

FILE NUMBER: DCA223-002(SD)

DATE INITATED: December 15, 2022

TOPIC: Development Code Amendment regarding adult day care facilities, child-care facilities, and day homes.

COUNCIL DISTRICTS: All

CENSUS TRACTS: All

PROPOSAL: Consideration of amending Chapters 51 and 51A of the Dallas Development Code, with consideration to be given to amending Sections 51-4.204(4), "Child-Care Facility;" 51-4.204(6), "Adult Day Care Facility;" 51-4.217(b)(10) "Day home;" 51A-4.204(1), "Adult Day Care Facility;" 51A-4.204(3), "Child-Care Facility;" 51A-4.217(b)(7.1) "Day home;" 51A-13.306(b), "Use Chart;" and related sections with consideration to be given to appropriate zoning districts and developing appropriate standards associated with adult day care facilities, child-care facilities, and day homes.

SUMMARY: The proposed code amendments are intended to update and remove barriers for facilities that provide daytime supervision of persons of any age.

STAFF RECOMMENDATION: Approval of staff's recommended amendments and forward to City Plan Commission.

Code Amendments Webpage:

<https://dallascityhall.com/departments/pnv/Pages/Code-Amendments.aspx>

Appendix 1: Comparison Table of Current and Proposed Regulations

Appendix 2: HHS Facilities by Council District and Zoning Districts

Appendix 3: HHS Facilities Maps

Appendix 4: HHS Designation Descriptions

Appendix 5: HHS Designation Matrix

Appendix 6: Specific Use Permits

BACKGROUND:

A code amendment was initiated by City Plan Commission (CPC) at the December 15, 2022 meeting. CPC authorized a hearing to consider appropriate zoning districts and development standards associated with adult day care facilities and child-care facilities. During research, staff determined that it may also be appropriate to consider amendments to development standards for day homes, which are small scale child-care facilities that are considered accessory to the primary use of a premises as a residence.

The Committee discussed this item at the May 2 and 30, 2023 ZOAC meetings. Members requested additional information in several areas. Updates to these items are included in this report.

Note: The terms “childcare,” “child-care,” and “child care” are used depending on context throughout this report, but should be considered interchangeable for the purposes of this report.

STAFF ANALYSIS:

In general, the code currently requires that child-care facilities are permitted by Specific Use Permit (SUP) in residential districts; as a limited use in MF-3(A), MF-4(A), and office districts; and by right in non-residential zoning districts. Adult day care facilities are similarly regulated in the same districts with the exception that they are allowed by right in industrial districts. Day homes, which is an accessory use to a resident that limits daytime care for no more than 10 children, are allowed by right wherever the main use of a residence is allowed.

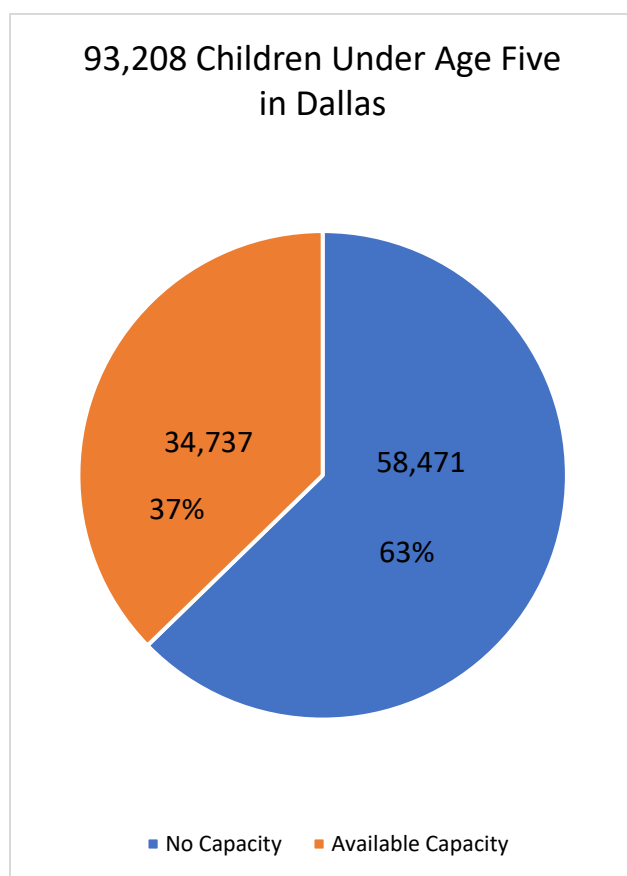
The primary issues with these existing regulations are that the residents of the city need these services and because of the many regulatory barriers to provide these services, these services are hard to find and are expensive (supply and demand), and they are generally located outside of communities who need these services.

The remainder of this report contains data-driven analyses and proposes solutions to foster compatible and inclusive communities.

Day care needs for children and adults in residential areas

Based on analyses from the Center for American Progress, as of 2018, 48 percent of people in Texas were living in a childcare desert, which is any census tract with more than 50 children under age five that contains either no childcare providers or so few options that there are more than three times as many children as licensed childcare slots¹. Moreover, an update to the 2018 report in 2020 predicts that this statistic will increase as a result of the COVID-19 pandemic².

This prediction is consistent with data sourced for Dallas and is represented in the pie chart on the right. Based on the 2022 American Community Survey 5-year estimate there are approximately 93,208 children under the age of five in Dallas. According to HHS licensing data, there is capacity for 34,737 children in Dallas in licensed child-care facilities, in-home facilities, and small employer-based centers, which is capacity for only 37 percent of the city’s youngest children, if all centers were enrolled at capacity. Because there is no capacity to enroll approximately 63 percent of the city’s youngest children in the HHS licensed facilities, they are supervised outside of Dallas or are cared for under another caregiver’s supervision, such as a relative or otherwise. The responsibility of daily care by a child’s relative or parent can have two effects on the caregiver. Providing childcare outside a licensed facility might remove them the local workforce, if they have the privilege of being supported by other means of income, or they must find other supervision to work a second job outside the home (e.g. one parent works during the day while the other cares for the child(ren) and they switch for the evening hours).



¹ “Child Care Deserts,” Center for American Progress 2018 <https://childcaredeserts.org/2018/?state=TX>

² “The Coronavirus Will Make Child Care Deserts Worse and Exacerbate Inequality,” Center for American Progress 2020 <https://www.americanprogress.org/article/coronavirus-will-make-child-care-deserts-worse-exacerbate-inequality/>

The availability of adult day care services (also known as adult day programs) are also predicted to be an issue in the near future. According to the US Census Bureau, adults aged 65 and over are not only growing in number but are also expected to outnumber children under 18 by 2035 (U.S. Census, 2018). According to a recent survey by the American Association of Retired Persons (AARP) there is a strong desire from the older adult population to remain in their homes or communities as they age³.

In staff's analysis of the use standards, there is no discernable difference between child and adult care centers in terms of what zoning districts they are currently allowed and how they function as daytime institutional caregiving. The major difference is in the current definitions of an adult day care and a child-care facility is that there is a gap in care for persons aged 14, 15, 16, and 17 (Adult Day Care is for persons 18 or older, and Child-Care Facility is for persons under 14 years old). Further, staff discovered there is not an existing corresponding specific accessory use for adult day care and therefore recommends that the age limits specified in the accessory use, "day home" be expanded to persons of any age. Therefore, staff recommends combining the main uses and deleting references to ages in both the main use and accessory use.

Since these uses require regular inspections from HHS, allowing these uses to operate without an SUP in all residential districts would remove one of the many regulatory barriers and would encourage accessibility to care services for these vulnerable populations in their communities. Additionally, the benefits of intergenerational programs⁴ as described by Katz and Kaplan in the American Planning Association's PAS Report on Intergenerational Community Planning and the opportunities to benefit communities, is another reason to support staff's recommendation to combine the uses, allow the uses in all residential districts, and expand the definition of day home to include adult care.

State childcare facility designations

The Texas Department of Health and Human Services (HHS) regulates and licensed childcare facilities throughout the state. Designations are determined by the ages of children for which care is provided, when care is provided, and the setting (home or facility). A list of these uses and a table comparing their differences and designations of the Dallas Development Code are provided at the end of this report in Appendix 3.

