

MEMORANDUM

To: Planning Commission
From: Ronnie Kurtz
Date: March 12, 2019
Subject: Text Amendments
Chapter 27—Kindergartens; Special Administrative Permits

ITEM DESCRIPTION

Request to adopt two discrete text amendments to the Zoning Code (Chapter 27). The proposed changes will: 1. Allow Kindergartens to operate in the O-I and O-I-T district; and 2. Update approval criteria for Special administrative permits to explicitly consider the impact on adjacent properties.

DISCUSSION

1. Kindergartens

The Dunwoody Municipal Code presents the following definitions:

- ***Child day care center.*** A day care establishment operated by any person with or without compensation providing for the care, supervision and protection of seven or more children who are under 18 years of age, without transfer of legal custody. Children who are related by blood, marriage, adoption or guardianship to the operators of the day care center must be included when computing the number of children within a child day care center. See also "kindergarten," which is included in the educational services use classification.
- ***Kindergarten.*** An establishment operated for compensation providing for the care, supervision, instruction and protection of seven or more children who are under seven years of age, without transfer of legal custody.
- ***Elementary, middle or senior high schools.*** Private schools at the primary, elementary, middle school (junior high) or senior high school level that provide state-mandated basic education.

In the Office-Institution (O-I) and Office-Institution-Transitional (O-I-T) districts, a child day care center and an elementary school are permitted as of right, while a kindergarten is not permitted at all. These allowances appear contradictory. By definition, the only difference between a day care and a kindergarten is the presence of *instruction*; yet, instruction under the purview of an elementary school is allowed. To rectify this ambiguity, staff proposes permitting kindergartens to exist as of right in the O-I and O-I-T districts, consistent with the treatment of child day care centers and elementary schools.

Sections Impacted:

- **Sec. 27-72. – Uses allowed.** Changes "-" to "P" in use table for Kindergartens in O-I and O-I-T districts.

2. Special Administrative Permits

As code currently reads, the community development director must only take into consideration the impact the granting of a special administrative permit will have on the requesting property, not the adjacent properties. Experience informs that, in several instances, the granting of a special administrative permit may have a direct impact on an adjacent property, and thus it would be prudent to require these effects be taken into consideration. The proposed amendment explicitly states that approval of an administrative permit shall be contingent on a finding that the grant of the permit will not be injurious to adjacent properties.

Sections Impacted:

- **Sec. 27-441. – Review and approval criteria.** Inserts phrases “subject property” and “adjacent properties” to subsection (1).

Attachments:

Chapter 27, with edits.

Sec. 27-72. - Uses allowed.

The following table identifies uses allowed in nonresidential and mixed-use zoning districts. See [subsection] 27-111(4) for information about how to interpret the use table.

USES	DISTRICTS									Supplemental Regulations
	O-I	O-I-T	O-D	OCR	NS	C-1	CR-1	C-2	M	
<i>P = use permitted as of right / A = administrative permit req'd / E = special exception req'd / S = special land use permit req'd</i>										
RESIDENTIAL										
Household Living										
Detached house	-	P	-	-	-	-	-	-	-	27-147
Multi-unit building	-	-	-	S	-	-	S	-	-	
Mixed-use building, vertical	-	-	-	P	-	-	P	-	-	
Group Living										
Convent and monastery	P	P	-	P	-	-	-	-	-	27-146
Fraternity house, sorority house or residence hall	P	-	-	-	-	-	-	-	-	
Nursing home	P	P	-	-	-	-	-	-	P	
Personal care home, family (1—4 persons)	-	-	P	-	P	P	P	P	-	
Personal care home, group (5—7 persons)	-	-	P	-	P	P	P	P	-	
Personal care home, community (8+ persons)	P	P	P	-	P	P	P	P	-	27-145
Child caring institution (1—6 persons)	P	P	P	-	P	P	P	P	-	
Child caring institution (7—15 persons)	P	P	P	-	P	P	P	P	-	

