

ORDINANCE NO. 19-36  
BY: Rob Zimmerman

Amending Sections 1262.03 and 1263.09 of the Zoning Code of the Shaker Heights Codified Ordinances in order to improve the regulation of Type A and Type B child day care homes and to protect the public health, safety and welfare.

WHEREAS, Part Twelve of the Codified Ordinances of the City of Shaker Heights was adopted by the Council of the City to district or zone the City of Shaker Heights according to the uses, heights, bulk and location of buildings and other structures and the use of premises in its current form by Ordinance No. 95-80, on July 24, 1995, and Part Twelve has from time to time been amended and supplemented for such purposes; and

WHEREAS, in Resolution 18-95, enacted on October 9, 2018, this Council enacted a 90-day moratorium on applications for Type A child day care homes made pursuant to Sections 1263.09 and 1213.05 of the City's Zoning Code, and in Resolution 18-111, enacted on December 17, 2018, this Council extended the moratorium until April 8, 2019, to give the City time to consider revisions to the City's Zoning Code regarding the regulation of Type A and Type B child day care homes; and

WHEREAS, pursuant to Section 1212.03 A. 2. a. of the City's Zoning Code, the City Planning Commission hears, reviews, and approves or disapproves applications for amendments to the Zoning Ordinance; and

WHEREAS, on April 2, 2019, the City Planning Commission held a public hearing and recommended approval of zoning ordinance text amendments to the Child Day Care Home regulations in Sections 1262.03 and 1263.09 of the Zoning Code; and

WHEREAS, pursuant to Section 1212.02 B. of the City's Zoning Code, City Council approves or disapproves any application for an amendment to the Zoning Ordinance, and amendments to the Zoning Ordinance require three readings and a public hearing at City Council; and

WHEREAS, this Council finds that in the interest of the promotion of the public peace, health, safety, convenience, comfort, prosperity and general welfare, it is necessary to amend Sections 1262.03 and 1263.09 of the Zoning Code of the Shaker Heights Codified Ordinances, in order to protect the public and prevent negative impacts on City neighborhoods, while ensuring the availability of in-house, community-based, affordable day care close to residents' homes; and

WHEREAS, this Council further finds that this ordinance has been submitted to the Council by the City Planning Commission, and that a public hearing has been had hereon, and notice of such hearing given in the manner provided by law, and that this ordinance has been considered upon three or more readings before this Council prior to its enactment; and

WHEREAS, this Council further finds that all formal actions of Council relating to the adoption of these amendments to Part Twelve of the Codified Ordinances of the City of Shaker Heights, and all deliberations of Council

and the City Planning Commission leading to such action, were in meetings open to the public as required pursuant to Chapter 115 of the Shaker Heights Administrative Code and Article II, Section 5 of the Shaker Heights City Charter.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Sections 1262.03 and 1263.09 of the Zoning Code of the Codified Ordinances of the City of Shaker Heights presently in effect are hereby repealed.

Section 2. Sections 1262.03 and 1263.09 of the Zoning Code of the Codified Ordinances of the City of Shaker Heights are hereby enacted as amended to read as follows:

**CHAPTER 1262  
Accessory Uses and Structures**

**1262.03 CHILD DAY CARE HOMES, TYPE ~~A AND B.~~**

**A. Definition-Number of Children.** Child day care homes are defined by the number of children for which they care. ~~Child Day Care Home, Type B.~~ A Child Day Care Home, Type B is a permanent residence in which child day care or child day care homes are is provided for one (1) to six (6) children at one time and in which no more than three (3) children may be under two (2) years of age at one time. In counting children for the purposes of this Zoning Ordinance, any children under six (6) years of age who are related to the provider and who are on the premises of the type B home shall be counted. Child Day Care Homes, Type B are a permitted accessory use in the SF1, SF2, SF3, and TF Districts.

**B. Location and Distance.** Any Child Day Care Home shall be located in the primary residence of its operator. Child Day Care Homes shall be located no closer than five hundred (500) feet to any existing Child Day Care Facility upon the same street or nearest intersecting street. Neither shall any Child Day Care Home be located upon property contiguous with a property upon which another Child Day Care Facility is located.

**C. Hours of Operation.** Child Day Care Homes shall not be operated between the hours of eight thirty p.m. and six thirty a.m. (8:30 p.m.-6:30 a.m.).

**D. Compliance.** The provider shall be responsible for compliance with all applicable City ordinances and state and federal statutes and regulations.