³ "Despite Pandemic, Percentage of Older Adults Who Want to Age in Place Stays Steady," American Association of Retired Persons. 2022 <https://www.aarp.org/home-family/your-home/info-2021/home-and-community-preferences-survey.html>

⁴ "PAS 603. Intergenerational Community Planning". Irv Katz and Matthew Kaplan, PhD. American Planning Association. 2022. 64 pp. <https://planning.org/publications/report/9260421/>

Most childcare facilities, as defined by the Dallas Development Code, are licensed as a “Licensed Child Care Center” per HHS regulations; however, not all HHS licensed child-care centers are child-care facilities, as defined by the Dallas Development Code. The most common example of how the state and city designations differ is for church-operated childcares. A church can provide childcare services at any time, for any day or days of the week, and it is considered accessory to the main use of a church when all four of the following criteria are met.

1. The church owns and operates the child-care facility.
2. The church is directly responsible for all phases of the child-care facility operation.
3. All people working in the child-care facility are employees of the church.
4. The child-care facility is located upon the same property as the main church operation.

Therefore, a church-operated childcare is allowed by right in residential districts, because the church is allowed by right. Church-operated childcares are also required to be licensed by HHS.

Similarly, programs that provide supervision to children that are hosted at schools, recreation centers, and similar facilities are licensed as “Licensed Before or After-School Programs” and also are exempted from the current definition of child-care facilities in the Dallas Development Code.

Since these two examples show HHS licensed facilities are not directly correlated to the Dallas Development Code’s land use designation of child-care facility, it should be noted that HHS information is not a direct correlation to the Dallas Development Code’s land use designations.

Data analysis of adult day cares and child-care facilities

1. Adult day cares: According to state licensing records, there are 10 HHS Day Activity and Health Services (DAHS) facilities in Dallas. A DAHS can include more than simply providing care for adults, and several facilities that were identified provide job training, job placement, life skills training, and other services. These are located in a variety of zoning districts, primarily IR and PD districts. Therefore, a portion of the 10 DAHS facilities in Dallas are not classified as adult day care facilities per the Dallas Development Code. Additionally, adult day cares facilities are not included in the summary tables in the appendices.

2. Methodology for childcare analysis: Since HHS Licensed Before or After-School Programs are generally focused on school-aged children and those programs are also generally operated as a customarily incidental accessory use to the main use operated during school hours, staff's analysis focuses on HHS licensed child care centers and HHS in-home facilities and excludes HHS Licensed Before or After-School Programs and other designations.
3. HHS licenses in Dallas generally: After a review Texas Department of Health and Human Services (HHS) licensing records currently licensed in Dallas, approximately 281 facilities are HHS licensed child care centers and 112 are HHS in-home facilities, and the remaining 59 are "School Age Program; Before / After School Program; Small Employer Based" facilities.
4. Council district distribution: Childcare facilities are fairly evenly distributed between Council Districts, except that District 6 is the only district with fewer than 20 facilities. A full table of all districts is included in Appendix 2.
5. Single Family Districts:
 - a. 90 HHS licensed child care centers were determined to be located in Single Family Districts. These centers are presumed to be church-operated childcares, have an SUP for a child-care facility, or are nonconforming; since a child-care facility requires an SUP in single family districts.
 - b. 87 HHS licensed in-home centers are in Single Family Districts, all of which are currently allowed by right when the number of attendees does not exceed 10 children.
6. Planned Development Districts (PDs): 85 HHS licensed child care centers and 15 HHS in-home facilities are located within PDs, it is likely that all 15 HHS in-home facilities are located within a single family structure and it is likely that many of the 85 HHS licensed child care centers in PDs are located within institutional structures, such as churches or schools, and also likely to be in a residential setting.
7. Multifamily Districts: Only 7 HHS licensed child care centers and 10 HHS licensed in-home centers are located in Multifamily Districts. Therefore, since there are only 17 HHS licensed child care centers and HHS licensed in-home centers in all of the city's Multifamily Districts, staff does not consider removing barriers only in Multifamily Districts to be enough to address the demand for these services.
8. Commercial Service (CS) and Industrial Districts: 16 HHS licensed child care centers and no HHS licensed in-home centers are located in CS and Industrial Districts. If

these licensed facilities are also considered child-care facilities, amendments that require an SUP in CS and Industrial districts would make those 16 centers nonconforming and would therefore have nonconforming rights which allow them to continue to operate as prescribed in Section 51A-4.704 Nonconforming Uses and Structures.

Combining uses for all ages

Staff did not find a specific regulation to directly prevent interactions between dependent adults and children within the same facility, but of the 10 currently licensed Day Activity and Health Services programs in Dallas, none are located at the same address as a childcare facility. In addition, all state-level safety regulations that apply to a childcare facility (e.g. staff ratios based on age) would apply even if a facility was for persons of any age. Further, the Intergenerational Community Planning PAS report, cited in the fourth footnote of this report, provides more extensive information on the concept of creating places for persons of all ages in community.

Enrollment and spacing requirements

Staff does not recommend enrollment limitations or spacing requirements for these facilities because there is a need for both child-care facilities and adult day care facilities near homes. Enrollment and proximity to other day cares should also not be a reason to add another barrier to providing these services to community members. Staff's rationale to not add enrollment or spacing requirements also includes:

1. HHS licensing requirements ensure that health and safety standards are inspected and enforced and are based on enrollment,
2. Enrollment restrictions would also be difficult to prove in court and would likely not be enforceable because it would require facilities to provide the information or for Code officers to somehow document the number of children being supervised.
3. The issuance of a certificate of occupancy ensures that life and safety standards of the City are inspected and documented,
4. The current and proposed provisions in the Dallas Development Code address the compatibility of nonresidential uses in residential districts more appropriately, and
5. Although there are situations where child-care facilities can currently operate in residential districts without an SUP (e.g., a day home or as a church-operated child-care facility), the current requirements have resulted in a lack of services; this point is more fully described in the below section titled, "Adult and child care needs in residential areas".

Recent SUP applications:

Staff has reviewed the most recent specific use permits (SUP) that have been approved for childcare facilities in residential districts. Conditions included in the SUP approval for these requests include:

- Development must conform to the attached site plan
- Hours of operation
- Time limit
- Building size maximum
- Fence standards

Last fiscal year, two requests for new SUPs to allow a child-care facility to operate were heard. Both were approved with minimal opposition or support from properties within the notification area. It is also important to note that one of these SUPs was needed in order for a skilled nursing facility to provide on-site child-care for its employees. Between 2020 and May 2023, 14 new SUPs or renewals were approved by Council. Most facilities were approved for a five year period with automatic renewal.

Hours of operation, enrollment numbers, and building sizes are all driven by the applicant based on building design, site constraints, and licensing status, not by land use concerns. State code requires a play area to be enclosed by a fence a minimum of four feet tall; however, child-care facilities often request fences that are taller for added security. Since an SUP cannot exempt a site from fencing standards, when a fence over four feet in height is proposed in a residential front yard, a special exception from the Board of Adjustment is required. No changes are proposed regarding fences.

Protections for neighborhoods

Current standards to protect neighborhoods:

There are existing standards within the Development Code to address the compatibility of nonresidential uses in residential districts as well as nonresidential uses near residential uses or districts. The following standards apply either to nonresidential uses in residential districts or nonresidential uses within a certain distance from residential uses, as stated by the code.

