

ORDINANCE NO. 1051

“AN ORDINANCE OF THE CITY OF ATHENS, TENNESSEE, TO AMEND THE ATHENS MUNICIPAL CODE, TITLE 14, CHAPTER 2, SECTION 4.24. CHILD CARE FACILITIES REQUIREMENTS, TO DELETE SECTION 4.24.01 CHILD-CARE FACILITIES AS ACCESSORY USES TO CHURCHES AND PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.”

WHEREAS, Child-Care Facilities are a needed utility in the City corporate limits; and

WHEREAS, it was recommended that Churches should not be subject to any more restrictions for Child-Care Facilities than any other entity wanting to operate such Child-Care Facilities; and

WHEREAS, the Athens Municipal-Regional Planning Commission met in open public meeting on May 2, 2016 and recommended the following changes to the zoning code as described herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TENNESSEE:

SECTION 1: That Section 4.24 be amended by deleting the following Section 4.24.01 titled “*CHILD-CARE FACILITIES AS ACCESSORY USES TO CHURCHES*” from the City of Athens Municipal Zoning Ordinance:

4.24.01. CHILD-CARE FACILITIES AS ACCESSORY USES TO CHURCHES.

In any district where a church is established as a permitted use or a permissible use on appeal, Child-Care Facilities, as defined by the Municipal Zoning Ordinance, may be approved by the Board of Zoning Appeals as an accessory use to said church, provided that the Child-Care Facility is operated and maintained by said church on the church premises and further provided the following conditions are met, as determined by the Board of Zoning Appeals:

- a. All dimensional regulations of the district shall apply.*
- b. A fenced play area of not less than fifty (50) square feet of open space per child shall be provided. The fence shall be at least five (5) feet in height.*
- c. Along the site of the boundary of the facility, buffering, screening, and landscaping must be provided to adequately protect any abutting residential property.*
- d. All outdoor play activities shall be conducted within the fenced play area. The fenced play area shall not be located within any required front yard.*
- e. The facilities operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.*

SECTION 2: That all Ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to implement this ordinance.

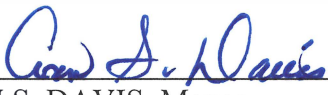
SECTION 3: In the event that any part of this ordinance is invalidated by a court of competent jurisdiction, all other parts shall remain in full force and effect unless otherwise lawfully repealed or amended.

SECTION 4: BE IT FURTHER ORDAINED This ordinance shall take effect immediately upon passage on second reading, the public necessity requiring it.

PASSED ON FIRST READING: May 17, 2016

PASSED ON SECOND READING: June 21, 2016

DATE OF PUBLIC HEARING: June 21, 2016



ANN S. DAVIS, Mayor



MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:



H. CHRIS TREW, City Attorney

7. Review and recommendation concerning amending Child Care Facility Requirements in *Section 4.24 and 4.24.01.*

Chairman Hamilton said that the only difference between a child care facility and a child care facility accessory use to churches, is in the description that requires a church be located on the same site as the child care facility.

Mr. Casteel said they did not know why the zoning code was written to give more restriction to a church than it would a school or anyone else running a child care facility.

There was further discussion.

MOTION: To eliminate Section 4.24.01 as directed by staff.

MADE: Dick Pelley
SECOND: Ralph Fenton
VOTE: Unanimous
MOTION PASSED

- 7. Review and recommendation** concerning amending Child Care Facility Requirements in Section 4.24 and 4.24.01.

4.24. CHILD CARE FACILITIES REQUIREMENTS.

Whenever a Child Care Facility is permitted as a use on review, no matter how titled or classified by state regulations the following requirements shall be met:

In districts where child-care facilities are allowed, a permit for such use shall not be issued until a site plan has been submitted to the Department of Community Development for review subject to the following minimum standards:

- a. All dimensional regulations of the district shall apply.*
- b. A fenced play area of not less than fifty (50) square feet of open space per child shall be provided. The fence shall be at least five (5) feet in height.*
- c. Along the site boundary of the facility, buffering, screening, and landscaping must be provided to adequately protect and abutting residential property.*
- d. All outdoor play activities shall be conducted within the fenced play area. The fenced play area shall not be located within any required front yard.*
- e. The facilities operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.*
- f. The applicant shall submit an accurately and legibly drawn site plan showing existing and proposed buildings, fences, landscaping, parking and access facilities.*

4.24.01. CHILD-CARE FACILITIES AS ACCESSORY USES TO CHURCHES.

In any district where a church is established as a permitted use or a permissible use on appeal, Child-Care Facilities, as defined by the Municipal Zoning Ordinance, may be approved by the Board of Zoning Appeals as an accessory use to said church, provided that the Child-Care Facility is operated and maintained by said church on the church premises and further provided the following conditions are met, as determined by the Board of Zoning Appeals:

- a. All dimensional regulations of the district shall apply.*
- b. A fenced play area of not less than fifty (50) square feet of open space per child shall be provided. The fence shall be at least five (5) feet in height.*

Portion of May 2, 2016 Planning Commission Staff Report

- c. *Along the site of the boundary of the facility, buffering, screening, and landscaping must be provided to adequately protect any abutting residential property.*
- d. *All outdoor play activities shall be conducted within the fenced play area. The fenced play area shall not be located within any required front yard.*
- e. *The facilities operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.*

Staff recommends that we delete Section 4.24.01 from the Zoning Code.