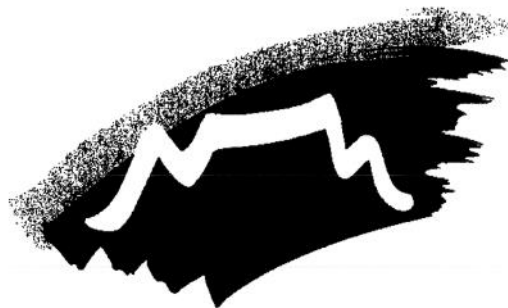


CITY OF CAPE TOWN

EARLY CHILDHOOD
DEVELOPMENT LAND USE POLICY
(POLICY NUMBER 12349)

REVISED AND APPROVED BY COUNCIL:
29 MAY 2013
C22/05/13



CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

THIS CITY WORKS FOR YOU

EARLY CHILDHOOD DEVELOPMENT LAND USE POLICY

THE CITY OF CAPE TOWN

APRIL 2013

DEFINITIONS AND TERMINOLOGY

CTZS	Cape Town Zoning Scheme
ECD	In terms of the Children's Act Early Childhood Development is regarded as the process of emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children from birth to school going age. Included in the definition of "Partial Care", as per the Children's Act, No 38 of 2005. Partial care is defined as: "Partial care is provided when a person, whether for or without reward, takes care of more than six children on behalf of their parents or care-givers during specific hours of the day or night, or for a temporary period, by agreement between the parents or care-givers and the provider of the service, but excludes the care of a child;"
Partial Care facility	According to the Guidelines for Early Childhood Development Services (2006) the term refers to all ECD education and training development practitioners i.e. educators; trainers; lecturers; care-givers; and development officers including those qualified by their experience, and who are involved in providing services in homes, centres and schools.
ECD Practitioner	Services that intended to promote early childhood development; and which are provided by a person, other than a child's parent or caregiver, on a regular basis to children up to school-going age. These ECD services encompass Health, Social, Education and Physical development of a child.
ECD Services	The use of portion of a dwelling house or outbuildings by the occupant to provide day care, after school care or instruction for a limited number of infants or children.
Home Child Care (as per the CTZS)	Acceptable physical and administrative conditions that have to be maintained in order to operate an ECD centre.
Minimum physical standards	Means land which is designated as public open space, under the ownership of Council or other public authority, with or without access control, and which is set aside for the public as an open space for recreation or outdoor sport, including a park, playground, public or urban square, picnic area, public garden, nature area; and includes ancillary buildings, infrastructure and uses
Public open space	Means a category of directions setting out the purpose for which land may be used and the land use restrictions applicable in respect of the said category of directions
Zoning	

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1. INTRODUCTION

Research in South Africa and internationally indicates that the early years are critical for human development. From birth to seven years is a period of rapid physical, mental, emotional, social and moral growth and development. The early years of a child's life are a time when they acquire concepts, skills and attitudes that lay the foundation for lifelong learning. These include the acquisition of language, perceptual motor skills required for learning to read and write, basic numeracy concepts and skills, problem-solving skills, a love of learning and the establishment and maintenance of relationships. Evaluations of well-conceived programs designed to foster early development demonstrate that children who participate in these programs tend to be more successful in later school, are more competent socially and emotionally, and show better verbal, intellectual and physical development during early childhood than children who are not enrolled in high quality programs.

It is to be noted that this policy only deals with the Land Use Management aspects relating to ECD Centres and that the Council's Early Childhood Development Policy deals with all other aspects related to ECD.

2. SCOPE AND APPLICATION

This policy is to be used to guide the assessment of proposals for the development and location of small and large scale ECD centres in Cape Town. The policy applies city-wide.

Land use applications for ECD centres can be submitted in accordance with the provisions contained in the CTZS as well as planning law (Land Use Planning Ordinance, 1985).

3. REGULATORY CONTEXT

3.1. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

Section 28 (1) of the Constitution of the Republic of South Africa specifies the rights of children including, the right:

- (a) To a name and a nationality from birth;
- (b) To family care or parental care, or to appropriate alternative care when removed from the family Environment;
- (c) To basic nutrition, shelter, basic health care services and social services;
- (d) To be protected from maltreatment, neglect, abuse or degradation;

Section 28 (2) also requires that a child's 'best interests' are of paramount importance in every matter concerning the child.