- Parking is prohibited in the front yard in residential districts. [§51A-4.301\(b\)\(1\)](#)
- Remote parking is prohibited in residential districts, so there will not be standalone parking lots serving nonresidential uses in residential districts. [§51A-4.301\(a\)\(11\)](#)

- A solid screening wall with a minimum of six feet tall is required between any nonresidential parking and contiguous residential uses or vacant lot in residential districts. A lot abutting an alley is considered contiguous. [§51A-4.301\(f\)](#)
- Garbage storage areas must be screened when visible from a street or adjoining property. [§51A-4.602\(b\)\(6\)](#)
- Screening is required between the rear / service side of a building and a residential use. [§51A-4.602\(b\)\(7\)](#)
- A landscape buffer is required between nonresidential uses and residential uses in residential districts. [§51A-10.125\(b\)\(2\)](#)
- Business signs in residential districts must comply with the nonbusiness district sign standards. [§51A-7.403 and 7.404](#)
- When parking lot lighting is provided, it must only be provided if the business is open after sunset and the light sources must be indirect, diffused, or covered by shielded type fixtures; and installed to reduce glare and the consequent interference with boundary street; and there is a limit on the amount of spillover light. [§51A-4.301\(e\)\(2\)](#)

New standards proposed to further protect neighborhoods:

In addition to maintaining the above standards that address the compatibility of nonresidential uses in residential districts, staff recommends adding restrictions on maximum lot coverage and maximum height, the only two development standards that do not apply to institutional uses. Since adult day care facility and child-care facility uses are defined as institutional uses, they are currently allowed to have up to 60 percent lot coverage in districts which limit nonresidential structures to less than 60 percent lot coverage. Additionally, institutional uses are currently allowed to be erected to any legal height in districts that limit height to 36 feet or less.

Since staff supports allowing child or adult care facilities by right in these districts and because the existing relief granted for lot coverage and height could result in construction that is larger than surrounding residential structures, staff recommends limiting lot coverage and height to be equivalent to the standards applied to residential structures.

Staff also recommends adding a provision to limit outdoor activities in residential districts to between the hours of 7 a.m. and 10 p.m. This is consistent with the existing provision for day homes.

Parking requirements

Staff recommends that the parking requirements for adult and childcare facilities be eliminated. Parking demand studies have shown that the current requirement of one space per 500 square feet of floor area is higher than necessary since demand varies based on location, operational plans, and other site-specific criteria. Not only do minimum parking requirements increase impervious surfaces, but they also contribute to a reduction in outdoor recreational areas, which are much more beneficial to communities than surface parking.

Requiring parking minimums for adult and childcare facilities incentivizes the use of personal vehicles for drop-off and pick-up. Neighborhood-scale facilities that are located within the communities they serve encourage alternate transportation methods such as shuttle services provided by the facility, carpooling, biking, and walking.

Although ZOAC's requested parking standards to reflect the parking requirements of single family uses in residential districts is consistent with single family, staff cannot support it. Staff recommends that each facility be permitted to discern the appropriate number of parking spaces for employees and customers as their needs dictate.

Additional board special exception

Staff recommends that an applicant be allowed to pursue a special exception from the Board of Adjustment for the placement of outdoor recreation structures and off-street parking in setbacks. This would reduce Planned Development District applications for minor exceptions to the code. As a special exception rather than a variance this will provide day cares an opportunity to utilize their front yards for recreational purposes or parking without meeting the higher variance standard while maintaining neighborhood input and consideration of the potential impacts through a public hearing process.

ZOAC requested options to limit the amount of deviation from code that the Board could approve as a special exception. Staff has provided alternatives of the proposed amendments that were derived from the current standards to approve an alternative landscape plan (i.e. a special exception to the Article X landscaping requirements) and another alternative derived from the current standards to approve a carport in a setback.

Staff maintains the original recommendation that the standard to grant a special exception should be simply stated as, "The special exception will not adversely affect neighboring properties" because it is the same standard for granting a special exception to the fence standards and many other types of special exceptions. Since each special exception

request is unique and does not set a precedent, requires notices to be sent to surrounding property owners, includes a public hearing, and subject to conditions of approval (most often with a site plan), staff prefers allowing the Board the discretion to determine the appropriate level of deviation from code.

Day home attendees

It is recommended that the attendee limit for a day home be increased from 10 to 12 to align with state licensing limits.

Updating terminology

The remainder of the recommended amendments are to update general references to outdated terminology. For example, the Central Education Agency (CEA) no longer exists and has been replaced by the Texas Education Agency (TEA).

Comparison Cities:

The cities studied for comparison have similar zoning district restrictions as Dallas (SUP / CUP required in residential districts). However, staff recommends that these uses be allowed with the understanding that existing standards for nonresidential uses within residential districts provide adequate mitigation of any negative externalities that may arise. Additionally, it is expected that similar code amendments will occur in cities nationwide soon, based on recent publications from the American Planning Association, American Association of Retired Persons, US Census Bureau, and other sources discovered during staff's research.

Updated Staff Recommendations:

Staff recommends the following amendments:

1. Combine the main uses Adult Day Care and Child-Care Facility into one use (Child or adult day care facility). *[page 4]*
2. Permit the newly combined main use in residential districts by right (in lieu of by SUP). *[page 4]*
3. Since attendees of this use are often a vulnerable population, it is recommended to require an SUP for this use in CS Commercial Services and industrial districts where it is currently allowed by right. *[page 4]*
4. Exempt child and adult day cares from the additional lot coverage and height that institutional uses are allowed in residential districts. *[page 9]*
5. Add a provision to limit the hours of outdoor activities for child and adult day care facilities in residential districts with residential adjacency. *[page 9]*
6. Add a provision that allows the Board of Adjustment to approve special exceptions to outdoor recreational structures and parking in setbacks. *[page 10]*
7. Allow child and adult day care facilities to determine how much off-street parking is needed for their operations and not specify minimum parking requirement. *[page 10]*
8. Update the accessory use Day Home definition to allow use for adults and children, including increasing the maximum number of attendees from 10 to 12 (including children and household members of the operator that are being cared for) to align with state licensing standards and add provisions for foster care. *[page 11]*
9. Update outdated references and terminology throughout. *[page 11]*

Proposed Amendments

Note: Underlines and double underlines indicate words to be added and ~~strikeouts~~ indicate words to be deleted.

SEC. 51A-4.204. INSTITUTIONAL AND COMMUNITY SERVICE USES.(1) ~~Reserved.~~ Adult day care facility.

(A) ~~Definition: A facility that provides care or supervision for five or more persons 18 years of age or older who are not related by blood, marriage, or adoption to the owner or operator of the facility, whether or not the facility is operated for profit or charges for the services it offers.~~

(B) ~~Districts permitted: By right in retail, CS, industrial, central area, mixed use, multiple commercial, and urban corridor districts. By right as a limited use in MF 3(A), MF 4(A), and office districts. By SUP in residential districts. [No SUP required for a limited use in MF 3(A) and MF 4(A) districts.]~~

(C) ~~Required off street parking: One space per 500 square feet of floor area.~~

(D) ~~Required off street loading:~~

SQUARE FEET OF FLOOR AREA IN STRUCTURE	TOTAL REQUIRED SPACES OR BERTHS
0 to 10,000	NONE
10,000 to 60,000	1
Each additional 60,000 or fraction thereof	1 additional

(E) ~~Additional provisions:~~

(i) ~~The limited use regulations in this chapter are modified for this use to allow an outdoor recreation area and separate access from the main building to the recreation area.~~

(ii) ~~This use must comply with statutory licensing requirements.~~

(iii) ~~The persons being cared for or supervised under this use may not use the facility as a residence.]~~

(3) Child or adult care ~~[care]~~ facility.

(A) Definition: A facility that provides care, training, education, custody, treatment, or supervision for persons of any age ~~[under 14 years of age]~~ who are not related by blood, marriage, or adoption to the owner or operator of the facility, whether or not the facility is operated for profit or charges for the services it offers. This use does not include:

(i) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while

parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(ii) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(iii) an educational facility accredited by the ~~[Central]~~Texas Education Agency or the Southern Association of Colleges and Schools, or their successor agencies, that operates primarily for educational purposes in grades kindergarten and above;

(iv) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(v) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the ~~[Central]~~Texas Education Agency or its successor agency, that offers educational programs through grade six, and does not provide custodial care during the hours before or after the customary school day;

(vi) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades;

(vii) a day home as defined in Section 51A-4.217; or

(viii) individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.

