

CITY OF O'FALLON, ILLINOIS
ORDINANCE NO. _____

**AN ORDINANCE FOR THE
AMENDMENT OF HOME CHILD
CARE ZONING REGULATION,
THE AMENDMENT OF GARAGE
CONVERSION FOR DWELLING
USE ZONING REGULATION,
INCREASE IN MAXIMUM LOT
COVERAGE FOR SR-3, MH-1, AND
MH-2 DISTRICTS, AND
THE AMENDMENT OF WRITTEN
PROTEST PROCEDURES.**

WHEREAS, the City desires that Home Child Care uses be allowed subject to uniform regulations and standards and upon notice to owners of neighboring properties, the City desires to create uniform regulations and standards for the conversion of residential garages to dwelling use, and the City desires to allow increased maximum lot coverage in certain zoning districts; and

WHEREAS, the City has found and determined that uniform regulations and standards for Home Child Care uses, uniform regulations and standards for garage conversions to dwelling uses, and increased maximum lot coverage in certain zoning district will benefit and advance the public health, safety, morals, and general welfare.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AS FOLLOWS:

Section 1: Chapter 33, Section 33.09 of the O'Fallon Municipal Code is hereby created to read as follows:

Notwithstanding anything to the contrary in Articles V, VII, and XI of the Zoning Code, the authority for review and decision on special permits and uses shall hereby and hereinafter reside in the Planning Commission with all procedures and appeals relating to such decisions to be otherwise applicable to the Planning Commission as previously applied to the Board of Zoning Appeals for special uses and permits in such articles.

Section 2: Article III, Section 3.25 Home Child Care of the City of O'Fallon Zoning Code of Ordinances is hereby amended to read as follows:

Section 3.25 HOME CHILD CARE

1. Home child care shall be a permitted accessory use to a residential dwelling and subject to all home occupation requirements within an SR-1, SR-1B, SR-2, SR-3, MR-1, MR-2, MH-1, or MH-2 District, provided that for any home child care use for four or more children, the following site and use requirements shall be satisfied at all times:
 - (a) Any residence, which is renter-occupied, shall provide written permission from the property owner approving the use of the residence for home health care.
 - (b) Proof of licensure from the State of Illinois Department of Children & Family Services for the specified address.
 - (c) Construction of a permanent, four foot (4') fence around all designated outdoor play areas located on the subject property. All play equipment shall be kept in good repair.
 - (d) Minimum of two (2) off-street parking spaces located on-site per facility. Adequate street access, turn-around capacity, and safe and efficient ingress and egress design so as to not interfere with neighboring properties or area traffic.
 - (e) Inspection by City staff when approved for use by state license to ensure adherence to current building codes and fire codes prior to issuance of permit.
 - (f) Number of children is limited to eight (8), including the caregiver's own natural, adopted, or foster children, related children, and unrelated children under age 12 living in the home. This does not include facilities which receive only children from a single household.
 - (g) Hours of operation shall not exceed amounts permitted by the state license, however children received by a home child care facility must be for less than 24 hours per day.
 - (h) When a home child care is in violation of certain covenants and restrictions adopted through a Homeowner's Association, Board of Trustees, or other subdivision governing body, the City does not enforce or take into account private covenants when granting home child care permits.
 - (i) Employees are limited to only inhabitants of the residence in accordance with Section 3.02 Home Occupation provisions of this ordinance.

- (k) The use and site fully complies with all applicable federal, state and local laws.
- (l) An approved site plan reflecting compliance with all applicable site requirements.

No Site plan shall be approved until at least ten days after the applicant has provided written notice of the application to property owners within 100 feet of the site. Proof of such written notice and the date such notice was provided to adjoining property owners shall be provided to the City prior to approval. The zoning authorization and site plan approval may be revoked by the Director if any of the requirements herein are at any time not satisfied during Home child care use.

- 2. Where the facility does not fully qualify as a permitted accessory use but satisfies the general requirements for a Special Use Permit established by this Code and otherwise meets the purposes of this Section, and granting such permit is necessary to satisfy the public interest, then a home child care may be approved as an accessory use to a residential dwelling by Special Use Permit in any SR-1, SR-1B, SR-2, SR-3, MR-1, MR-2, MH-1, or MH-2 District
- 3. Any person aggrieved by a decision of the Planning Director in approving or denying zoning authorization for a Home Day Care and site plan as meeting the requirements set forth herein as a permitted use may be appealed to the City Council by filing a written appeal with the Director within 10 days after the decision, which shall stay such decision until Council action. Council decision on the appeal shall occur at its next regular meeting after filing of such appeal, unless the Council extends such time for good cause.

Section 3: Article II, Section 2.05(d) Schedule: Permitted Uses; Accessory Uses; Exceptions; and Special Permits Column C “SR-1B” Single Family Residence District of the City of O’Fallon Zoning Code of Ordinances is hereby amended to omit Conversion of garages to dwelling area from Special Permits (Special Uses).

Section 4: Article II, Section 2.05(d) Schedule: Permitted Uses; Accessory Uses; Exceptions; and Special Permits Column F “MR-1” Two-, Three-, and Four-Family Residence District of the City of O’Fallon Zoning Code of Ordinances is hereby amended to omit Conversion of garages to dwelling area from Special Permits (Special Uses).

Section 5: Article III, Section 3.26 Garage Conversion for Dwelling Use of the City of O’Fallon Zoning Code of Ordinances is hereby created to read as follows:

Section 3.26 Garage Conversion for Dwelling Use

No garage shall be converted for dwelling use except within compliance of this Section.

- (a) Inspection by City staff to ensure adherence to current building codes and fire codes prior to issuance of permit.
- (b) Not less than one (1) off-street parking space per dwelling unit shall be provided and maintained.

Section 6: Article II, Section 2.04(e) Schedule: Area and Bulk Regulations, Column K “Maximum Lot Coverage in Percent” of the City of O’Fallon Zoning Code of Ordinances is hereby amended to allow thirty percent (30%) coverage in SR-3, MH-1, and MH-2 Districts.

Section 7: Article VIII, Section 8.05 Written Protest of the City of O’Fallon Zoning Code of Ordinances is hereby amended to read as follows:

Section 8.05 WRITTEN PROTEST

In case of a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of twenty (20) percent of the frontage proposed to be altered, or by the owners of twenty (20) percent of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty (20) percent of the frontage directly opposite the frontage proposed to be altered, if filed with the City Clerk, the amendment shall not be passed except by a favorable vote of at least two-thirds (2/3) of the City Council then holding office.

In such cases, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendments and a copy upon the applicant’s attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

Section 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council this _____ day of _____, 2005.

ATTEST:
(seal)

Approved by the Mayor this ____ day
of _____, 2005.

Philip A. Goodwin, City Clerk

Gary L. Graham, Mayor

ROLL CALL:	Albrecht	Bennett	Bequette	Drolet	Grogan	Schmidt	Medford	SUB TOTALS
Aye								
Nay								
Absent								

ROLL CALL:	Boone	Mouser	Reckamp	Henry	Renner	True	West	SUB TOTALS	SUM OF TOTALS
Aye									
Nay									
Absent									