
THE CITY OF EKURHULENI

METROPOLITAN MUNICIPALITY:

CHILD CARE CENTRE POLICY, 2023

TABLE OF CONTENTS

ITEM NO.	ITEM	PAGE NO.
1.	BACKGROUND	2
2.	DEFINITIONS	2
3.	SCOPE AND APPLICATION OF THE POLICY	5
4.	CONFLICT RESOLUTION	5
5.	EFFECTIVE DATE	5
6.	LEGISLATIVE CONTEXT	5
7.	APPLICATION PROCEDURE	6
8.	REQUIREMENTS FOR APPLICANTS	8
9.	DECIDING ON THE APPLICATION	9
10.	APPEAL AGAINST A DECISION BY THE AUTHORISED OFFICIAL OR EMPT	10
11.	OFFENCES AND PENALTIES	10
12.	GENERAL GUIDELINES	11
13.	CHILD CARE CENTRES IN RESIDENTIAL BUILDINGS	13
14.	CHILD CARE CENTRES IN TRANSITIONAL INFORMAL SETTLEMENT AREA	15
15.	DEVELOPMENT CHARGES	15
16.	GENERAL CONDITIONS APPLICABLE TO ALL CHILD CARE FACILITIES	16
17.	REVIEW	18
18.	REPEAL OF EXISTING POLICIES	18

1. BACKGROUND

The rights of children as stated in Chapter 2 of the Constitution of the Republic of South Africa, 108 of 1996 (the Bill of Rights), as well as in the United Nations Convention on children's rights, emphasise that the rights of children have to be respected at all times by facilities that are responsible for the care of children. Child Care Centres, as facilities that provide education and care to children in the temporary absence of parents, have a constitutional mandate to observe and uphold these rights.

In order to ensure that children receive the best care possible when left in the care of such facilities, and in order to ensure that Child Care Centres are regulated and made accessible to every child, regardless of their background, it is necessary for the Municipality to establish norms and standards within which these facilities may be operated. The minimum standards will guide the Municipality when evaluating land development applications for the establishment of these facility, thus ensuring a consistent approach to Child Care Centres and Day Care Facilities within the City.

2. DEFINITIONS

“APPLICANT”: means an owner or person duly authorised to make a land development Application as contemplated in the City of Ekurhuleni Spatial Planning and Land Use Management By-Law, 2019.

“BENEFICIAL OWNER”: means a person who was granted, in terms of any repealed or other law, specific property rights or equity in a property, even though dominium or formal title of the property has not been registered or transferred;

“BY-LAW”: means the City of Ekurhuleni Spatial Planning and Land Use Management by-law, 2019”

CHILD CARE CENTRE POLICY, 2023

“CELUS”: means the City of Ekurhuleni Metropolitan Municipality Land Use Scheme, 2021.

“CERTIFICATE OF ACCEPTABILITY”: means a certificate issued in certificate issued in terms of Section 3 of Regulations Governing General Hygiene Requirements for Food Premises, the Transport of Food and Related Matters (G.N. 638 of 22 June 2018).

“CHILD CARE CENTER”: means *Land* and *Buildings* used for as a child care centre for more than 6 (six) children such as a crèche, nursery school, pre-school, playgroup, after school care centre, pre-primary school or similar facilities. A Child Care Facility shall have the same meaning

“CERTIFICATE OF ACCEPTABILITY”: means a certificate issued in terms of Section 3 of Regulations Governing General Hygiene Requirements for Food Premises, the Transport of Food and Related Matters (G.N. 638 of 22 June 2018).

“DAY CARE FACILITY”: means *Land* and *Buildings* used for the care of 6 (six) or less children, or the care of 6 (six) or less persons older than 55 who are not able to care for themselves during the day, but excludes overnight facilities, in compliance with Public Health By-laws and relevant legislation

“DEVELOPMENT CHARGE”: means a financial charge or contribution that is levied by the Municipality, as contemplated in the By-law, for the provision, installation, enhancing, upgrading of engineering services, including payment of which will contribute towards the Municipality’s expenditure on capital investment in municipal infrastructure services and provision of public transport read with sections 40(7)(b) and 49 of the Spatial Planning and Land Use Management Act 16 of 2013 and includes engineering- or engineering services contributions-, development contributions payable in terms of any other Act;

“LARGE SCALE FACILITY”: means a child care center accommodating a more than 30 children

CHILD CARE CENTRE POLICY, 2023

“MSDF”: means the City of Ekurhuleni Municipal Spatial Development Framework, 2015.

