

THE EFFECTIVE DATE OF THIS ORDINANCE IS MARCH 11, 2010

ORDINANCE NO. 10-04-539

RE: To Amend Certain Sections of the Frederick County Code (Zoning Ordinance) to Allow Childcare/Nursery Schools in the Agriculture and Resource Conservation Zones on a Limited Basis

In Ordinance No. 09-21-525, the Board of County Commissioners (“Board”) amended the provisions of Frederick County Code Chapter 1-19 (the “Zoning Ordinance”) which, in part, limited childcare center/nursery school as a permitted use in the Agriculture and Resource Conservation zoning districts.

A number of religious organizations have requested the Board to reconsider this issue and to allow religious organizations to operate childcare/nursery schools in the Agriculture and Resource Conservation zones.

The Board has determined to allow childcare/nursery schools in the Agriculture and Resource Conservation zones on a limited basis.

The Frederick County Planning Commission held a duly advertised public hearing on December 16, 2009 and recommended approval of the proposed text amendment.

The Board of County Commissioners held a duly advertised public hearing on February 16, 2010. The public had an opportunity to comment at this public hearing.

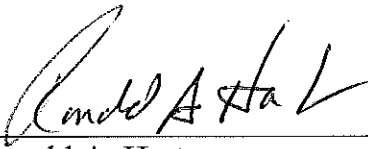
NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the Zoning Ordinance be amended as shown on the attached Exhibit 1.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on March 11, 2010.

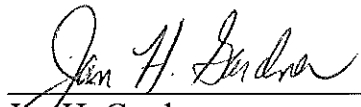
The undersigned hereby certifies that this Ordinance was approved and adopted on the 11th day of March, 2010.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Ronald A. Hart
County Manager



Jan H. Gardner
President

MFC 4/29/10

EXHIBIT 1

ARTICLE V: ZONING MAP AND DISTRICTS
 DIVISION 3. USE TABLE
 §1-19-5.310. USE TABLE

Uses	Zoning Districts													
	RC	A	R1	R3	R5	R8	R12	R16	VC	HS	GC	ORI	LI	GI
<i>Institutional</i>														
Child care center/nursery school		E	E	E	E	E	PS	PS	PS		PS		E	

ARTICLE VIII: SPECIFIC USE REGULATIONS
 DIVISION 2. ACCESSORY USES
 §1-19-8.230.3 CHILD CARE CENTER/NURSERY SCHOOL ACCESSORY TO A PLACE OF WORSHIP IN THE A AND RC ZONING DISTRICTS

(A) THE FOLLOWING PROVISIONS SHALL APPLY TO A CHILD CARE CENTER/NURSERY SCHOOL AS AN ACCESSORY USE TO A PLACE OF WORSHIP IN THE A AND RC ZONING DISTRICTS:

- (1) A CHILD CARE CENTER/NURSERY SCHOOL SHALL BE AN ACCESSORY USE WITHIN A BUILDING UTILIZED FOR A PLACE OF WORSHIP.
- (2) THE CHILD CARE CENTER/NURSERY SCHOOL SHALL NOT UTILIZE MORE THAN 20% OF THE BUILDING FLOOR AREA ON THE PARTICULAR LOT ON WHICH SUCH CHILD CARE CENTER IS LOCATED.
- (3) THE MINIMUM SIZE OF A CHILD CARE CENTER/NURSERY SCHOOL SHALL BE DETERMINED PER CHILD AS REQUIRED UNDER MARYLAND LAW.
- (4) ALL RECREATION AND OPEN SPACE SHALL BE PROVIDED IN ACCORDANCE WITH STATE LAW FOR OUTDOOR ACTIVITY AREA. PLAY AREAS PROVIDED MUST BE FULLY FENCED.
- (5) THE CHILD CARE CENTER/NURSERY SCHOOL SHALL BE OPERATED NOT FOR PROFIT.

DIVISION 3. SPECIAL EXCEPTION USES
 §1-19-8.323. ~~RESERVED~~ CHILD CARE CENTER/NURSERY SCHOOL IN THE A DISTRICT

THE FOLLOWING PROVISIONS SHALL APPLY TO A CHILD CARE CENTER/NURSERY SCHOOL IN THE A DISTRICT:

(A) THE CHILD CARE CENTER/NURSERY SCHOOL SHALL BE OPERATED NOT FOR PROFIT WITHIN BUILDINGS OR STRUCTURES ON PREMISES WHICH ARE OWNED OR LEASED BY AN EXISTING, OR WITH FINAL SITE DEVELOPMENT PLAN APPROVAL, PERMITTED INSTITUTIONAL USE AND WHICH PREMISES ARE REGULARLY USED BY THE INSTITUTIONAL USE, OR ARE LOCATED ON PREMISES OWNED OR LEASED BY AN INSTITUTIONAL USE ADJACENT TO PREMISES REGULARLY USED BY THE INSTITUTIONAL USE. INSTITUTIONAL USE FOR THE PURPOSES OF THIS SECTION SHALL BE LIMITED TO THE USES AS PROVIDED IN SECTION 1-19-5.310 USE TABLE.

(B) THE MINIMUM SIZE OF A CHILD CARE CENTER/NURSERY SCHOOL SHALL BE DETERMINED BASED ON THE AMOUNT OF SQUARE FOOTAGE REQUIRED UNDER MARYLAND LAW.

(C) ALL RECREATION AND OPEN SPACE SHALL BE PROVIDED IN ACCORDANCE WITH STATE LAW FOR OUTDOOR ACTIVITY AREA. PLAY AREAS PROVIDED MUST BE FULLY FENCED.

(D) THE MINIMUM LOT AREA, LOT WIDTH, AND SETBACK REQUIREMENTS SHALL BE AS PROVIDED IN SECTION 1-19-6.100 FOR AN INSTITUTIONAL USE, IN THE AGRICULTURAL ZONING DISTRICT.

(E) THE MAXIMUM NUMBER OF CHILDREN IN ATTENDANCE AT ANY ONE TIME SHALL BE ESTABLISHED BY THE BOARD OF APPEALS BASED ON THE FOLLOWING:

(1) A MAXIMUM OF ONE PUPIL PER 1,000 SQUARE FEET OF LOT AREA.

(F) THE MAXIMUM BUILDING FLOOR AREA DEVOTED TO THE CHILD CARE CENTER/NURSERY SCHOOL SHALL BE ESTABLISHED BY THE BOARD OF APPEALS.

(G) THE SUBJECT PROPERTY SHALL HAVE FRONTAGE AND ACCESS ON A PAVED PUBLIC ROAD.

(H) A CHILD CARE CENTER/NURSERY SCHOOL MEETING THE PROVISIONS WITHIN SECTION 1-19-8.230.3 SHALL BE CONSIDERED A PERMITTED ACCESSORY USE AND THEREFORE NOT SUBJECT TO THIS SECTION.