

CITY-COUNTY GENERAL ORDINANCE NO. 24, 1995  
Proposal No. 62, 1995  
METROPOLITAN DEVELOPMENT COMMISSION DOCKET NO. 95-AO-1

A GENERAL ORDINANCE amending the Dwelling Districts Zoning Ordinance of Marion County, 89-AO-2, as amended.

WHEREAS, IC 36-7-4, as amended, establishes a single planning and zoning authority in counties having consolidated cities and grants certain powers relative to the zoning and districting of land to the Metropolitan Development Commission and the City-County Council of such counties having consolidated cities, in order to unify the planning and zoning functions thereof; and,

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana, has adopted and certified, pursuant to IC 36-7-4, as amended, various segments of its COMPREHENSIVE PLAN OF MARION COUNTY, INDIANA; and

WHEREAS, said IC 36-7-4, as amended, empowers the Metropolitan Development Commission (MDC) of Marion County, after such comprehensive plan certification, to recommend to the City-County Council an ordinance or ordinances for the zoning or districting of all lands within the county to the end that adequate light, air convenience of access, and safety from fire, flood and other danger may be secured; that congestion in public ways may be lessened or avoided; that property values may be preserved; and the public health, safety, comfort, morals, convenience, and general public welfare may be promoted; and,

WHEREAS, the State of Indiana, by law, prohibits local governments from enacting certain land use regulations which are in conflict with the policy of the State; and,

WHEREAS, specific uses which are by State Statute permitted in residential areas are: 1) group homes, noted by the Indiana Code as: a) residential facilities for the mentally ill; b) residential facilities for the developmentally disabled; and, 2) Child care homes (home day care).

WHEREAS, from time to time the State of Indiana may amend the Indiana Code relative to such uses; and,

WHEREAS, the Municipal Code of Marion County, Indiana, specifically the Dwelling Districts Zoning Ordinance, must also be amended to reflect changes made to the Indiana Code; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Dwelling Districts Zoning Ordinance, Appendix D of the Code of Indianapolis and Marion County, Indiana, as adopted under Metropolitan Development Commission docket numbers 89-AO-2, 90-AO-3, 92-AO-1, 92-AO-3, and 93-AO-4, pursuant to IC-36-7-4, is further amended as follows:

A. That Section 2.15, A, 5 be amended by inserting the underscored language as follows:

5. Accessory uses, as enumerated below:

- a. Manager's office and apartment: project maintenance equipment storage facility.
- b. Common recreation and service buildings, structures and areas, including laundry facilities.
- c. Open storage areas.
- d. Accessory parking areas.

- e. Carports, canopies, covered patios, storage rooms, mini-barns, porches, awnings, swings and other play structures or equipment, provided the height thereof shall not exceed ten (10) feet, measured from the finished mobile dwelling site grade, and that floors of carports, patios, storage rooms and porches shall be of concrete or other permanent pavement.
- f. Wholesale and retail sales of mobile dwellings conducted as a business by dealers of mobile dwelling project owners/operators shall be prohibited in the D-11 district. Except, however, a mobile dwelling project owner/operator may display not more than six (6) "model" mobile dwellings on mobile dwelling sites in the interior of the project, provided such model units shall not be displayed for sale or removal outside the project; and further provided that no signs relative to the "model" units shall be installed so as to be visible to the public outside the project.
- g. An incidental model home sign, as regulated in the Sign Regulations of Marion county, Indiana (71-AO-4, as amended) shall be permitted for each "model" mobile dwelling. Provided further, however, nothing contained herein shall restrict the right of any individual owner of any mobile dwelling unit to sell or lease such unit.

h. Child Care Home

- B. That Section 2.19, A be amended by inserting the underscored language as follows:

A. Permitted accessory uses

The following Accessory Uses shall be permitted in all Dwelling Districts, except the D-11 Dwelling District (see Section 2.15, A, 5 for permitted accessory uses in this District), subject to the Accessory Use Requirements of Section 2.19, B and the Dwelling District Regulations of Section 2.00;

- C. That Section 2.19, A, 10, be amended by deleting the stricken-through language and inserting the underscored language as follows:

~~10. Day care of children unrelated to the residents by blood or adoption where care is provided for no more than ten children on a full-time basis and no more than five additional children on a part-time basis; provided however, where care is provided for more than five children, the day care provider shall be licensed in accordance with the requirements of the State of Indiana. Provided further, no sign shall be displayed. For the purposes of this ordinance, the day care of children, as described above, shall not be considered a Home Occupation.~~

10. Child care home, as defined in Section 2.25 and as regulated by IC 12-17.2 and rules adopted by the Division of Family and Children or the Fire Prevention and Building Safety Commission of the State of Indiana. For purposes of this ordinance, a child care home shall not be considered a home occupation.