“MUNICIPALITY”: means the City of Ekurhuleni Metropolitan Municipality as envisaged in section 155(1) of the Constitution, and as contemplated in the City of Ekurhuleni Spatial Planning and Land Use Management By-Law, 2019.

“OWNER”: means a natural or juristic person registered in a deeds registry as contemplated in sections 1, 2 and 102 of the Deeds Registries Act as the Owner of Land or beneficial Owner in law where properties have been vested in and are under the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).

“PUBLIC HEALTH CERTIFICATE”: means a health certificate issued in terms of the Public Health By-law.

“SMALL SCALE FACILITY”: means a child care centre accommodating a maximum of 30 children

“TRANSITIONAL INFORMAL SETTLEMENT AREA”: means a Transitional Informal Settlement Area as contemplated in terms of the By-law.

3. SCOPE AND APPLICATION OF THE POLICY

This policy must be used to prescribe standards and evaluation criteria which will guide the Municipality in evaluating land development applications for the establishment of Child Care Centres. It will also take cognisance of Child Care Centres established in transitional informal settlement areas. The process for the establishment of a Child Care Centre is prescribed by the By-law read together with CELUS. The policy is applicable to all Child Care Centres within the jurisdiction of the Municipality and shall be implemented as such.

4. CONFLICT RESOLUTION

This policy is prepared and adopted in terms of the City of Ekurhuleni Spatial Planning and Land Use Management By-Law, 2019 and the City of Ekurhuleni Land Use Scheme, 2021. The policy is subordinate to the Land Use Scheme therefore if there is any conflict between this policy and the Land Use Scheme, the Land Use Scheme shall prevail.

5. EFFECTIVE DATE

This policy will come into effect on the date of approval by the Municipality.

6. LEGISLATIVE CONTEXT

The development of this policy is underpinned by various legislations that promote and protect the rights of children to education as well as regulate the type of environment within which these rights must be realised. Some excerpts from such legislation are summarised below.

- 6.1. Constitution of the Republic of South Africa; (Act 108 of 1996)**
- 6.2. Children's Act 2005, (Act 38 of 2005)**
- 6.3. COE Spatial Planning Land Use Management (Splum) By-Law, 2019**
- 6.4. City of Ekurhuleni Public health By-laws**

- 6.5. National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards for Environmental Health Practitioners, Annexure A, Standards Applicable to Premises, Notice 1229 of 24 December 2015 in terms of the National Health Act,2003 (Act 61 of 2003)**
- 6.6. The City of Ekurhuleni Land Use Scheme, 2021**

7. APPLICATION PROCEDURE

- 7.1** A person who wishes to operate a Child Care Centre within the jurisdictional area of the Municipality must apply to the Municipality on prescribed forms available at Municipal offices.
- 7.2** For the application to be considered, the applicant must complete the relevant land development application form and all relevant documents as outlined in the application form must be attached accordingly.
- 7.3** The Municipality will endeavour consider the application within three (3) months from the date of receipt of a complete application.
- 7.4** All applications will be considered on their own merit. A Mere submission of a land development application does not bind the Municipality to approve the land application.
- 7.5** No Child Care Centre may be approved by the Municipality, contrary to a restrictive condition as indicated in Section 49(1) of the By-law
- 7.6** The Child Care Centre may be evaluated in terms of the existing and relevant Local Spatial Development Framework, Precinct Plan or Regional Spatial Development Framework of the area to ensure that there is alignment with and does not supersede the prevailing Spatial policies.
- 7.7** The access and location of the site where the Child Care center will be operated from is crucial, therefore, the Roads and Stormwater Department must be consulted and satisfied that these aspects adhere to Clause 12.3.1 and 12.3.2 of this Policy.