**E. Inspection.** Each Child Day Care Home shall be subject to inspection by the Building and Housing Director, Director of Health, and the Chief of Fire ~~Prevention~~ or their designees for conformance with applicable standards set forth in the City ~~Health, Fire and Housing Codes.~~ Inspections shall be conducted ~~annually~~ by the ~~Health Department, Building and Housing Inspection~~ Department and Fire ~~Prevention~~ Department.

**F. Licensing.** Every Child Day Care Home shall file, and maintain current ~~with the Zoning Administrator,~~ proof of prior licensing (if any), certification or other approval of every public agency charged with its regulation.

**G. Activity Area.** If a Child Day Care Home shall provide and maintain an outdoor play area, such play area shall be fully enclosed by a fence, wall, or hedge of at least three (3) feet in height.

**H. Evidence of No Contractual Restrictions.** If the Child Day Care Provider is a lessee, a copy of the lease or other satisfactory documentation shall be provided as evidence that no contractual restrictions apply.

I. Registration. Every Child Day Care Home shall register with the Zoning Administrator on forms provided by the Planning Department, and shall be subject to administrative zoning review and inspections.

**CHAPTER 1263  
Conditional Uses**

**1263.09 CHILD DAY CARE HOMES, TYPE A AND B.**

A. Definitions and Number of Children. Child day care homes are defined by the number of children for which they care.

1. Child Day Care Home, Type A. A permanent residence in which child day care is provided for seven (7) to twelve (12) children at one time or a permanent residence of the administrator in which child day care is provided for four (4) to twelve (12) children at one time if four (4) or more children at one time are under two (2) years of age. In counting children for the purposes of this Zoning Ordinance, any children under six (6) years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted.

2. Child Day Care Home, Type B. A permanent residence in which child day care or child day care homes are provided for one (1) to six (6) children at one time and in which no more than three (3) children may be under two (2) years of age at one time. In counting children for the purposes of this Zoning Ordinance, any children under six (6) years of age who are related to the provider and who are on the premises of the type B home shall be counted.

B. Applicable Districts. Child Day Care Homes, Type A may be granted a Conditional Use Permit only in the SF1, SF2, and SF3 Districts. Child Day Care Homes, Type B may be granted a Conditional Use Permit only in the MF and A Districts. Child Day Care Homes, Type B ~~They~~ are a permitted accessory use in the SF1, SF2, SF3, and TF Districts.

C. General Standards for Child Day Care Homes, Type A and B. All Child Day Care Homes, including both Type A and Type B, shall be operated in compliance with the requirements in pursuant to Section 1262.03, subsections, ~~Child Day Care Homes Type A and B~~ B. through I.

D. Additional Requirements for Child Day Care Homes, Type A:

1. Prior to approval of a conditional use permit the following must be completed:
  - a. The applicant must provide the City with verification from a representative of the Bureau of Child Care Licensing and Monitoring at the Ohio Department of Job and Family Services that adequate interior space is available in the home, and such space shall be maintained during operation of the Home.

- b. The applicant must demonstrate a track record of having operated a Type B day care without violation of this Chapter and Chapter 1262.03 at the same home.
  - c. A parking, pick up and drop off plan must be submitted to the City, and the plan must be implemented during operation of the Home.
2. Prior to beginning operation, an approved Type A Day Care Home must complete the following:
- a. All interior Housing Code violations in spaces used by the children shall be corrected.
  - b. The outdoor play area shall be enclosed by a 6 foot tall solid fence, and such fence shall be maintained during operation of the Home.
3. After operation of an approved Type A home begins, the following conditions shall apply at all times during operation:
- a. The Home shall have a continuing obligation to comply with all city ordinances, including the City's noise ordinances.
  - b. Outdoor play hours are limited to between 9:00 a.m. and 7:00 p.m.
  - c. On Saturdays and Sundays there shall be a maximum of 6 children.
  - d. Inspections may be conducted by the City as the City deems necessary, and an administrative review may be conducted after 1 year from the date of the issuance of a conditional use permit, to include an evaluation of the Home for compliance with all conditions and with Section 1213.05 H., Conditional Use Permit Standards, and neighborhood input.

Section 3. Applications submitted to and/or pending before the City Planning Commission or the Board of Zoning Appeals prior to the effective date of this ordinance shall be deemed governed by Part Twelve, the Zoning Code of the Codified Ordinances of the City of Shaker Heights, in effect prior to the effective date of this ordinance.

Section 4. The effect of this ordinance shall not be to make illegal any use that is presently legal.

Section 5. This ordinance shall take effect from and after the earliest time allowed by law.

Enacted June 24, 2019.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019.

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DAVID E. WEISS, Mayor

Attest:

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JERI E. CHAIKIN  
Clerk of Council

Coun19/0416DayCareZoningCode-CODORD