Section 152(1) (b) compels local government to ensure the provision of services to communities in a sustainable manner.

Section 152 (1) (c) makes provision for promotion of social and economic development of communities.

In terms of Schedule 4, Part B of the Constitution, local authorities have legislative competence to pass legislation (which includes policy) relating to child care facilities. In addition, municipal planning

(which includes regulating land uses for child care facilities) is designated as a function and competency of local government.

3.2 CHILDREN'S ACT, NO 38 OF 2005.

The aim of this Act includes provision for early childhood development, partial care of children, child and youth care centres and drop-in centres.

Section 76 of the Act defines partial care as: "when a person, whether for or without reward, takes care of more than six children on behalf of their parents or care-givers during specific hours of the day or night, or for a temporary period, by agreement between the parents or care-givers and the provider of the service, but excludes the care of a child:

- by a school as part of tuition, training and other activities provided by the school;
- as a boarder in a school hostel or other residential facility managed as part of a school; or
- by a hospital or other medical facility as part of medical treatment provided to the child."

Section 79 of the Act requires norms and standards for partial care (which include a safe environment for children), while Section 80 requires facilities to be registered with the Provincial Government.

3.3. CITY OF CAPE TOWN ZONING SCHEME REGULATIONS (CTZS)

A unified Cape Town Zoning Scheme (CTZS) has become effective 1 March 2013.

ECD Centers may only operate from properties where land has been appropriately zoned and/or has the appropriate land use rights in place for the purposes of the use.

In assessing land use applications, the primary concern lies with the desirability and impact on existing rights of the proposed land use activity in terms of, amongst other things, the appropriateness of its location, the scale of the facility and its impact on the surrounding environment.

This policy will complement the regulations of the CTZS pertaining to ECD land uses. Where the provisions of the CTZS differs from or contradicts the provisions of this policy, the zoning scheme prevails.

It should also be noted that title deed conditions, if any (which may prohibit a property from being used as an ECD centre), may need to be removed (together with a land use application, if required) before such property may be utilised for such a purpose.

Section 39 and 40 of the Land Use Planning Ordinance, No 15 of 1985, requires compliance to zoning schemes from land owners. It furthermore requires that transgressors be prosecuted.

4. POLICY RATIONALE AND PRINCIPLES

This policy is intended to ensure a consistent approach to ECD centres when land use applications are assessed across the City of Cape Town.

The policy is based on the following underlying principles:

- Promotion and safeguarding of the amenity and environmental quality of local areas where ECD centres are located; and
- Promoting a responsible and sustainable approach to facilitating ECD centre establishment and integration of these land uses into neighbourhoods, without detracting from these areas.

5. POLICY PROVISIONS

5.1 WHEN ECD CENTRES ARE PERMITTED AS OF RIGHT

In line with the CTZS, and to provide opportunities for low-key child care facilities from single residential properties, an ECD centre accommodating a maximum of six children can operate as of right from single residential properties, subject to certain conditions, without any formal land use approval from the City of Cape Town being required.

The impact of the provision of such low-key home child care facilities, as of right, is considered negligible in these instances.

5.2 SMALL VS LARGE SCALE CENTRES

In the assessment of land use applications, distinction is made between small and large scale facilities as a means of addressing the variations on the impacts of ECD centres of differing sizes and levels of care provision. Through different requirements for these scales of centres, these land use guidelines aim to provide for the varying impacts of such facilities in a range of socio-economic and urban environments.

For the purposes of this policy, 35 children are considered to be an appropriate number to differentiate between small- and large scale centres. Thus, centres with between 1 and 34 children are considered small scale facilities and those with 35 children or more constitute large scale centres. The assessment criteria in Table 1 are set out according to these two broad categories.

In context of this broad classification system, the actual attendance number must still be determined in each case.

Where circumstances warrant, a restriction on the number of children to be accommodated can be imposed.

