AN ORDINANCE AMENDING REGULATIONS PERTAINING TO CHILD CARE FACILITIES, PROVIDING FOR CODIFICATION, INCLUSION IN THE MUNICIPAL CODE, CORRECTION OF SCRIVERNER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Gunnison City is a fifth class city of the state of Utah; and

WHEREAS, Cities in the State of Utah are authorized to enact Land Use Regulations in order to promote and protect the health, safety and welfare of the community; and

WHEREAS, The Gunnison City Land Use Ordinances (GCLU) include regulations pertaining to Child Care Facilities, which need to be updated to be consistent with state regulations of the same as well as to clarify their application within the city's zones; and

WHEREAS, the Gunnison City Planning Commission reviewed the proposed amendments after a properly noticed public hearing, which was conducted on November 9, 2023, has forwarded a positive recommendation for the code amendment to the City Council; and

WHEREAS, the City Council has determined that the proposed amendment, attached hereto as Exhibit A and by this reference made part hereof, is necessary to promote and protect the health, safety and welfare of the community.

NOW THEREFORE, BE IT ORDAINED BY THE GUNNISON CITY COUNCIL THAT

Section I. Approval of Changes. The changes included in Exhibit A which is attached hereto, are hereby adopted.

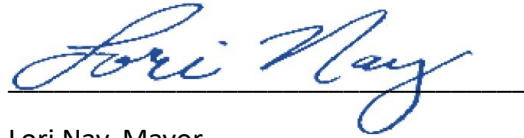
Section II. Contrary Provisions Repealed. Any and all other provisions of the Gunnison City Municipal Code that are contrary to the provisions of this Ordinance are hereby repealed.

Section III. Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Municipal Code of Gunnison City, Utah as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

Section IV. Severability. If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section V. Posting and Effective Date. Prior to 5:00 p.m. on February 8, 2024, the City Recorder shall: (a) deposit a copy of this ordinance in the official records of the City; and (b) post a copy of this ordinance in three places within the City. This ordinance shall become effective at 5:00 p.m. on February 8, 2024.

ADOPTED AND PASSED by the City Council of the City of Gunnison, Utah this 7th day of February 2024.



Lori Nay, Mayor

ATTEST



Valerie Andersen, City Recorder

Council Member Robert Andersen	Yes
Council Member Donald Childs	Yes
Council Member Shawn Crane	_____
Council Member Stella Hill	_____
Council Member Michael Wanner	Yes

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Exhibit A: Changes to Child Care Facility Regulations

1. **GCLU Appendix C Definitions** is amended to include the following terms and associated definitions.

Child Care: Continuous care and supervision of a child under the age of 13, or age of 18 if disabled, that is in lieu of care ordinarily provided by a parent in the parent’s home, for less than 24 hours, and for direct or indirect compensation.

Child Care Facility: The location and facility at which a state licensed child care provider operates their child care. For Gunnison City purposes, this shall include Commercial Day Care/Preschools, and Home Based Child Care locations

Commercial Day Care/Preschool: Any commercial Child Care Facility regulated by the Utah Department of Health and Human Services as a Center based child care, Preschool, Hourly, or Out of School Time facility.

Home Based Child Care: The operation of a Child Care Facility by a state licensed operator in the operator’s home. Such facilities may include a state regulated Licensed Family location or home with a Residential Certificate.

Home Occupation: A commercial or other non-residential use conducted within a dwelling unit that is incidental and secondary to the use of the dwelling unit for residential purposes. This does not include Home Based Child Care facilities as regulated under Land Use Code Section 1703 and by the State of Utah.

2. **GCLU Section 1703 Child Care Facilities** is amended as follows: (Underlined text is added, stricken text is deleted)

1. All Child Care Facilities, ~~including a “Child Care Facility,” “Child Care Hourly,” “Child Care Licensed Family,” and “Child Care Residential Certificate”~~ shall comply with all Child Care licensure requirements of the State of Utah Department of Child and Family Services and business license regulations of the city.
2. All Child Care Facilities, ~~including a “Child Care Facility,” “Child Care Hourly,” “Child Care Licensed Family,” and “Child Care Residential Certificate”~~ shall be inspected and provide a “Fire Clearance” issued by the Fire Authority prior to having a business license issued from the city.
3. ~~All Child Care Facilities, including a “Child Care Facility,” “Child Care Hourly,” “Child Care Licensed Family,” and “Child Care Residential Certificate” shall maintain a valid business license as required by the business licensing requirements of the City, as applicable.~~ Child Care Facilities having more than eight [8] children at one time, not including an operator’s own children, shall provide a transportation plan which demonstrates sufficient traffic flow, parking, drop off and pickup areas to assure the safety of children at the facility and limited impact on adjacent property owners.
4. All Child Care Facilities shall have a fully fenced yard. The design standard for fencing shall be the same as provided by the State.