Child caring institution (16 or more)	P	S	P	-	P	P	P	P	-	
Community living arrangement (1—4 persons)				P		P	P			
Shelter, homeless	S	S	-	-	-	P	P	P	-	27-140
Transitional housing facility	S	S	-	-	-	P	P	P	-	27-140
QUASI-PUBLIC AND INSTITUTIONAL										
Ambulance Service	-	-	-	-	-	P	P	P	P	
Club or Lodge, Private	P	P	P	-	-	P	P	P	P	
Cultural Exhibit	P	P	P	-	-	P	P	P	-	
Day care facility, adult (6 or fewer persons)	-	-	P	-	-	-	-	-	-	27-137
Day care center, adult (7 or more)	P	P	P	P	P	P	P	P	-	
Day care facility, child (6 or fewer persons)	-	-	P	-	-	-	-	-	-	
Day care center, child (7 or more)	P	P	P	P	P	P	P	P		
Educational Services										
College or university	P	P	P	-	-	-	-	-	-	
Kindergarten	<u>P</u>	<u>P</u>	P	P	P	P	P	P	-	27-141
Research and training facility, college or university affiliated	P	P	P	-	-	-	-	-	P	
School, private elementary, middle or senior high	P	P	P	P	-	P	P	P	P	27-148
School, specialized non-degree	P	P	P	P	-	P	P	P	P	
School, vocational or trade	P	P	P	-	-	P	P	P	P	

Hospital	P	-	-	-	-	-	-	-	-	-	
Place of Worship	P	P	P	P	P	P	P	P	P	P	27-146
Utility Facility, Essential	E	E	P	E	E	P	P	P	P	P	27-151
COMMERCIAL											
Adult Use											
Body art service									P	P	
Sexually oriented business	P	-	-	P	-	-	-	-	P	P	27-149
Animal Services											
Animal care/boarding	-	-	-	S	S	P	P	P	P	P	27-131
Animal grooming	-	-	-	P	P	P	P	P	P	P	27-131
Animal hospital/veterinary clinic	-	-	-	P	P	P	P	P	P	P	27-131
Communication Services											
Radio and television broadcasting stations	P	P	P	-	-	P	P	P	P	P	
Recording studios	P	P	P	-	-	P	P	P	P	P	
Telecommunication tower	A	-	A	-	S	A	A	A	A	A	27-150
Telecommunication antenna, co-located	P	P	P	P	P	P	P	P	P	P	27-150
Construction and Building Sales and Services											
Building or construction contractor	-	-	-	-	-	-	-	-	P	P	
Commercial greenhouse or plant nursery	-	-	-	-	-	-	-	-	P	P	
Electrical, plumbing and heating supplies and services	-	-	-	-	-	P	P	-	-	P	

Lumber, hardware or other building materials establishment	-	-	-	-	-	P	P	P	P	
Eating and Drinking Establishments										
Restaurant, accessory to allowed office or lodging use	P	-	-	P	-	P	P	P	P	
Restaurant, drive-in or drive-through	-	-	-	-	-	P	S	P	P	
Food truck	P	P	P	P	P	P	P	P	P	27-138
Other eating or drinking establishment	-	-	-	P	P	P	P	P	-	
Entertainment and Spectator Sports										
Auditorium or stadium	-	-	-	-	-	-	-	P	P	
Drive-in theater	-	-	-	-	-	-	-	P		
Movie theater	-	-	-	P	-	-	-	P	-	
Special events facility	-	P	-	-	-	P	P	P	-	
Financial Services										
Banks, credit unions, brokerage and investment services	P	P	P	P	P	P	P	P	P	
Convenient cash business	-	-	-	-	-	-	-	P	-	27-136
Pawn shop	-	-	-	-	-	-	-	P	-	27-144
Food and Beverage Retail Sales										
Liquor store (as principal use)	-	-	-	-	-	P	P	P	P	
Liquor store (accessory to lodging or 3+ story office)	-	-	P	P	-	-	-	-	-	

