

RESOLUTION NO. 190XXX It was moved by Commissioner _____ and duly seconded by Commissioner _____ to adopt the following resolution:

WHEREAS, the Board of County Commissioners has the power to adopt, revise, alter and amend the Arapahoe County Building Code from time to time, after published notice of the Board's intention to consider amendments, as set forth in Section 30-28-204, C.R.S., as amended; and

WHEREAS, the Building Code now in effect includes, among other Codes, the 2015 edition of the International Building Code (IBC), including the 2015 International Residential Code (IRC), except that Arapahoe County has not previously adopted Appendix M to the IRC; and

WHEREAS, said Appendix M provides specific building requirements for family childcare homes in which day care services are provided in residential dwelling units pursuant to a State of Colorado license by the home owners and residents of those homes; and

WHEREAS, there exist within Arapahoe County residential properties that are licensed through the State of Colorado as family child care homes for providing day care services in accordance with the State license, and where applicable under the Arapahoe County Land Development Code, have obtained local Special Exception Use permits under said Land Development Code; and

WHEREAS, there is a demand for licensed family child care homes to provide day care services in unincorporated Arapahoe County and it is expected that additional family child care homes will seek licensure within unincorporated Arapahoe County; and

WHEREAS, under the existing provisions of the provisions of the IBC and IRC, adopted under the Arapahoe County Building Code, any home daycare service that provides daycare services for six (6) or more children cannot be classified as residential use and instead would be classified under either the E, I4 or R4 use group; and

WHEREAS, building code requirements are more restrictive under the use groups E, I4, and R4, and these restrictions make it more difficult and expensive for family child care homes licensed for six or more children under the State License or as may be or have been approved through the County's SEU process, to comply with Building Code requirements for such use group classifications; and

WHEREAS, Appendix M would allow issuance of a building permit for a family childcare home that is licensed for six or more children to operate under the requirements of the IRC for residential properties provided that the dwelling meets the criteria specified in the Appendix M; and

WHEREAS, the Arapahoe County Building Division and the Building Official recommend that the Arapahoe County Building Code be amended to adopt Appendix M to allow for a residential use group classification for dwellings that are used as family childcare homes, so

long as the property and operator are properly licensed under applicable State and County regulations and provided that the license is for twelve (12) or less children: and

WHEREAS, the Arapahoe County Board of Review has reviewed and provided comments regarding the proposed amendment to the Building Code and has recommended that the Board [*adopt/not adopt*] Appendix M; and

WHEREAS, the Board of County Commissioners finds that the compliance with the Appendix M criteria will provide a safe environment for such family child care homes so long as such homes are licensed and inspected by the State of Colorado in accordance with the applicable State regulations and provided that the State license is not for more than twelve (12) children; and

WHEREAS, the Board of County Commissioners finds that the provision of child care services within a residential dwelling for more than twelve (12) children at any one time is beyond the scope of residential use of the dwelling and as such should not be considered a residential use under the IBC or the IRC, and instead should be considered under and subject to the requirements of a more appropriate use group; and

WHEREAS, the Board of County Commissioners finds that it is in the public interest to amend the Arapahoe County Building Code to adopt Appendix M to the IRC to allow for residential family child care homes that are licensed and inspected by the State of Colorado in accordance with applicable State regulations for up to twelve (12) children so that the dwelling can retain its residential use category under the Building Code; and

WHEREAS, Section 30-28-204, C.R.S., as amended, provides that the Board may adopt amendments to the Building Code at a public hearing held no sooner than fourteen days after a notice of public hearing has been published in a qualifying newspaper; and

WHEREAS, a Notice of Public Hearing to be held on _____, 2019 before the Board of County Commissioners on the question of amending the Arapahoe County Building Code to adopt Appendix M was published in The Villager, a newspaper of general circulation, on _____ and

WHEREAS, on _____ at 9:30 A.M., the date and time set forth in the Notice of Public Hearing, the Board of County Commissioners held a Public Hearing concerning the proposed amendment to the Arapahoe County Building Code; and

WHEREAS, evidence was received showing that the notice, publication and referral procedures required by law for amending the building code were followed; and

WHEREAS, at the public hearing, County staff presented and explained the proposed amendment; and

WHEREAS, following the presentation by County staff, the Chair asked members of the public for comments about the proposed amendment; and

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners makes the following findings in support of the proposed amendment:

1. That the statutory jurisdictional requirements have been met and that the Board has jurisdiction to consider and act upon the proposed amendments to the Building Code.
2. That adequate opportunity for public input and comments has been provided.
3. That the Board has fully considered the proposed amendments in light of the public health, safety, morals and general welfare, and the safety, protections, and sanitation of dwellings, buildings and structures subject to the Building Code, and finds that the proposed amendments will support, advance and encourage such standards.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners to adopt the proposed amendment to the Arapahoe County Building Code as follows:

1. That the Arapahoe County Building Code, including the the 2015 editions of the International Building Code and the International Residential Code, is hereby amended to adopt Appendix M to the IRC, providing for family child care homes licensed and inspected under the applicable State of Colorado regulations.
2. That the adopted Appendix M is as follows:

APPENDIX M

HOME DAY CARE—R-3 OCCUPANCY

SECTION AM101 GENERAL

AM101.1 General. This appendix shall apply to a home day care operated within a *dwelling*. It is to include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians or relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

SECTION AM102 DEFINITION

EXIT ACCESS. That portion of a means-of-egress system that leads from any occupied point in a building or structure to an exit.