- D. That Section 2.20, A, be amended by inserting the underscored language as follows:

A. Permitted home occupations

Certain professions and domestic occupations, crafts and services defined below as "permitted home occupations" shall be permitted in all Dwelling Districts (except the D-11 District) and in any other zoning district in Marion County permitted dwelling uses, provided that each such home occupation complies with all requirements set forth in section 2.20, B hereof.

Professions and domestic occupations, crafts or services which, as typically carried out, can be conducted in a dwelling without impairment of the use thereof as a place of residence and with no detrimental effect upon adjacent residential properties, as permitted home occupations. Examples of professional services which constitute permitted home occupations include law, medicine, dentistry, architecture, engineering, real estate brokerage, tutoring, writing, painting, music instruction, photography and such services as are provided by clergyman, insurance agents, notaries public and manufacturer's agents. Examples of domestic occupations, crafts and services which constitute permitted home occupations include dress-making, millinery, sewing, tailoring, weaving, hair grooming, washing, ironing and cabinet making.

For purposes of this ordinance, a child care home shall be considered an accessory use, and not a home occupation.

E. That Section 2.25, B be amended by deleting the stricken-through language and inserting the underscored language as follows:

22. Child, per IC 12-7-2-28: An individual who is less than eighteen (18) years of age.

23. Child care, per IC 12-7-2-28.2: A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

24. Child care home, per IC 12-7-2-28.6:

(a) a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative) at any time receive child care from a provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(b) The term includes:

(1) A class I child care home;

(2) A class II child care home; and,

(3) Exempt Licenses - per IAC 3-1.1-26.

25. Class I Child Care Home, per IC 12-7-2-33.7:

a. A child care home that serves any combination of full-time and part-time children, not to exceed twelve (12) children at any one time.

b. A child:

(1) for whom the provider of care is a parent, stepparent, guardian, custodian or other relative; and

(2) who is at least seven (7) years of age shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

26. Class II Child Care Home, per IC 12-7-2-33.8:

a. a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one time.

b. A child:

(1) for whom the provider of care is a parent, stepparent, guardian, custodian, or other relative; and

(2) who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

~~70.75.~~ Group home: A residential facility for the developmentally disabled (as defined by IC 12-7-2-166) or a residential facility for the mentally ill (as defined by IC 12-7-2-167), licensed by the Community Residential Facilities Council, or its successor in authority in accordance with a program described in law, and defined per Indiana Code 16-13-21.

a. IC 12-11-1 (residential facility for the developmentally disabled); or

b. IC 12-22-2-3(2) through 12-22-2-3(6) (residential facility for the mentally ill).

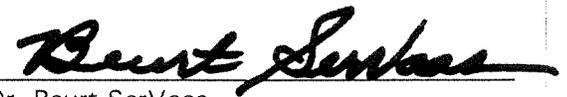
F. That Section 2.25, B be amended by renumbering the definitions to accommodate the additions noted in C above.

SECTION 2.If any section of this ordinance shall be invalid, its invalidity shall not affect any other provisions of this ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this ordinance are hereby declared to be severable.

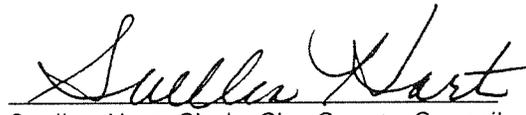
SECTION 3.This ordinance shall be in full force and effect upon its adoption in compliance with IC 36-7-4.

The foregoing was passed by the City-County Council this 13th day of February, 1995, at 8:58 p.m.

ATTEST:



Dr. Beurt SerVaas  
President, City-County Council



Suellen Hart, Clerk, City-County Council

