

ORDINANCE NO. 116, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUSPENDING CERTAIN PROVISIONS OF THE CITY'S LAND USE CODE
TO PERMIT TEMPORARY USE OF CERTAIN NON-RESIDENTIAL BUILDINGS FOR
CHILD CARE CENTERS IN RESPONSE TO THE COVID-19 PANDEMIC

WHEREAS, the City of Fort Collins is threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 ("COVID-19"); and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City's Office of Emergency Management, proclaimed a "local emergency" in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, the City Council has, with the adoption of Resolution 2020-030, extended the City Manager's proclamation of local emergency; and

WHEREAS, the State of Colorado declared its first Emergency Disaster Declaration related to COVID-19 on March 11, 2020, and the declared emergency remains in effect; and

WHEREAS, due to the COVID-19 public health emergency, local school districts have implemented hybrid learning models that require students to participate in remote learning away from school buildings for some or all of the school week; and

WHEREAS, many parents of students are unable to directly care for or supervise their children's remote learning at home during the school day and cannot afford in-home child care, all of which has created an urgent need for more affordable and available child care centers, as such term is defined in the LUC, to provide child care and to assist with remote learning; and

WHEREAS, there is community interest in the temporary use of churches, vacant commercial spaces, neighborhood clubhouses, and other non-residential buildings as child care centers; and

WHEREAS, approving a child care center use under the City's Land Use Code ("LUC") development review procedure can be a lengthy and costly process often times requiring site improvements; and

WHEREAS, in consideration of the urgent need for child care centers and remote learning supervision alternatives for families, the City Council wishes to temporarily suspend certain LUC requirements to allow buildings that have been previously approved for certain uses to be used as child care centers without following the normal development review process; and

WHEREAS, the temporary suspension will correspond with the 2020-2021 academic school year, after which any child care center allowed to temporarily operate pursuant to this Ordinance that desires to continue operation will need to be approved pursuant to the applicable LUC requirements and development review process; and

WHEREAS, compliance with existing health and safety requirements such as the building code, fire code, health department requirements, and state licensing will continue to be required for buildings temporarily approved for child care centers pursuant to this Ordinance; and

WHEREAS, in order to help address the urgent need for child care centers necessitated by the COVID-19 public health emergency, the City Council finds it is necessary for public health, safety and welfare, and in the best interests of the City and its residents, to temporarily suspend the application of certain LUC requirements to facilitate the operation of child care centers using buildings that have already been approved for certain uses.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. Any building on a lot that is currently approved for any of the below uses, as such uses are defined in the LUC, is eligible for use as child care center ("Eligible Building") regardless of whether child care center is a permitted use in the zone district where the building is located:

- a. adult day/respice care centers
- b. clubs and lodges
- c. community facilities
- d. convention and conference centers
- e. day shelters
- f. entertainment facilities and theatres
- g. exhibit halls
- h. health and membership clubs
- i. homeless shelters
- j. limited indoor recreation establishments
- k. non-residential portion of mixed-use dwellings
- l. neighborhood support/recreational facilities (including clubhouses)
- m. offices, financial services, and clinics
- n. personal and business service shops
- o. places of worship or assembly
- p. public/private schools
- q. retail establishments
- r. small scale reception centers
- s. unlimited indoor recreational uses and facilities

Section 3. An Eligible Building in which a child care center is proposed to be operated pursuant to this Ordinance is exempt from:

- a. LUC requirements to obtain an approved Project Development Plan and Final Plan or amendment to an existing approved development plan;
- b. LUC Article 3 General Development Standards; and
- c. LUC Article 4 zone district use restrictions on child care centers in certain zones.

Section 4. To operate a child care center pursuant to this Ordinance, the owner or authorized occupant:

- a. Must obtain a temporary certificate of occupancy (“TCO”) from the City Building Services Division prior to operating a child care center and possess a valid TCO throughout operation of the child care center;
- b. May be required to obtain a building permit to address building code requirements prior to occupancy and to satisfy those requirements before issuance of the TCO for the child care center; and
- c. Must comply with all other applicable laws, rules, and regulations, including building and fire codes, City Code, public health orders, state licensing requirements, and the Americans with Disabilities Act prior to commencing and throughout operation of a child care center.

Section 5. All other applicable provisions of the City Code and any other applicable laws, rules, and regulations, including, but not limited to health and safety requirements, will continue to apply to any child care center operating pursuant to this Ordinance.

Section 6. Should a child care center operating pursuant to this Ordinance fail to comply with the terms of the TCO or applicable laws as described in Sections 4 and 5 above, the City Building Official in his or her sole discretion may revoke or temporarily suspend the TCO and the child care center shall not operate until a new TCO is issued or the suspension is lifted.

Section 7. The waiver of LUC requirements pursuant to this Ordinance and any TCO issued to allow the temporary operation of a child care center pursuant to this Ordinance shall automatically terminate on May 28, 2021, and any child care center operating pursuant to this Ordinance shall cease operating unless an extension has been granted pursuant to Section 9.

Section 8. Upon termination of the use of the Eligible Building as a child care center pursuant to this Ordinance, the prior approved use shall remain valid pursuant to the terms of its prior approval, the LUC, and applicable law, rules, and regulations. Use of an Eligible Building as a child care center pursuant to this Ordinance shall not be deemed abandonment of a lawful nonconforming use pursuant to LUC Division 1.5 or Existing Limited Permitted Use pursuant to LUC Division 1.6, however, LUC Sections 1.5.3 and 1.6.7 regarding active utilization of nonconforming and limited permitted uses shall continue to apply.

Section 9. The Director of the Community Development and Neighborhood Services Department ("Director"), in his or her sole discretion and after consultation with the Building Official may temporarily allow any child care center operating pursuant to this Ordinance to continue operating pursuant to the issued TCO provided the owner or authorized occupant has submitted a development application to the City to approve a child care center pursuant to the LUC prior to May 28, 2021, and the applicant diligently pursues seeking approval of its application and the completion of any required development improvements. In deciding whether to allow a child care center to temporarily continue operating while a development application is being reviewed, the Director may consider compliance issues and impacts on the surrounding neighborhood. The Director may, in his or her sole discretion and after consultation with the Building Official, revoke or suspend the temporary permission to continue at any time for reasons including the applicant's failure to diligently pursue approval of its development application, failure to complete development improvements, or non-compliance with the terms of its TCO.

Section 10. Operation of a child care center pursuant to this Ordinance shall not create any right or expectation that any such child care center shall be able to operate on or after May 28, 2021, and any party operating a child care center pursuant to this Ordinance is deemed to acknowledge the temporary nature of any such child care center.

Introduced, considered favorably on first reading, and ordered published this 15th day of September, A.D. 2020, and to be presented for final passage on the 6th day of October, A.D. 2020.



Mayor

ATTEST:



City Clerk



Passed and adopted on final reading on this 6th day of October, A.D. 2020.



Mayor

ATTEST:



City Clerk