CHILD CARE CENTRE POLICY, 2023

7.8 To facilitate the assessment of the Child Care Centre application, the following information should be provided with a land development application (in conjunction with any other requirements):

i) A proper written motivation which details:

- a)** The number and ages of children as approved by the Health and Social Development Department;
- b)** The type of the proposed facility and services offered, including the type of structures, ablution facilities and any proposed additions thereto;
- c)** The number of people to be employed and the roles they will play;
- d)** The hours and days of the week of operation and a daily timetable (including list of activities), including time allocated for outdoor play;
- e)** How the impact on the neighbours can be reduced;
- f)** Whether or not there is a residential component;
- g)** How the children and staff travel to and from the centre;
- h)** A neatly drawn scaled and clearly dimensioned site plan indicating:

ii.) Cadastral (property) boundaries on the subject property;

iii.) The areas of the dwelling/ building to be used in the case that there is a residential component on the property;

iv.) A table indicating the square metres of the structure to be used for the Child Care Centre,

as well as amount of indoor and outdoor space provided for the specified age categories;

v.) The location of outside play areas and play equipment;

vi.) The proposed parking, drop off areas and access arrangements, including staff parking arrangements as per CELUS parking requirements; and

vii.) How the boundaries of the property are to be treated in terms of walling and fencing.

8. REQUIREMENTS FOR APPLICANTS

- 8.1** Any person who wishes to operate a Child Care Centre within the jurisdiction of the Municipality must apply to the Municipality by submit the following documents together with a completed application form:
- a)** In the case that the owner of the land/ property is not the applicant, a Concluded Lease Agreement must be obtained and submitted to the Municipality.
 - b)** A copy of title deed and Leasehold title or permission to occupy;
 - c)** Bondholder's Consent (if applicable);
 - d)** Comments from external Departments (if applicable);
 - e)** Company Resolution (if applicable);
 - f)** Proof of notification of neighbours
 - g)** Site plan of the Child care Centre
 - h)** Maps (Locality Plan, Land Use Plan, Zoning Map);
 - i)** Motivational Memorandum;
 - j)** Special Power of Attorney (if applicable) ;
 - k)** Internal and external photos of the existing building(s) in the site.
 - l)** The number of children to be accommodated in the Child Care Centre as per written confirmation from the Health and Social Development Department.
 - m)** The application fee(to be paid in once a complete application has been submitted);
- 8.2** A pre-consultation process must be conducted by the applicant and the relevant departments for a Child Care centre with 30 children and more.
- 8.3** Upon receipt of complete land development application, the Municipality will, within a period of 14 days, from the date of receipt of a land development application, acknowledge receipt of a land development application, charge a land development application fee, and provide a receipt as proof of payment to the applicant and simultaneously give the applicant consent to attend to the public participation.

CHILD CARE CENTRE POLICY, 2023

- 8.3** The planner at the relevant municipal office will advise the applicant of the required public participation including the affected neighbours which need to be notified of the land development application.
- 8.4** The applicant shall within 21 days from the last day of display of the site notice submit the following documents to the Municipality
- a) a sworn affidavit in the prescribed form confirming the site notice was maintained
 - b) Photographic evidence of the site notice; and
 - c) Proof of notification to adjoining property owners

9. DECIDING ON THE APPLICATION

- 9.1** The Municipality will endeavour to consider the application within three (3) months from the date of receipt of a complete application.
- 9.2** The applicant will be notified of the decision of the Municipality together with the reasons thereof, within the period of fourteen (14) working days from the date of such decision.
- 9.3** All applications will be considered on merit and it must be noted that the a mere submission of a land development application does not imply that such application will necessarily be approved by the Municipality.
- 9.4** The applicant shall not exercise the Child Care Centre rights until the land development application has been approved and the development charges have been paid (if applicable).
- 9.5** An owner of a Child Care Centre shall display a signed zoning certificate and Certificate of Acceptability issued by the Municipality in a conspicuous place, preferably at the entrance to the establishment.