Staff recommendation:

(B) Districts permitted: By right in residential, retail, ~~[CS, industrial,]~~ central area, mixed use, multiple commercial, office, and urban corridor districts. ~~[By right as a limited use in MF 3(A), MF 4(A), and office districts].~~ By SUP in CS and industrial ~~[residential]~~ districts. ~~[No SUP required for a limited use in MF 3(A) and MF 4(A) districts.]~~

ZOAC Requested A:

(B) Districts permitted: Except as provided in this paragraph, by [By] right in residential, retail, [CS, industrial,] central area, mixed use, multiple commercial, office, and urban corridor districts. [By right as a limited use in MF 3(A), MF 4(A), and office districts]. By SUP in CS and industrial ~~[residential]~~ districts. When located in an A(A), R(A), D(A), TH, CH, or MH district and within 1,000 feet (measured property line to property line) or another child or adult day care use, by SUP. ~~[No SUP required for a limited use in MF 3(A) and MF 4(A) districts.]~~

ZOAC Requested B:

(B) Districts permitted: Except as provided in this paragraph, by [By] right in residential, retail, [CS, industrial,] central area, mixed use, multiple commercial, office, and urban corridor districts. [By right as a limited use in MF 3(A), MF 4(A), and office districts]. By SUP in CS and industrial [residential] districts. When located in an A(A), R(A), D(A), TH, CH, or MH district and within 1,000 feet (measured property line to property line) or another child or adult day care use and 12 or fewer attendees, by right. [~~No SUP required for a limited use in MF 3(A) and MF 4(A) districts.~~]

Staff recommended:

(C) Required off-street parking: None [~~If an SUP is required for this use, the off street parking requirement may be established in the ordinance granting the SUP, otherwise one space per 500 square feet of floor area.~~]

ZOAC requested:

(C) Required off-street parking: One space in R-7.5(A), R-5(A), and TH districts; two spaces in all other residential districts, otherwise none. [~~If an SUP is required for this use, the off-street parking requirement may be established in the ordinance granting the SUP, otherwise one space per 500 square feet of floor area.~~]

(D) Required off-street loading:

SQUARE FEET OF FLOOR AREA IN STRUCTURE	TOTAL REQUIRED SPACES OR BERTHS
0 to 10,000	NONE
10,000 to 60,000	1
Each additional 60,000 or fraction thereof	1 additional

(E) Additional provisions:

(i) When this use is located within a residential district, outdoor activities are limited to the hours between 7 a.m. and 10 p.m. [~~The limited use regulations in this chapter are modified for this use to allow an outdoor play area and separate access from the main building to the play area.~~]

(ii) [~~This use must comply with all applicable requirements imposed by state law.~~]

_____ (ii) The persons being cared for, trained, kept, treated, or supervised under this use may not use the facility as a residence.

Staff recommended:

(iii) The board of adjustment may grant a special exception to the following requirements when, in the opinion of the board, the special exception will not adversely affect neighboring properties:

(aa) Minimum front, side, or rear yard requirements for accessory structures for use in outdoor recreation; and

(bb) Placement of off-street parking in the front yard when prohibited pursuant to Section 51A-4.301(b).

ZOAC requested:

(iii) The board of adjustment may grant a special exception to the minimum side, or rear yard requirements for accessory structures for use in outdoor recreation when, in the opinion of the board, the special exception will not have a detrimental impact on surrounding properties. In determining whether to grant this special exception, the board shall consider the following factors:

(aa) Whether the requested special exception is compatible with the character of the neighborhood.

(bb) Whether the value of surrounding properties will be adversely affected.

(cc) The suitability of the size and location of the accessory structures for use in outdoor recreation.

(dd) The design of the accessory structures for use in outdoor recreation.

(ee) Storage of items other than equipment for recreational use is prohibited in the area for which a special exception has been granted under this subsection.

SEC. 51A-4.217. ACCESSORY USES.

(7.1) Day home.

(A) Definition: A facility that provides care or supervision for more than three persons of any age [~~“day home attendees,” whether or not the facility is operated for profit or charges for the services it offers. For the purposes of this paragraph, “day home attendees” means persons under 14 years of age,~~] not including persons in foster care or those related to the owner of the residence or the head of the household by blood, marriage, or adoption. A day home is incidental to the primary use of the premises as a residence and conducted on the premises by a resident of the premises who is on the premises during hours of operation.

(B) Districts restrictions: This accessory use is not permitted in P(A) and urban corridor districts.

(C) Required off-street parking: None.

(D) Required off-street loading: None.

(E) Additional provisions:

(i) No more than 12 [~~10~~] day home attendees, including persons in foster care and those related to the owner of the residence or the head of the household by blood, marriage, or adoption, are permitted at any time in the operation of this use.

(ii) A person who conducts a day home use shall not:

(aa) use an advertisement, sign, or display on or off the premises;

(bb) advertise in the yellow pages of the telephone directory;

(cc) employ more than two persons on the premises, other than the residents of the premises;

(dd) conduct outdoor activities between the hours of 10 p.m. and 7 a.m.;

(ee) conduct outdoor activities unless the activities are screened from the neighboring property by a fence at least four feet in height;

(ff) generate loud and raucous noise that renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.

~~(iii) [This use does not include individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.]~~

~~_____ (iv) The area restrictions in Subsection (a)(3) do not apply to this use.~~

~~[(v) This use must comply with all applicable requirements imposed by city ordinances, rules, and regulations, and by state law.]~~

SEC. 51A-4.407. MAXIMUM LOT COVERAGE.

(a) General provisions.

_____(1) Except as provided in paragraph (2), in [~~H~~] single family, duplex, townhouse, MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), MF-3(A), MH(A), NO(A), and NS(A) districts, institutional buildings may cover a maximum of 60 percent of the lot.

_____(2) In single family, duplex, townhouse, MF- 1(A), MF-1(SAH), MF-2(A), MF-2(SAH) districts, structures used solely for child or adult care facility uses are limited to the maximum lot coverage applicable to residential structures in each district [~~Reserved~~].

_____(3) The maximum lot coverage requirements in a planned development district are controlled by the planned development district regulations.

The remainder of this section is omitted for brevity.

SEC. 51A-4.408. MAXIMUM BUILDING HEIGHT.

(a) Special height provisions.

- _____ (1) Except as provided in this subsection, structures [~~Structures~~] for utility and public service uses and institutional uses may be erected to any height consistent with the Federal Aviation Administration air space limitations, residential proximity slope height restrictions, and the building code. Exceptions:

- _____ (A) No portion of a structure that exceeds the maximum structure height specified in the district regulations (Divisions 51A-4.100 et seq.) may be located above a residential proximity slope. See Section 51A-4.412.

- _____ (B) Local utility transmission and distribution lines and supporting structures are exempt from residential proximity slope height restrictions.

- _____ (C) A mounted cellular antenna, as defined in Paragraph 51A-4.212(10.1), attached to a utility structure is exempt from residential proximity slope height restrictions if the utility structure is greater than 65 feet in height. For purposes of this subparagraph, a utility structure means an electrical transmission distribution tower, an elevated water storage tank, and any other structure operated by a municipality, a transit authority, or a certificated, franchised, or licensed utility company in connection with provision of the utility.

- _____ (D) A tower/antenna for cellular communication, as defined in Paragraph 51A-4.212(10.1), is exempt from residential proximity slope height restrictions if a specific use permit is required, or if a modification to an existing tower/antenna for cellular communication use is modified in a manner that does not substantially change the physical dimensions of the existing tower/antenna for cellular communication or its auxiliary building. A modification substantially changes the physical dimensions of an existing tower/antenna for cellular communication or its auxiliary building if it meets any of the criteria listed in 47 C.F.R. §1.40001(b)(7), as amended.

- _____ (E) In single family, duplex, townhouse, MF- 1(A), MF-1(SAH), MF-2(A), MF-2(SAH) districts, structures used solely for child or adult care facility uses are limited to the maximum structure height applicable in each district.

The remainder of this section is omitted for brevity.

SEC. 51A-13.304. DEVELOPMENT TYPES.

(a) General.

(1) Development Types by District.