Deviations from the above scale distinction are not encouraged as the scale (size) of the centre determines its degree of fit in respect to the surrounding area as well as the assessment criteria that are to be applied. For example, an application for deviation to permit a small-scale centre for 45 children should not be supported. This, by virtue of the number of children (and the associated impact) has to be considered as large scale.

5.3 SUBMISSION OF APPLICATIONS

To facilitate the proper assessment of applications involving ECD centres, the following information should be included with a land use application (in conjunction with any other requirements):

A proper written motivation which details:

- the number and age of children proposed to be accommodated;
- the type and nature of the proposed facility and services offered, including the type of structures and any proposed additions thereto;
- the number of people to be employed;
- the hours and days of the week of operation and a daily timetable (including list of activities), including time allocated for outside play;
- how the impact on the neighbours can be reduced;
- whether there is a residential component;
- how the children and staff are expected to travel to and from the centre.

A neatly drawn scaled and clearly dimensioned Site Development Plan indicating:

- cadastral (property) boundaries on the subject property;
- the areas of the dwelling/building(s) to be used;
- a table indicating the square metres of the structure to be used for the ECD centre, as well as amount of indoor and outdoor space provided for the specified age categories;
- the location of outside play areas and play equipment;
- on or off-site parking, drop-off areas and access arrangements, including staff parking arrangements; and
- how the boundaries of the property are to be treated in terms of walling and fencing.

5.4 CRITERIA FOR ASSESSING APPLICATIONS

The following aspects are to be taken into consideration in assessing land use applications for ECD centres. Given the great variation in socio-economic contexts that characterise the City of Cape Town, it is vital that a degree of flexibility be applied in the application of these guidelines.

Land use applications for small and large scale ECD centres are guided by the following assessment criteria, in addition to any other requirements:

CRITERIA	EXPLANATION
Location	Description of the desirable characteristics of the location of a proposed ECD centre
Access	Accessibility considerations for ECD centres
Parking and Traffic	Parking requirements, off-street and on-street, as well as consideration of traffic impacts, drop-off arrangements etc.
Scale and Extent	Considerations of the typical scale of the proposal and impact on its

	(built and natural) environment.
Operational Management	Operational management arrangements for ECD centres
Noise and Security	Noise and security considerations for ECD centres
Health and Welfare	Health and welfare considerations for ECD centres
Hours of operation	Suggested hours of operation

Table 1: Assessment criteria

Criteria	Small Scale Centre	Large Scale Centre
Location	<ul style="list-style-type: none"> Surrounding land uses and erf sizes, as well as the location of community facilities, are to be assessed and taken into consideration. The facility should be able to be incorporated into the local area without detrimentally affecting its character and the nature of the area. If looking at the bigger picture, the principle of ensuring a well-distributed network of small scale centres, as a means of maximising access to such facilities, is to be promoted. Small scale centres should preferably be located on or close to a residential collector road that can accommodate the increased traffic flow, especially in areas of high car ownership, if applicable. 	<ul style="list-style-type: none"> It is recommended that large scale ECD centres be located adjacent to public open spaces, schools, churches, other community facilities (clinics, sports fields, libraries etc.) and neighbourhood commercial nodes, if possible. Such clustering can promote the sharing of infrastructure, such as parking, maximises access and confines the traffic impact to a defined area. Proximity to public transport nodes, if applicable, should be taken into consideration when assessing such an application. It is recommended that large ECD centres be located on main access roads (such roads must be able to accommodate the anticipated increased traffic flow, especially in areas of high car ownership).
Access	<ul style="list-style-type: none"> Both convenient and safe pedestrian and vehicular access to such a facility should be possible. Access arrangements should 	<ul style="list-style-type: none"> Both convenient and safe pedestrian and vehicular access to such a facility should be possible. Access arrangements should