9.6 No other business shall be operated from a without the permission of the Municipality.

10. APPEAL AGAINST A DECISION BY THE AUTHORISED OFFICIAL OR EMPT

10.1 An applicant aggrieved by the decision taken by the Authorised Official or the Ekurhuleni Municipal Planning Tribunal (EMPT) has the right to appeal against that decision as prescribed in Section 99(1) of the By-law.

10.2 The affected applicant must lodge his appeal with the Municipal Manager within a period of twenty-one (21) days of the date of delivery of the notification of that decision.

10.3 The Appeal Authority shall decide on the appeal within 30 days from the date of receipt of the appeal documents from the municipal manager

10.4 The decision by the Appeal's Authority is final and binding unless otherwise challenged in the court of law.

11. OFFENCES AND PENALTIES

11.1 Any person who establishes a Child Care Centre without Municipal approval shall be guilty of an offence and will be served with a contravention notice to cease the abovementioned contravention and restore the property to its original purpose within 28 days from the receipt of the notice.

11.2 Any person who fails to cease the illegal use within the timeframe specified in the contravention notice shall be liable to a minimum daily administrative penalty as provided for in the approved City of Ekurhuleni Tariffs for that relevant financial year, until such time as the contravention and compliance notice is complied with. The administrative penalty is subject to an annual increase in line with the City Planning Department tariffs.

- 11.3** Should the contravener fail to pay the penalty fee imposed, the Municipality shall follow the contravention procedure as contemplated in chapter 10 of the By-law.
- 11.4** The Municipality may revoke the land development application granted if the land or building is used contrary to CELUS, the By-law or the conditions as stipulated in the approval.
- 11.5** If a consent use is approved by the Municipality and the rights granted by that consent use is not exercised within twelve (12) months from the date of approval, the consent use shall lapse automatically without notification by the Municipality that it will or has lapsed.

12. GENERAL GUIDELINES

The following aspects are to be taken into consideration in assessment of land development applications for Child Care Centres. Given the great variation in socio-economic contexts that characterise the Municipality, it is important that a degree of flexibility be applied in the application of these guidelines. The following criteria will be applied to all land development applications for Child Care Centres:

12.1 General Health and Social Services Guidelines

City of Ekurhuleni Public health By-laws outlines guidelines that are applicable to all Day Care and Child Care Centres within the Municipality and must be used to evaluate all applications for a Certificate of Acceptability. The Head of Department: Health and Social Development must confirm with the City Planning Department: Operations Division that all development charges (in the case that they were charged) have been paid before a Certificate of Acceptability is issued by the Health and Social Development Department.

CHILD CARE CENTRE POLICY, 2023

The Health and Social Development Department shall note the number of children that have been approved for the specific child care centre and in the case that the actual number of children in the Child care center is exceeded, the Certificate of Acceptability should not be issued.

A Certificate of Acceptability can then be issued after Head of Department: Health and Social Department is satisfied that the guidelines applicable to Child Care Centres as contained in the Municipality's Health By-law are complied with.

12.2 General Environmental Guidelines Pollution Buffer Zone Guideline from GDARDE

When commenting on land development applications for Child Care Centre, the Environmental Resource and Waste Management Department must take into consideration, the Pollution Buffer Zone Guideline (from GDARDE), legislative requirements, environmental sensitivities and other key environmental concerns.

12.3 General Town Planning Guidelines

12.3.1 Location

The scale of the facility and its impact on the immediate environment must be taken into consideration. A small scale facility, accommodating a maximum of 30 children may be located in its local area as its impact will not detrimentally affect and change the character of the area. These facilities should be well distributed in the specific area to ensure that their accessibility is maximised.

Medium to large scale facilities (more than 30 children) on the other hand, should be located next to non-residential uses such public or private open spaces, community facilities and where possible, commercial nodes to support the concept of clustering as contained in the MSDF. Due to the potential increased traffic that is normally associated with these facilities, it is recommended that large scale facility Child Care Centres be located on Class 3 roads.