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5. The entrance to the facility shall be the main entrance visible from the street or the same entrance used by the residents of the dwelling unit, except when required to be otherwise by the Fire Authority, Board of Health, or other public agency with authority.

3. **GCLU Appendix A: Table of Uses** is amended as follows: (Underlined text is added, stricken text is deleted)

Uses	Zone								
	A-1	RR	R-2	R-4	MH	RC	CC	I-1	S-1
Child Care – Facility. A facility that provides child care in a place other than the owner’s home for five (5) or more children for less than twenty four (24) hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation and licensed as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business licensing requirements of the City. (See Chapter 17). Child Care – Facility also includes Child Preschool providing instruction in a home for five (5) or more children for less than 24 hours a day.									
Child Care Facility, Home Based – Home Day Care. The care of children who are family and non-family members in an occupied dwelling unit, and complying with all State standards and licensing, by a resident of the dwelling unit for more than five (5) children, but fewer than nine (9) children. The total number of children being cared for shall include children under the age of four (4) years residing in the dwelling unit, who are under the supervision of the provider during the period of time the childcare is provided. Of the allowed eight (8) children, only two (2) may be under age two (2). Home Day Care may use the entire residential living area and additionally may use yard space for play purposes. This use is required to comply with all business licensing requirements of the City.	P-1	P-1	P-1	P-1	P-1	P-1	P-1	P-1	X
Child Care – Hourly. A person providing child care not in a personal residence for five (5) or more children for less than twenty four 24 hours a day, but not on a regular schedule; and receiving direct or indirect compensation and licensed as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business licensing requirements of the City. (See Chapter 17). Child Care – Hourly also includes Child Preschool providing instruction for five (5) or more children for less than twenty four 24 hours a day.									
Child Care – Licensed Family. (1) A person who provides child care in a home for nine (9) to sixteen (16) children unrelated to the licensee for less than 24 hours a day, with a regularly scheduled, on-going enrollment, for direct or in-direct compensation must be licensed as a family group child care									

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<p>program, as required by the laws and rules of the State of Utah, (See Chapter 17). (2) A person who provides child care in a home for less than nine (9) unrelated children for less than 24 hours per day, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation may be licensed as a family child care program, as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business-licensing requirements of the City. (See Chapter 17). A Fire Clearance shall be provided by the Fire Authority for a Child Care – Licensed Family and shall comply with all business-licensing requirements of the City. (See Chapter 17). Child Care – Licensed Family also includes Child Preschool providing instruction in a home for nine (9) to sixteen (16) children unrelated to the licensee for less than 24 hours a day.</p>									
<p>Child Care – Residential Certificate. The care of children in the home of the provider for five (5) to eight (8) children and having a regularly scheduled, ongoing enrollment, for direct or indirect compensation and licensed as required by the laws and rules of the State of Utah, A Fire Clearance shall be provided by the Fire Authority and this use shall comply with all business-licensing requirements of the City. (See Chapter 17). Child Care – Residential Certificate also includes Child Preschool providing instruction in a home for five (5) to eight (8) children unrelated to the licensee for less than 24 hours a day.</p>									
<p>Child Care - Commercial Day Care/Preschool Center. A facility, operated by a person qualified and licensed by the State of Utah, which provides children with day care and/or preschool instruction as a commercial business and complying with all applicable State standards and licensing and having regularly scheduled, ongoing enrollment for direct or indirect compensation that provides child care for less than twenty four (24) hours per day. Commercial Day Care/Preschool Center excludes the following: (a) Kindergartens or nursery schools or other daytime programs operated by public or private elementary or secondary schools or institutions of higher learning; (b) Facilities operated in connection with a fitness center, shopping center or other activity where children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; or (c) Special activities or programs, including athletics, crafts instruction and similar activities, conducted on a periodic basis by civic, charitable, private, or governmental organizations; (d) or clearly identified as an Accessory Use.</p>	X	X	X	X	X	P-2	P-2	X	X