	Mixed Use Shopfront	Single-Story Shopfront	General Commercial	Apartment	Town-house Stacked	Town-house	Manor House	Single-Family House	Civic Building	Open Space Lot
District	Mu	Ss	Gc	Apt	Ts	Th	Mh	Sf	Civ	O
Walkable Urban Mixed Use (WMU)										
Low (WMU-3, WMU-5)	•	•	•	•	•	•	•		•	•
Medium (WMU-8, WMU-12)	•		•	•	•	•			•	•
High (WMU-20, WMU-40)	•		•	•					•	•
Walkable Urban Residential (WR)										
Low (WR-3, WR-5)		•*		•	•	•	•		•	•
Medium (WR-8, WR-12)				•	•	•			•	•
High (WR-20, WR-40)				•					•	•
Residential Transition (RTN)						•	•	•	•	•
Shopfront (-SH) Overlay over any WMU or WR district	•	•							•	•

* Office and Medical allowed only along thoroughfare

SEC. 51A-13.306. USES.

(a) General Provisions.

(1) Allowed uses.

No certificate of occupancy may be issued for a use in a WMU, WR, or RTN district that is not allowed by this section. Existing nonconforming uses may continue in accordance with Section 51A-4.704.

(2) Use Categories.

(A) In order to regulate uses more efficiently, categories of uses have been established.

(B) Use categories provide a systematic basis for assigning land uses to appropriate development types. Use categories classify land uses and activities based on common functional, product, or physical characteristics.

(C) Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, likely impact on surrounding properties, and site conditions.

(3) Principal Uses.

Principal uses are grouped into categories of uses. Permitted uses are shown in Section 51A-13.306(b), "Use Chart." The use categories used in the use chart are listed in Section 51A-13.306(d), "Use Categories." The examples of permitted uses listed are not an exhaustive list. The building official has the responsibility for categorizing uses. See Paragraph (6) below.

(4) Transitional Uses.

Transitional uses are intended to provide an opportunity for owners in a form district to make appropriate use of their property during the interim period as the district develops. For a list of permitted transitional uses and regulations, see Section 51A-13.306(e), "Transitional Uses."

(5) Accessory uses.

(A) Except as provided below, accessory uses are allowed in conjunction with a permitted principal use in accordance with Section 51A-4.217.

(B) A use listed in Section 51A-13.306, "Uses," (and not Sections 51A-4.201 through 51A-4.216) may be an accessory use if the building official determines that the use is customarily incidental to a main use and otherwise complies with this section.

(C) Except as otherwise provided in this article or in Article IV, accessory uses are subject to the following area restrictions.

(i) If the use is conducted outside, it may not occupy more than five percent of the area of the lot containing the main use.

(ii) If the use is conducted inside, it may not occupy more than five percent of the floor area of the main use.

(iii) Any use that exceeds these area restrictions is considered to be a separate main use.

(D) Pedestrian sky bridges are not permitted in the form districts.

(E) Wind turbines and other integrated renewable energy systems are permitted in the form districts.

(6) Building Official Responsibility.

(A) The building official is responsible for categorizing all uses. If a proposed use is not listed in a use category, but is similar to a listed use, the building official shall place the proposed use under that use category.

(B) When determining whether a proposed use is similar to a listed use in Section 51A-13.306(d), "Use Categories," the building official shall consider the following criteria:

(i) The actual or projected characteristics of the proposed use.

(ii) The relative amount of site area or floor area and equipment devoted to the proposed use.

(iii) Relative amounts of sales.

(iv) The customer type.

(v) The relative number of employees.

(vi) Hours of operation.

(vii) Building and site arrangement.

(viii) Types of vehicles used and their parking requirements.

(ix) The number of vehicle trips generated.

(x) Signs.

(xi) How the proposed use is advertised.

(xii) The likely impact on surrounding properties.

(xiii) Whether the activity is likely to be independent of the other activities on the site.

(7) Additional Use Regulations.

Except as otherwise provided in this article, the additional provisions in Division 51A-4.200 for a specific use apply to that use under this article.

(b) Use Chart.

The use chart identifies the uses allowed by right, the uses requiring a specific use permit, and uses that are not allowed. The use chart key is set forth below.

(A) Permitted. (·)

Indicates that the use is allowed by right in that development type.

(B) specific use Permit. ([I])

Indicates that a use is permitted in that development type only in accordance with Section 51A-4.219, "Specific Use Permit (SUP)."

(C) Blank Cell.

A blank cell indicates that a use is not permitted in that development type.

		Mixed Use Shopfront		Single- Story Shopfront	General Commercial	Apartment	Townhouse Stacked	Townhouse	Manor House	Single- family House	Civic Building	Open Space Lot	Additional Regulations		
		Mu		Ss	Gc	Apt	Ts	Th	Mh	Sf	Civ	O			
Principal Use	Use Category	Ground Story	Upper Stories	Ground Story	All Stories	All Stories	Ground Story	Upper Stories	All Stories	All Stories	All Stories	All Stories	---		
Residential	Single-family living		.				.	.	.	.	.			(c)(1), (c)(2)
	Multifamily living		.			.	.	.	.	.	.
	Group living		.			.	.	.	.	.	.			(c)(1)
Civic	Community service, except as listed below:	☐	☐	☐	☐		☐				☐				
	<i>Museum, library</i>	.	.	.	.		.				.			(c)(3)
	Day care	.	.	.	.	⋮	⋮	⋮	⋮	⋮	.			(c)(3)
	Educational	.	.	.	.						.			(c)(3)
	Government service, except as listed below:	.	.	.	.						.			(c)(3)
	<i>Detention center, jail, or prison</i>				☐						☐				
	Park or Open space											.			
	Social service	☐	☐	☐	☐										(c)(8)
	Transit station				
	Utilities											.			(c)(4)
Place of Worship	Place of Worship	.	.	.	.						.
Office	Medical	.	.	.	.						
	Office	.	.	.	.		.		
Retail	Drive-thru facility	☐	☐	☐	☐									(c)(9)	
	Restaurant or Bar	.	.	.										(c)(5)	
	Retail sales	.	.	.										(c)(5)	
	Vehicle sales	.	.	.											
Service and Entertainment	Commercial amusement (inside)	☐	☐	☐	☐										
	Indoor recreation	.	.	.	.						
	Personal service, except as listed below:	.	.	.	.						
	Animal care	.	.	.	.									(c)(6)
Commerce	Commercial parking	.	.		.							☐			
	Passenger terminal limited to a Helistop		☐		☐										
	Overnight lodging		.		.									(c)(7)	
	Self-service storage		☐		☐										
Fabrication	Light manufacturing				.										
	Research and development				.										
	Vehicle service				.										

Key: . = Permitted ☐ = Specific Use Permit Blank Cell = Not Permitted

DCA223-002(SD)

(c) Additional Regulations.

Omitted for brevity.

(d) Use Categories.

Omitted for brevity.

(2) Civic Use Categories.

Omitted for brevity.

(B) Day care.

(i) Definition. Uses providing care, protection, and supervision of children or adults on a regular basis away from their primary residence. Care is typically provided to a given individual for fewer than 18 hours each day, although the facility may be open 24 hours each day when the additional provisions of this use are met.

(ii) Examples of Permitted Uses.

[Adult day care facility.]

Child or adult day care facility.

Nursery school or preschool.

Omitted for brevity.

(e) Transitional Uses.

Omitted for brevity.

(Am. Ord. 30889, passed 6-13-18)

SEC. 51A-13.402. REQUIRED PARKING.

(a) Spaces Required.

(1) RTN District Required Spaces.

(A) Except as otherwise provided, the residential parking design standards of Division 51A-4.300 and the number of required off-street parking spaces in Division 51A-4.200 apply in the RTN district.

(B) No compact parking is permitted on surface parking lots. A maximum of 20 percent of the required parking in a structure may be compact parking.

(C) No parking reductions are permitted in the RTN district.

(2) WMU and WR District Required Spaces.

The following spaces are required in the WMU or WR districts.

