

**ORDINANCE NO.: 2021- 48**

**INTRODUCED BY:** Mayor Annette M. Blackwell

**MOTION FOR ADOPTION BY:**

**AN ORDINANCE AMENDING AND RE-STATING SECTION 1298.28(A)(5) OF THE CODIFIED ORDINANCES OF THE CITY OF MAPLE HEIGHTS CONCERNING PERMITTING TYPE B FAMILY DAY CARE HOMES IN RESIDENTIAL DISTRICTS, AND DECLARING AN EMERGENCY.**

**WHEREAS**, Ohio Revised Code Section 5104.054, effective January 1, 2014, prohibits municipalities from requiring providers of Type B family day care homes to obtain conditional use permits to operate in residential districts; and

**WHEREAS**, **Section 1298.28(A)(5)** of the City’s Codified Ordinances conflicts with R.C. 5104.054, in that its definition of a Type B family day care home would prohibit such Type B homes in the City’s residential districts without provider’s first obtaining a conditional use permit as a Home Occupation under **Sect. 1298.22**.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, that:

**Section 1.** **Section 1298.28(A)(5)** of the City’s Codified Ordinances is hereby amended and re-stated to read as follows, with additions being underlined:

“5. Type-B family day care home” and “Type-B home” mean a permanent residence of the provider in which child care is provided for one (1) to six (6) children at one (1) time and in which no more than three (3) children are under two (2) years of age at one (1) time. In counting children for the purposes of this division, 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. Any Type B family day care home, whether licensed or not licensed by the Director of Jobs and Family Services, shall be considered to be a residential use of property and shall be a permitted use in all zoning districts in which residential uses are permitted. No conditional use permit or any other special exception certification for any such Type B family day care home, including a conditional permit as a Home Occupation under **Sec. 1298.22**, shall be required.”

**Section 2.** The Clerk of Council is authorized and directed to forward a certified copy of this Ordinance to the publisher of the Codified Ordinances of the City for immediate inclusion of **Amended Section 1298.28(A)(5)** in the current print and electronic editions of the City’s Codified Ordinances.

**Section 3.** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**Section 4.** This Ordinance constitutes an emergency measure necessary for the public peace, safety and general welfare of the City and for the further reason that the requirements for Type B homes must be timely updated, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_, 2021

\_\_\_\_\_  
Ron Jackson, Council President

\_\_\_\_\_  
Annette M. Blackwell, Mayor

Approved as to legal form:

\_\_\_\_\_  
Frank Consolo, Director of Law

ATTEST: \_\_\_\_\_  
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: \_\_\_\_\_

\_\_\_\_\_  
Leonette Cicirella Johnson, Clerk of Council