12.3.2 Access

Access to the facility must be both convenient and safe for pedestrians and vehicles. Access arrangements to these facilities must promote the protection of vulnerable road users, such as children, people with disabilities, the elderly, etc. This type of use must therefore adhere to 12.3.1 above and must be to the satisfaction of the Roads and Stormwater Department.

12.3.3 Parking

Sufficient parking and safe dropping-off facilities must be provided on site, in line with the provisions of CELUS, 2021, where required. No parking facilities are required in Transitional Informal Settlement Areas.

12.3.4 Operating Hours

The facility shall not operate outside the times specified in the approval of the land development application.

12.3.5 Noise and Security

The play equipment must be located on the furthest boundary from neighbouring residential dwelling where possible or no less than 3m from boundary with neighbouring dwellings. Where appropriate, adequate treatment and screening of the erf boundaries are recommended in order to minimise the noise impact. Where applicable, the type of screening done shall be to the satisfaction of the Municipality.

12.4 General Geographic Information System (GIS) guidelines

The approved land development application shall be loaded onto the GIS and be reflected on the zoning certificate only after it has been confirmed with the City Planning: Operations Division that all development charges (if applicable/charged) have been paid.

13. CHILD CARE CENTRES IN RESIDENTIAL BUILDINGS

It is a known fact that in CBDs, where densities are high and access to large free standing properties is difficult, Child Care Centres usually operate from residential buildings. In these instances, the major limitation is with regards to the provision of outdoor play area and the associated playing equipment.

The other major issue is the safety of children in these facilities. Due to the fact that a residential building is usually occupied by numerous unrelated people/ families, it becomes difficult to monitor who can gain access to the facilities.

The following guidelines must be used in the assessment of land development applications in residential buildings:

- 13.1** The area from which the Child Care Centre operates must be located on the ground floor of the residential building.

- 13.2** A letter of consent from the managing agent and/the body corporate permitting the applicant to use the common property within the development for purposes of the Child Care Centre (play area and parking), must be submitted by the applicant.

- 13.3** In instances where there is a pool near the playground within the establishment, the applicant shall, at their own cost, ensure that the pool is fenced and secured, to the satisfaction of the Health and Social Development Department.

- 13.4** No other business shall be operated from the area of a building used as a child care centre.

- 13.5** Where parking within the development cannot be used for purposes of parking by the Child Care Centre, the owner must lease a minimum of two parking spaces in front of the residential building to be used as a drop off area for the crèche. A lease agreement must be concluded between the Real Estate

CHILD CARE CENTRE POLICY, 2023

Department and the applicant for this purpose and a copy of the signed lease must be submitted to the Municipality with the submission of the land development application.

- 13.6** The applicant must, through the department of Roads and Stormwater, put up a “No Parking Zone” sign for a determined period during specific times in from of the leased parking spaces.

14. CHILD CARE CENTRES IN TRANSITIONAL INFORMAL SETTLEMENT AREA

In a transitional informal settlement area, a Child Care Centre may be permitted subject to the consent of the Municipality.

An application for consent use in a transitional informal settlement is subject to section 32(2) (a-c) of the By-law and may only be accepted by the Municipality if the following conditions are met:

- 14.1** Application will only be accepted in areas listed in schedule 12 of the CELUS.
- 14.2** Only a beneficial owner of a dwelling unit may apply.
- 14.3** Confirmation of the allocation of the subject dwelling by the relevant department must clearly outline the following:
- a)** The full names and identity number of the beneficiary;
 - b)** The name of the informal settlement area; and
 - c)** The unique number given to the subject dwelling;
 - d)** A copy of ID of the beneficiary
 - e)** Where the applicant is not the beneficiary, a power of attorney authorising the representative to submit an application on behalf of the beneficiary must be accompany the application.
- 14.4** The number of children to be permitted in will be determined by the Health and Social Development Department

CHILD CARE CENTRE POLICY, 2023

- 14.5** The applicant shall hand deliver a notice of the application to affected neighbours in a format prescribed by the Municipality.