Required Parking in WMU and WR Districts

Use Category		Number of Spaces Required
Residential	Household living	1.50 per single-family living unit 1.15 per one-bedroom or smaller multifamily living unit 1.65 per two-bedroom multifamily living unit 2.00 per three-bedroom or larger multifamily living unit 0.70 per retirement housing living unit
	Group living	0.25 per bed PLUS 1 per 200 SF office, minimum 4
Civic	Community service	1 per 200 SF
	Day care	None [1 per 500 SF]
	Educational	1.50 per elementary classroom 3.50 per junior high or middle classroom 9.50 per senior high classroom 1 per 25 SF seats in any other classroom type
	Government service	1 per 200 SF
	Park/open space	None
	Place of worship	1.00 per 4 fixed seats or per 18" length of bench OR 1 per 28.00 SF floor area without seating
	Social service	see Group Living
Office	Medical	1 per 222 SF
	Office, except:	1 per 333 SF
	Art studio, gallery	1 per 500 SF
	Financial services, Bank Call center	1 per 222 SF 1 per 167 SF
Retail	Restaurants, except:	1 per 100 SF
	Bar, private club	1 per 83 SF
	Retail sales	1 per 250 SF
	Vehicle sales	1 per 200 SF sales area
Service and Entertainment	Commercial amusement (inside), except:	1 per 200 SF
	Dance hall	1 per 25 SF
	Indoor recreation, except:	1 per 150 SF
	Health club or spa	1 per 143 SF
	Movie theater	0.27 per seat
	Performing arts theater	0.40 per seat
Personal service	1 per 250 SF	
Commerce	Overnight lodging	1.25 per room PLUS 1 per 200 SF of meeting room
	Self-service storage	minimum 6
	Light manufacturing	1 per 600 SF

Use Category		Number of Spaces Required
Fabrication	Research & development	1 per 300 SF
	Vehicle service	1 per 500 SF, minimum 5

Note: The parking requirements of Division 51A-4.200 apply to uses not listed in the preceding chart nor deemed to be an equivalent use pursuant to the provisions of Section [51A-13.306](#), "Uses."

(Am. Ord 31470, passed 2-24-20)

Appendix 1: Comparison Table of Current and Proposed Regulations

	Current Code	Staff	ZOAC
Use	Adult Day Care Facility Child Care Facility	Combine adult and child-care facility into one main use	See staff recommendation
Districts Permitted	By right: Retail, CS, Industrial, Central Area, Mixed Use, Multiple Commercial, Urban Corridor districts SUP: Residential districts By-right as a limited use: MF-3(A), MF-4(A), Office districts	By right: Residential, Retail, Central Area, Mixed Use, Multiple Commercial, Office, Urban Corridor districts SUP: CS, Industrial districts	By right: Residential when spacing is met, Retail, Central Area, Mixed Use, Multiple Commercial, Office, Urban Corridor districts SUP: single family of within 500 feet of another child or adult day care facility. CS, Industrial districts
Parking	One space per 500 sf of gross floor area	None	See staff recommendation
Loading	Up to 10,000 sf: none 10,001 – 60,000 sf: 1 Each additional 60,000 sf: 1	No change	See staff recommendation
Additional Provisions			
Limited Use standards	area limitations are not applicable for outdoor play areas; outdoor entrance is allowed when connected to outdoor play area	Delete. Not needed	See staff recommendation
State law compliance	Must comply with all applicable state laws	Delete. Not needed	See staff recommendation
Residency	Attendees may not use facility as residence.	No change	See staff recommendation
Outdoor activity	N/A	No outdoor activity allowed between 10pm and 7am.	See staff recommendation
Special exceptions	N/A	May request special exception for specified standards	May request special exception for specified standards with review criteria included

Appendix 2: HHS Facilities by Council District and Zoning District

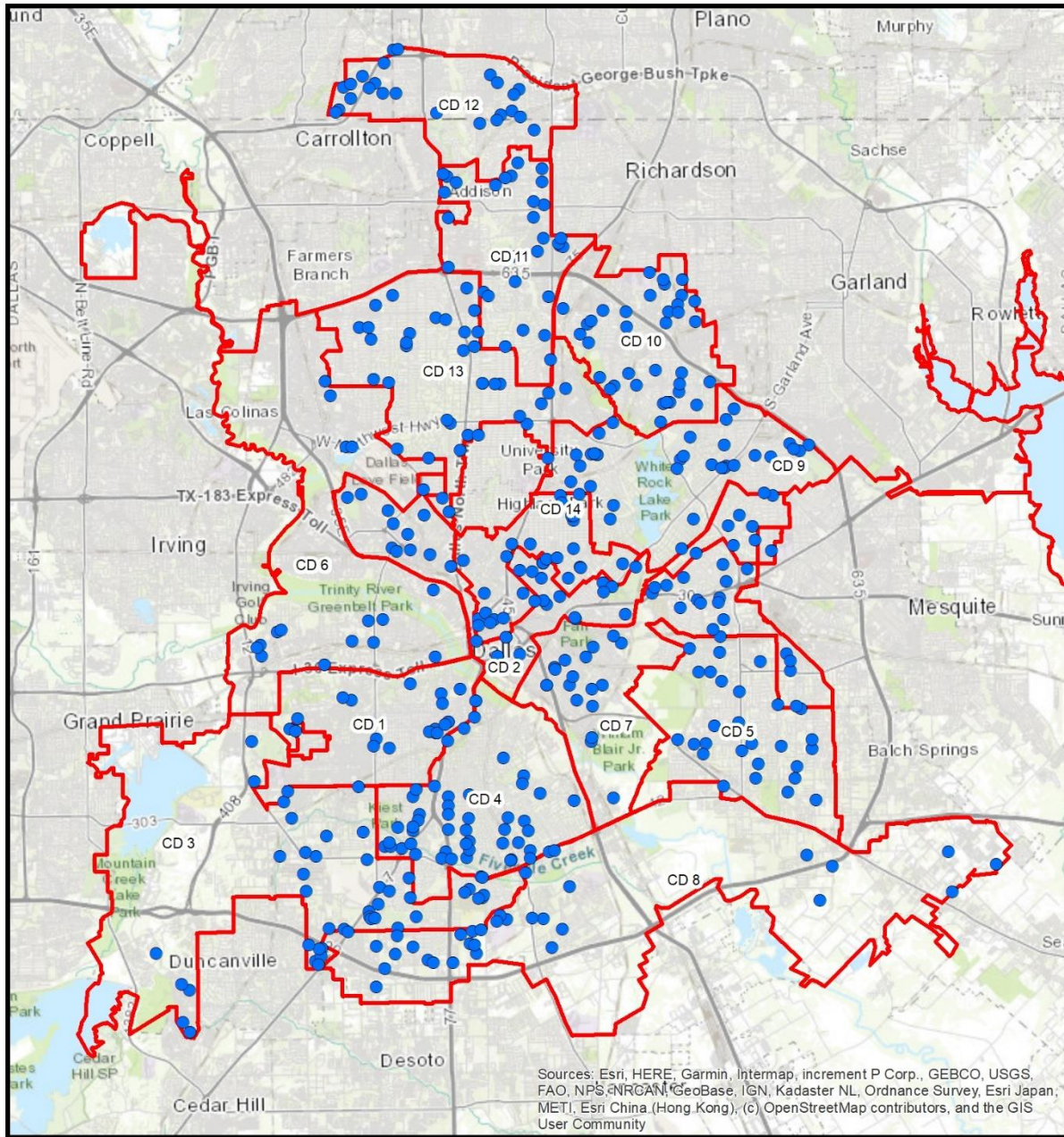
HHS Licensed Facilities by Council District

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12	District 13	District 14	Total
Licensed Center	18	26	21	35	18	13	24	12	20	21	15	13	27	18	281
In-Home Care	1	5	19	12	7	3	11	20	6	6	9	10	2	1	112
School Age Program; Before / After School Program; Small Employer Based	1	9	3	3	2	0	3	1	7	9	6	1	8	6	59
Totals	20	40	43	50	27	16	38	33	33	36	30	24	37	25	452

HHS Licensed Facilities by Zoning District

	Single Family Districts	Multifamily Districts	Retail Districts	Office Districts	CS & Industrial Districts	Central Area Districts	Mixed Use Districts	Multiple Commercial Districts	Urban Corridor Districts	Planned Development Districts	Total
Licensed Center	90	7	65	4	16	2	10	2	0	85	281
In-Home Care	87	10	0	0	0	0	0	0	0	15	112
School Age Program; Before / After School Program; Small Employer Based	14	0	4	0	1	2	3	0	0	35	59
Total											452