	not cause traffic or pedestrian obstruction.	not cause traffic or pedestrian obstruction.
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Parking and Traffic	<ul style="list-style-type: none"> • Sufficient on-site parking is to be provided, which includes parking for any additional staff. Any other applicable requirements as per the CTZS should be adhered to. • A suitable, safe, dropping-off area is to be provided on-site, if possible. • If applicable, the increased traffic generated by the facility, as well as levels of car ownership in the immediate area, are to be assessed in conjunction with the estimated peak traffic flow in order to determine the traffic and parking impacts of the ECD centre. This may affect the number of children to be accommodated by the ECD centre. 	<ul style="list-style-type: none"> • Adequate provision is to be made for on-site visitors parking. This is to be assessed in relation to the number of children, the staff complement and the context within which the facility is located. Any other applicable requirements as per the CTZS should be adhered to. • A suitable, safe, dropping-off area is to be provided on-site, if possible. • If applicable, the increased traffic generated by the facility, as well as levels of car ownership in the immediate area, are to be assessed in conjunction with the estimated peak traffic flow in order to determine the traffic and parking impacts of the ECD centre. This may affect the number of children to be accommodated by the ECD centre.
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Scale and Extent	<ul style="list-style-type: none"> • The City Health Department is to assess the extent of the erf and the floor area of the building(s) and any other relevant requirements to determine the maximum number of children that can be accommodated, by using the required standards. • 1,5 sq m indoor area and 2 sq m outdoor play areas per child should be provided. • Consideration is to be given to surrounding property sizes to ensure that the scale of the ECD centre is not in conflict with the 	<ul style="list-style-type: none"> • The City Health Department is to assess the extent of the erf and the floor area of the building(s) and any other relevant requirements to determine the maximum number of children that can be accommodated, by using the required standards. • 1,5 sq m indoor area and 2 sq m outdoor play areas per child should be provided. • Consideration is to be given to surrounding property sizes to ensure that the scale of the ECD centre is not in conflict with the
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	<p>density and residential fabric of the surrounding area.</p> <ul style="list-style-type: none"> • Applications to increase the maximum number of children attending the ECD centre can subsequently be made. Cognisance will be taken of abutting neighbours' comments in this regard. Any such application must also be circulated to the City Health department for their comments. 	<p>density and urban fabric of the surrounding area.</p> <ul style="list-style-type: none"> • Applications to increase the maximum number of children attending the ECD centre can subsequently be made. Cognisance will be taken of abutting neighbours' comments in this regard. Any such application must also be circulated to the City Health Department for their comments.
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Operational management	<ul style="list-style-type: none"> • The operator of a small scale centre is to be either the owner or the lessee of the property concerned (or relevant portion thereof) and is to reside on-site, except if the facility operates from non- single residential premises. 	<ul style="list-style-type: none"> • The operator of a large scale ECD centre is to be the owner or the lessee of the property concerned (or relevant portion thereof).
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Noise and Security	<ul style="list-style-type: none"> • The location of building(s), play equipment including the nature and type thereof, with particular reference to noise generation, and other proposed structures is to be clearly demarcated on the Site Development Plan and the proximity of neighbouring residential dwellings are to be taken into account in order to minimise the noise impact on neighbours. • Outside and inside activities are to be managed so that noise levels will only be generated at specific times. • ECD centres should comply with the applicable Noise Control Regulations as well as the provisions of the City of Cape Town By-law relating to streets, public places and the prevention of noise nuisances. • Where appropriate, adequate treatment and screening of the erf boundaries are recommended in order to minimise the noise impact. • Childproof gates may be required to be installed on the property, particularly at the entrance to the facility if it is located on a busy road. 	
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Hours of operation	<ul style="list-style-type: none"> • The centre should not operate outside the hours of 07h00 to 18h00 on Mondays to Fridays, and from 07h00 to 13h00 on Saturdays, and
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	should not include public holidays or Sundays, except where it can be adequately motivated otherwise e.g. to accommodate parents who are shift workers.
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5.5 POSSIBLE CONDITIONS OF APPROVAL

Consideration should be given to imposing the following conditions of approval applicable to small- and large scale ECD centres. Conditions should however still be custom-made to suit the specific circumstances:

- The specified maximum number of children to be accommodated at any specific time is to be adhered to. Application to amend this condition of approval will be required should the applicant wish to increase the capacity of the facility.
- The operator is to be the owner or lessee of the property or relevant portion thereof.
- For small scale centres, the operator is to reside on the property, except if the facility operates from non-single residential zoned premises.
- Council may, if it is of the opinion that the ECD centre is being conducted in such a manner which is or is likely to be detrimental to the surrounding residential environment or a source of nuisance, serve a notice in writing on the operator calling upon him/her to:
 - comply with the instructions set out in such notice, or
 - cease using the premises in question for a ECD centre by a date specified in such notice.
- For small scale centres, the residential appearance of the building is to be maintained to a standard that does not detract from the residential character and streetscape of the surrounding area.
- The ECD centre shall not operate outside the specified hours, except where it can be adequately motivated otherwise e.g. to accommodate parents who are shift workers.
- All outdoor signage must comply with Council's Outdoor Advertising and Signage By-law.
- If more than six children are to be cared for, application for registration in terms of the Children's Act must be lodged with the Western Cape Department of Social Development prior to commencement of the use.
- The approval of a Site Development Plan is required. The operator shall not deviate from this plan (which must be dated and numbered) without prior consent of Council.

6 REVIEW

This ECD policy will be reviewed every 3 years, or when the need arise.

Date	Organisation / Name	Comment	Response
2011/04/21	Ikamva Labantu / Barbara Stemmert	Page 6 – under point 3 - Policy Rationale and Principles – Last bullet – What happens to educarees that are already operating and don't receive approval from the Planning and Building Development Manager. If the educare is not allowed to continue operating, what happens to the children?	The Land Use Enforcement Policy of the City of Cape Town guides steps against any unauthorised land uses.
2011/04/21	Early Learning Resource Unit / Linda Biersteker	Parking requirements for small scale centres in areas where there is not much private transport may be very limiting – and may reduce outdoor play space.	The Transport Department is currently reviewing parking requirements, which will be incorporated into the CTZS when available,
2011/05/01	Laurette Barnard	Operational management “ The operator of a small scale centre is to be either the owner or the lessee of the property concerned (or relevant portion thereof) and is to reside on-site, except if the facility operates from non-single residential premises” – the owner should live on the property as lessee do not always care about the neighbours.	Noted.
2011/05/03	Durbanville Community Forum / George Sieraha	1-6 children as of right should be revised.	Noted.
		Before any title deed conditions are removed council are obligated to investigate and visit the site to see if it is viable that the property in question does qualify.	Noted.
		Pre-qualification process be implemented even before an application is accepted.	Noted.
		ECD centres operating illegally, Council is obligated to issue cease order with immediate effect.	The Land Use Enforcement Policy of the City of Cape Town guides steps against any unauthorised land uses.
		Specific SDP requirements are not looked at properly by Council. It must be mandatory that part of the pre-qualifying process must include a meeting with the surrounding residents to discuss possibly adverse effects of an ECD eg. transport assessments.	Noted.

Date	Organisation / Name	Comment	Response
		Agrees with statements on Location, Access and Parking and Traffic for large scale centres.	Noted.
		For large scale centres owner/lessee must also reside on-site.	Noted.
		Issue on where ECD centre become construction site.	Noted.
03-May-11	Gillian van Wyk	Page 7: The number 35 is large for a 'small scale' operation. This should be reduced to 25.	Noted.
		Page 11: Hours of operation: the service needs to be accessible from 6h30.	Noted.
03-May-11	Parklands HOA / Eric Basson	We have studied the draft policy for ECD's and noticed that there is an increase of 10 children in the number considered as small scale centres compared to the current policy. This is a large increase and we would like to know what the reasons for this increase are. A small scale centre is usually operated from a residential property.	Noted. The number is increased due to a large number of deviation applications currently being supported.
06-May-11	Lee Louw	What are the 27 zoning schemes in operation in the City of Cape Town?	The 27 schemes has been replaced by the CTZS.
		Explain what is meant by "Planning and building development management Department to be the entry point for applicants"?	Operators of ECD centres should first enquire on land use rights before a centre is opened and registration is required.
		Please provide a simplified version of the Council's Land use Enforcement Policy.	Available on planning.capetown.gov.za
25-Apr-11	Mitchells Plain Educare Forum / Karrimah Jacobs	Parking and traffic requirements for small scale centres should be re-looked at.	Noted.
09-May-11	Centre for ECD / Eric Atmore	On page 10 under Operational Management first column: We recommend that you delete the words: "and is to reside on site except if the facility operates from non-single residential premises".	Noted.