15. DEVELOPMENT CHARGES

Development charges will apply to land development applications for Child Care Centres according to Council approved bulk contribution policies.

16. GENERAL CONDITIONS APPLICABLE TO ALL CHILD CARE FACILITIES

The following conditions will be applicable to all land development applications for Child Care Centres within the City. Conditions must be custom-made to suit the specific circumstance. The Municipality may impose further conditions, over and above those listed herein.

- 16.1** Where required, on and off loading of the children must take place on the property.
- 16.2** Parking shall be provided as prescribed in CELUS 2021
- 16.3** Pedestrian movement must be discussed with the Department of Public Safety and the cost of any road signs will be borne by the applicant.
- 16.4** The erf must comply to the conditions and regulations as contained in the City of Ekurhuleni Public Health by-laws and the National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards.
- 16.5** Child care facility must comply with Health and Social development Department requirements and be registered with Gauteng Department of Education.
- 16.6** The maximum number of children to be accommodated on the erf shall not exceed the number recommended by the Health and Social Development Department and as indicated in the approval letter.
- 16.7** Walls must be provided/extended on all boundaries up to a height of 2.4 metres if required to so, to the satisfaction of the Municipality. Building plans must be

CHILD CARE CENTRE POLICY, 2023

submitted and approved before construction and all costs are to be borne by the applicant.

- 16.8** A Certificate of Acceptability and Public health permit to the effect that the premises, general health facilities and services to which such Certificate of Acceptability relates, comply with the Public Health By-law shall be obtained from the Health and Social Development Department and displayed in at the entrance/ reception of the facility.
- 16.9** The zoning certificate must be obtained from the City Planning Department and shall be displayed at all times in a visible place within the Child Care Centre.
- 16.10** The Child Care facility shall comply with all relevant health legislations as contained in the City of Ekurhuleni Public Health By-law.
- 16.11** Child Care Centres operating from a residential building will only be permitted in ground floor units.
- 16.12** Child Care Centres operating from residential ground floor units shall not have access to internal common property within the building, i.e. passages, lifts, staircases, etc.
- 16.13** No noxious or poisonous or dangerous plant or shrub shall be permitted on the premises and no animals or birds be kept on the premises without the approval of the Environmental Health Practitioner.
- 16.14** In the case that the Child Care Facility is operated from a residential building, a dedicated waste storage and removal facility must be provided on site to the satisfaction of the Environmental Resource and Waste Management Department.
- 16.15** In the case that the Child Care Facility is not operated from a residential buildings and transitional informal settlements, the applicant is required to have an additional 240lt bin to ensure that there is sufficient capacity to cater for the additional waste.
- 16.16** No padding pool, swimming pool or other structure shall be permitted in any Child Care Centre without an approved fencing and safety net, from the relevant Municipal Department.

CHILD CARE CENTRE POLICY, 2023

16.17 Where development charges are applicable, the following must be noted and complied with:

- a)** All payments shall be required before the commencement of activities listed in Section 85 of the By-law.
- b)** The development charges will be payable by cash, card, cheque or electronic funds transfer (EFT).
- c)** Subject to Section 16.16.b) above, the applicant will make a payment in response to a detailed invoice provided by the Municipality to the applicant. Proof of such payment must be submitted to the relevant department(s) before any development on site may take place.
- d)** The Municipality may withhold any approval or stop any activity listed in Section 85 of the By-law where the applicant has not complied with his or her development charges liabilities.
- e)** Consent granted in a transitional informal settlement area shall lapse simultaneously with the lapse of the area as a transitional informal settlement area and a new land development application must be submitted, should the applicant wish to proceed with the land use.

17. REVIEW

This policy must be reviewed every five years or when a need arises, to ensure alignment to the by-law and the Scheme.

18. REPEAL OF EXISTING POLICIES

This policy replaces the Crèches /Nursery Schools Policy as Approved by the Mayoral Committee at their meeting held on 30 June 2003 vide ITEM B-DP (12-2003).