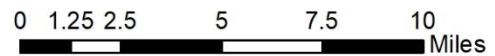
Appendix 3: HHS Facilities Maps



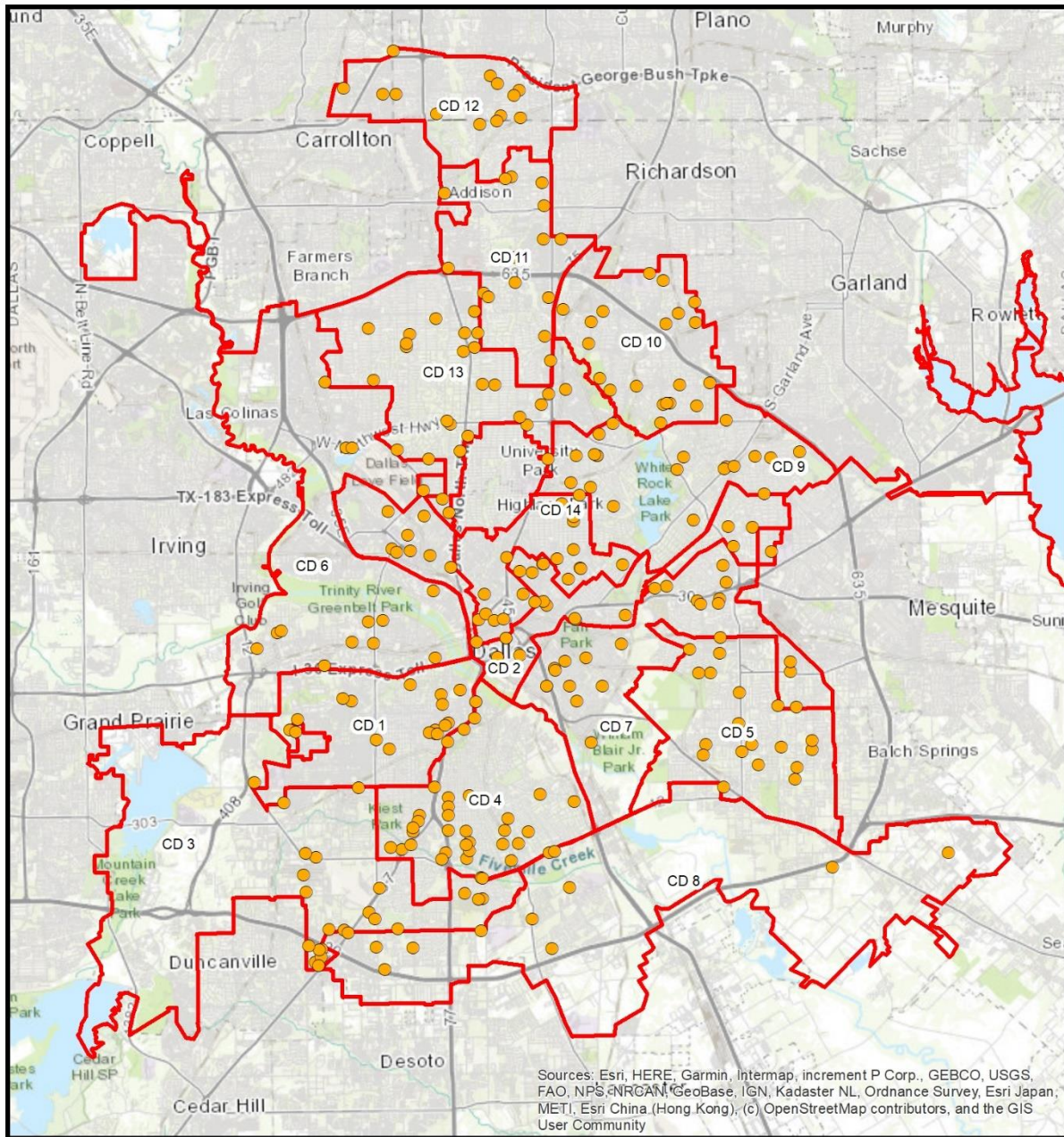
Licensed Child Care Facilities



- All Licensed Child Care Facilities
- ▭ Council District Boundaries





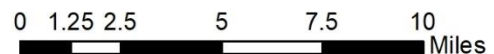
Appendix 3: HHS Facilities Maps



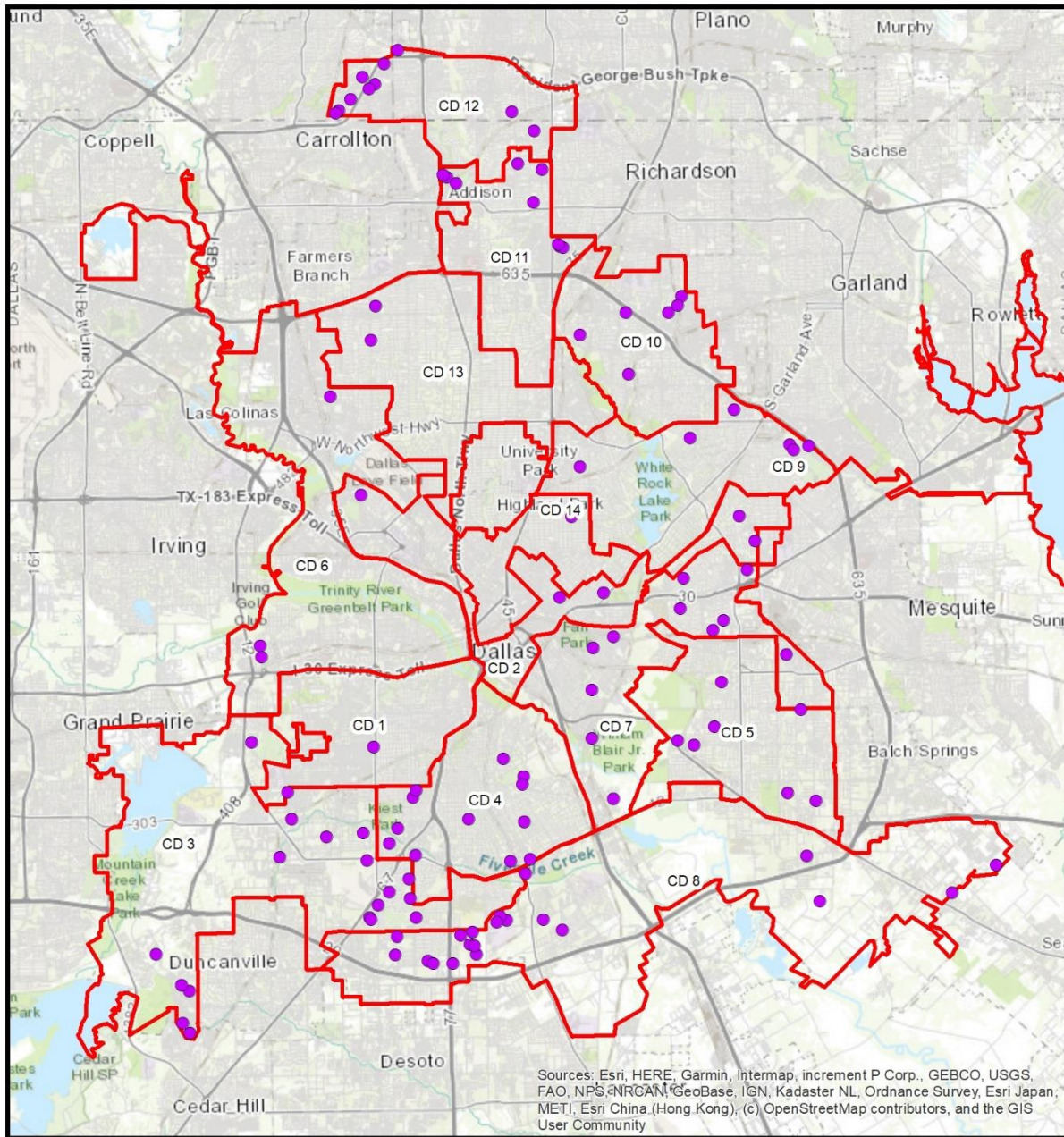
Licensed Child Care Programs Only





-  Licensed Child Care Programs Only
-  Council District Boundaries

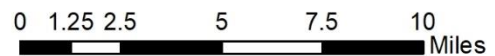


Appendix 3: HHS Facilities Maps

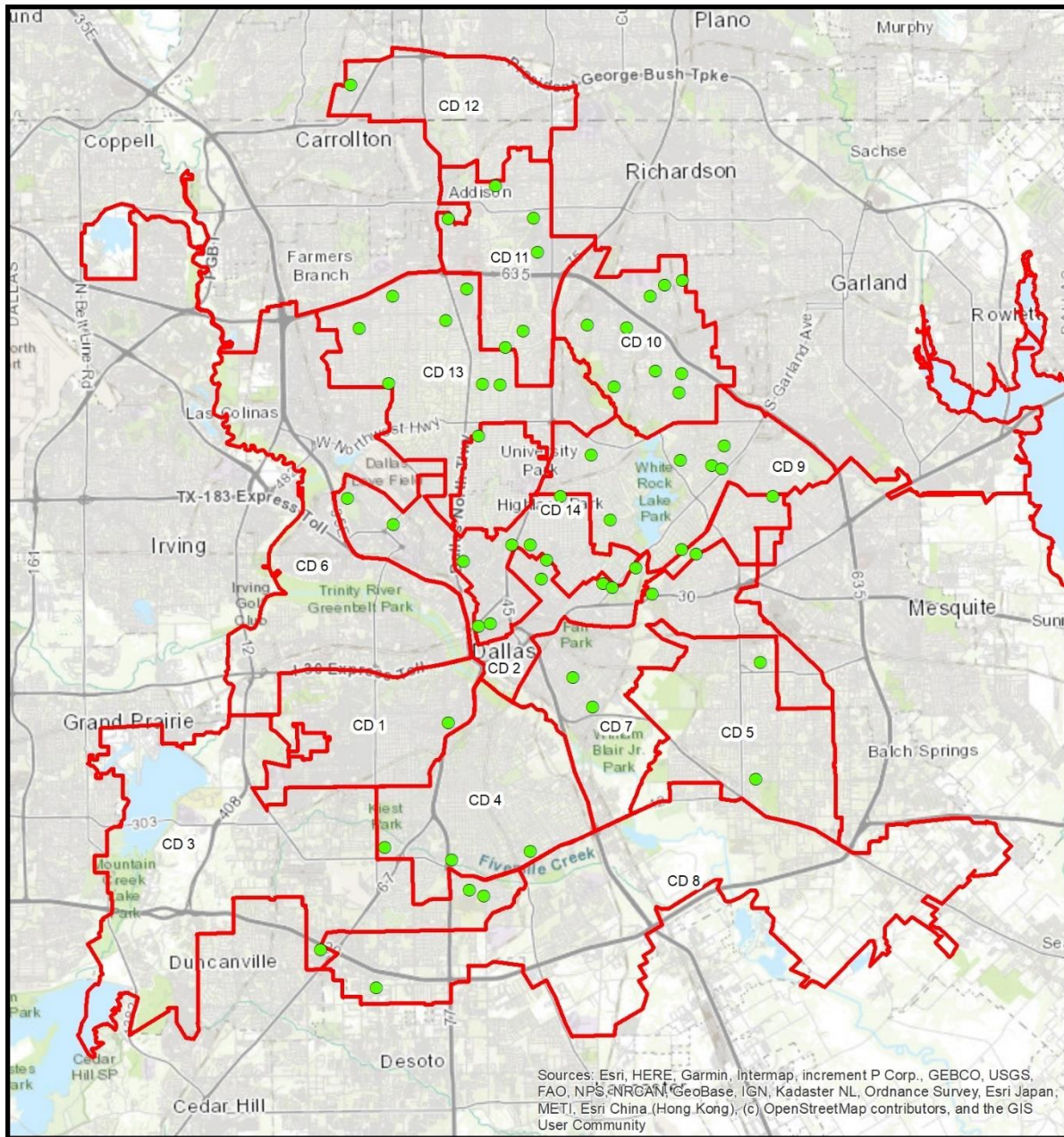


In-Home Child Care Only

-  In-Home Child Care Only
-  Council District Boundaries

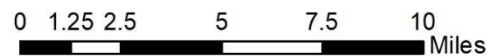


Appendix 3: HHS Facilities Maps



School and Employer Programs Only

- School and Employer Programs Only
- ▭ Council District Boundaries



Appendix 4: HHS Designation Descriptions

- **Licensed Child Care Center:** Typical child care facility for seven or more children ages 13 and under. The City would consider this to be a typical main use as child care facility.
- **Licensed Before or After-School Program:** Care provided before or after (or both) the typical school day. Most of these programs are located within schools, churches, recreation centers, or similar facilities. The City typically would consider this to be customarily incidental to the use of the property as the main use (school, recreation center, etc.) and would not be a separate main use.
- **Licensed School Age Program:** Same as above, but care is provided during typical school hours, regardless of time of year. Most summer camp programs are licensed this way unless otherwise covered. The City typically would consider this to be customarily incidental to the use of the property as the main use (school, recreation center, etc.) and would not be a separate main use.
- **Licensed Child-Care Home:** Care provided for seven to 12 children in the operator's home. City would typically consider as a day home unless care is provided to more than 10 children, which would then be considered a main use.
- **Registered Child-Care Home:** Care provided for up to six children in the operator's home. City would typically consider as a day home.
- **Listed Child-Care Home:** Care provided for up to three children in the operator's home. City would typically consider as a day home.

Appendix 5: HHS Designation Matrix