SECTION AM103 MEANS OF EGRESS

AM103.1 Exits required. If the occupant load of the residence is more than nine, including those who are residents, during the time of operation of the day care, two

exits are required from the ground-level *story*. Two exits are required from a home day care operated in a *manufactured home* regardless of the occupant load. Exits shall comply with Section R311.

AM103.1.1 Exit access prohibited. An exit access from the area of day care operation shall not pass through bath- rooms, bedrooms, closets, garages, fenced rear *yards* or similar areas.

Exception: An exit may discharge into a fenced *yard* if the gate or gates remain unlocked during day care hours. The gates may be locked if there is an area of refuge located within the fenced *yard* and more than 50 feet (15 240 mm) from the *dwelling*. The area of refuge shall be large enough to allow 5 square feet (0.5 m²) per occupant.

AM103.1.2 Basements. If the *basement* of a *dwelling* is to be used in the day care operation, two exits are required from the *basement* regardless of the occupant load. One of the exits may pass through the *dwelling* and the other must lead directly to the exterior of the *dwelling*.

Exception: An emergency and escape window complying with Section R310 and which does not conflict with Section AM103.1.1 may be used as the second means of egress from a *basement*.

AM103.1.3 Yards. If the *yard* is to be used as part of the day care operation it shall be fenced.

AM103.1.3.1 Type of fence and hardware. The fence shall be of durable materials and be at least 6 feet (1529 mm) tall, completely enclosing the area used for the day care operations. Each opening shall be a gate or door equipped with a self-closing and self-latching device to be installed at a minimum of 5 feet (1528 mm) above the ground.

Exception: The door of any *dwelling* which forms part of the enclosure need not be equipped with self- closing and self-latching devices.

AM103.1.3.2 Construction of fence. Openings in the fence, wall or enclosure required by this section shall have intermediate rails or an ornamental pattern that do not allow a sphere 4 inches (102 mm) in diameter to pass through. In addition, the following criteria must be met:

1. The maximum vertical clearance between *grade* and the bottom of the fence, wall or enclosure shall be 2 inches (51 mm).
2. Solid walls or enclosures that do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions, except for tooled masonry joints.
3. Maximum mesh size for chain link fences shall be 1¹/₄ inches (32 mm) square, unless the fence has slats at the top or bottom which reduce the opening to no more than 1³/₄ inches (44 mm). The wire shall be not less than 9 gage [0.148 inch (3.8 mm)].

AM103.1.3.3 Decks. Decks that are more than 12 inches (305 mm) above *grade* shall have a guard in compliance with Section R312.

AM103.2 Width and height of an exit. The minimum width of a required exit is 36 inches (914 mm) with a net clear width of 32 inches (813 mm). The minimum height of a required exit is 6 feet, 8 inches (2032 mm).

AM103.3 Type of lock and latches for exits. Regardless of the occupant load served, exit doors shall be openable from the inside without the use of a key or any special knowledge or effort. When the occupant load is 10 or less, a night latch, dead bolt or security chain may be used, provided such devices are openable from the inside without the use of a key or tool, and mounted at a height not to exceed 48 inches (1219 mm) above the finished floor.

AM103.4 Landings. Landings for stairways and doors shall comply with Section R311, except that landings shall be required for the exterior side of a sliding door when a home day care is being operated in a Group R-3 occupancy.

Section AM104 Smoke Detection

AM104.1 General. Smoke detectors shall be installed in *dwelling* units used for home day care operations. Detectors shall be installed in accordance with the approved manufacturer's instructions. If the current smoke detection system in the *dwelling* is not in compliance with the currently adopted code for smoke detection, it shall be upgraded to meet the currently adopted code requirements and Section AM103 before day care operations commence.

AM104.2 Power source. Required smoke detectors shall receive their primary power from the building wiring when that wiring is served from a commercial source and shall be equipped with a battery backup. The detector shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Required smoke detectors shall be interconnected so if one detector is activated, all detectors are activated.

AM104.3 Location. A detector shall be located in each bed- room and any room that is to be used as a sleeping room, and centrally located in the corridor, hallway or area giving access to each separate sleeping area. When the *dwelling* unit has more than one *story*, and in *dwelling*s with *basements*, a detector shall be installed on each *story* and in the *basement*. In *dwelling* units where a *story* or *basement* is split into two or more levels, the smoke detector shall be installed on the upper level, except that when the lower level contains a sleep- ing area, a detector shall be installed on each level. When sleeping rooms are on the upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In *dwelling* units where the ceiling height of a room open to the hallway serving the bedrooms or sleeping areas exceeds that of the hallway by 24 inches (610 mm) or more, smoke detectors shall be installed in the hallway and the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the *dwelling* unit in which they are located.

3. That smoke and carbon monoxide detection shall be monitored by a third party monitoring service for all family child care homes that are subject to this Appendix M and that such Appendix M as provide above shall be amended or supplemented as appropriate with this third party monitoring service requirement.
4. That Appendix M as adopted hereby shall only apply to those family child care homes that are licensed and inspected by the State of Colorado in accordance with applicable State regulations and are not licensed for more that twleve (12) children.
5. That the effective date for this Resolution shall be _____, 2019 and shall relate to building permit applications submitted on or after said date.

The vote was:

Commissioner Baker, ___; Commissioner Conti, ___; Commissioner Holen, ___; Commissioner Jackson, ___; Commissioner Sharpe, ___.