Other food and beverage retail sales	-	-	P	P	P	P	P	P	P	
Funeral and Interment Services										
Cemetery, columbarium, or mausoleum	P	P	P	-	-	-	-	-	-	
Crematory	-	-	-	-	-	-	-	-	-	S
Funeral home or mortuary	P	-	-	-	-	P	P	P	P	
Lodging	P	-	P	P	-	P	P	P	P	
Medical Service										
Home health care service	P	P	-	-	-	-	-	-	-	
Hospice	P	P	-	-	-	-	-	-	-	
Kidney dialysis center	P	P	-	-	-	-	-	-	-	
Medical and dental laboratory	P	P	-	P	-	P	P	-	P	
Medical office/clinic	P	P	P	P	P	P	P	P	P	
Office or Consumer Service	P	P	P	P	P	P	P	P	P	
Parking, Non-accessory	S	-	P	-	-	P	P	P	P	27-143
Personal Improvement Service										
Barber shop, beauty shop, nail salon, massage and/or spa establishments, estheticians, and other "typical" uses per [subsection] 27-114(14)	P	-	-	P	P	P	P	P	P	27-114(14)
Other personal improvement service	-	-	-	-	-	P	P	P	P	
Repair or Laundry Service, Consumer										
Laundromat, self-service	-	-	-	P	P	P	P	P	-	

Laundry or dry cleaning drop-off/pick-up	P	-	-	P	P	P	P	P	P	
Other consumer repair or laundry service	-	-	-	P	P	P	P	P	P	
Research and Testing Services	P	-	P	P	-	-	-	P	P	
Retail Sales										
Retail sales of goods produced on the premises	-	-	-	-	-	-	-	-	P	
Shopping Center	-	-	-	P	P	P	P	P	-	
Other retail sales	-	-	P	P	P	P	P	P	-	
Sports and Recreation, Participant										
Golf course and clubhouse, private	P	P	P	-	-	-	-	P	P	
Health club	-	-	P	P	P	P	P	P	P	
Private park	P	P	P	-	-	-	-	-	-	
Recreation center or swimming pool, neighborhood	P	P	P	-	-	-	-	-	P	
Recreation grounds and facilities	-	-	P	-	-	-	-	P	-	
Tennis center, club and facilities	P	P	P	P	-	P	P	P	-	
Other participant sports and recreation (Indoor)	P	-	-	P	-	P	P	P	-	
Other participant sports and recreation (Outdoor)	-	-	-	-	-	-	-	P		
Vehicle and Equipment, Sales and Service										
Car wash	-	-	-	-	-	P	-	P	P	27-134

Gasoline sales	-	-	-	-	-	P	-	P	P	27-139
Vehicle repair, minor	-	-	-	-	-	P	-	P	P	27-153
Vehicle repair, major	-	-	-	-	-	-	-	P	P	27-152
Vehicle sales and rental	-	-	-	-	-	S	S	P	P	27-154
Vehicle storage and towing	-	-	-	-	-	-	-	P	P	27-155
INDUSTRIAL										
Manufacturing and Production, Light	-	-	-	-	-	-	-	P	P	
Wholesaling, Warehousing and Freight Movement										
Warehousing and storage	-	-	P	-	-	-	-	-	-	
Self-storage warehouse	-	-	P	-	-	-	-	-	P	
Storage yard and truck terminal	-	-	-	-	-	-	-	-	S	
AGRICULTURE AND TRANSPORTATION										
Agriculture										
Agricultural produce stand	-	-	-	-	-	-	-	-	P	
Community garden	P	P	P	P	P	P	P	P	P	27-135
Crops, production of	-	-	-	-	-	-	-	-	P	
Transportation										
Heliport	S	-	S	-	-	S	S	-	P	
Stations and terminals for bus and rail passenger service	S	-	-	-	-	-	-	-	-	
Taxi stand and taxi dispatching office	-	-	-	-	-	P	P	-	P	

(Ord. No. 2013-10-15, § 1(Exh. A § 27-5.20), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015; Ord. No. 2015-06-13, § 1, 6-22-2015)

Sec. 27-441. - Review and approval criteria.

Special administrative permits may be approved by the community development director only when the community development director determines that any specific approval criteria associated with the authorized administrative permit and the following general approval criteria have been met:

- (1) The grant of the administrative permit will not be detrimental to the public health, safety or welfare of the public or injurious to the subject property, adjacent properties, or improvements;
- (2) The requested administrative permit does not go beyond the minimum necessary to afford relief; and
- (3) The requested administrative permit is consistent with all relevant purpose and intent statements of this zoning ordinance.

(Ord. No. 2013-10-15, § 1(Exh. A § 27-23.60), 10-14-2013; Ord. No. 2015-01-05, § 1, 1-26-2015)