Dallas Land Use Designation	Texas HHS Licensing Designation	Ages	Number of Children	Setting	Time of care
Child-care facility	Licensed Child Care Center	13 or younger	Seven or more	Not in provider's home	At least two hours but less than 24 hours per day, three or more days per week
Often an accessory use to a public or private school or other main use but <i>could</i> be inside a child-care facility	Licensed Before or After-School Program	Pre-K through sixth grade	Not specified	Not specified	At least two hours per day, three or more days per week, before or / and after school while school is in session
	Licensed School-Age Program	Pre-K through sixth grade	Not specified	Not specified	At least two hours per day, three or more days per week, before or / and after school while school is in session, during the summer period, and any other time school is not in session
Day home or Child-care facility, depending on number of children	Licensed Child-Care Home	13 or younger	Seven – 12	In the provider's home	At least two hours but less than 24 hours per day, three or more days per week
Day Home	Registered Child-Care Home	13 or younger	Up to six	In the providers home	At least four hours per day, three or more days per week, for three or more consecutive weeks; or for four hours per day for 40 or more days in a 12-month period
	Listed Family Home	Not specified	Up to three	In the providers home	At least four hours per day, three or more days per week, for three or more consecutive weeks; or for four hours per day for 40 or more days in a 12-month period

Appendix 6: Specific Use Permits

Use	Ordinance	Date Passed	Time Period
child care facility	31459	2/26/2020	5 years/5 years auto
child care facility and a community service center	31682	10/28/2020	5 year/10 year auto
private school and child care facility	31683	10/28/2020	6 year
childcare facility	31728	12/9/2020	5 year/5 year auto
child care facility	31753	1/27/2021	5 years/5 year auto
child care facility	31820	3/24/2021	5 year/ 5 year auto
child care facility	32111	1/12/2022	4 Yrs
child care facility	32185	4/27/2022	5 years
private school & day care center	32263	8/10/2022	5 yr/5 yr auto renewal
child-care facility	32275	8/24/2022	5 yrs/5 yrs auto
child care facility	32312	8/24/2022	5 years/ 5 years auto
child care facility	32374	8/24/2022	5 years/5 years auto
child care facility	32393	8/24/2022	5 years
child care facility	32396	8/24/2022	10 years/10 years auto