

ORDINANCE NO. 89-8

AN ORDINANCE TO ENACT PROVISIONS FOR REGULATION
AND USE OF PROPERTY AS DAY CARE HOMES
IN THE CITY OF LEBANON, INDIANA

WHEREAS, the City of Lebanon zoning Code provides for various classes of educational, foster family care, day care and pre-school care under different classifications as exist in the Lebanon Code as follows:

Classifications:

AAA, AA, A, B

Permitted:

Educational Institution as a Contingent Use

Foster family care & day care of pre-school age for no more than four children as an Accessory Use

C, LB, GB, PB-1 & 2, I-1 & 2

Permitted:

Private school, Kindergarten, Day Nursery as a Conditional Use

Educational Institution as a Contingent Use

Foster family care & Day care of pre-school age for no more than four children as an Accessory Use

WHEREAS, the changing needs of society in the present day, and the increasing financial demands on the average family, now require more and more households have two wage earners in a family with small children and also possibly with elderly family members, both of which age segments in our society may require assistance in day-to-day living due to their stage in life, and

WHEREAS, the City of Lebanon, and its Plan Commission, in recognition of society's changing needs and being made aware of several such facilities operating within the city boundaries under state license, without having appeared before land use regulating bodies, wishes to establish a procedure for regulation of providing this much needed care for the very young and also our elderly population of the community, and

WHEREAS, licensure requirements for the provision of day care services are strictly governed and reserved within the province of Indiana state law. Title 12 of the Indiana code, specifically I.C. 12-3-2-1, et seq., specifically governs who may qualify for the issuance of a license and how those individual(s) may qualify for providing this service; however, the use of land within a "unit" of state government as defined by Indiana state law, which the City of Lebanon is defined as, remains the responsibility of local government per Indiana law, specifically I.C. 36-7-2-2, and the City wishes to exercise that power as well as the provisions of "home rule" pursuant to Indiana code 36-1-3, et seq., in order to protect its citizenry and provide for circumstances peculiar to local land usage, and

WHEREAS, the City believes it in the best interest of the community to establish these guidelines to facilitate the preservation of the "residential atmosphere" of the residential zones presently established in the City of Lebanon, recognizing that a "day care home" as defined by Indiana law is in effect a business whereby a needed service in today's society is provided in exchange for a given fee negotiated between the provider and recipient of said services.

Given the fact that certain facilities already exist in the City of Lebanon which are in harmony with the traditional "residential atmosphere" of residentially zoned districts, provisions need be made to preserve this character now and in the future, and to assure continued compliance by future applicants for this type of land use, therefore recognizing a need for this ordinance, and

WHEREAS, the City believes that the State of Indiana, in providing for day care homes by statute, intended to provide for proper care of individuals by setting certain license requirements having foremost the welfare of the residents of this state in mind, and in turn the state intended that the cities and towns of Indiana allow for such a land use within their local zoning codes pursuant to I.C. 36-7-2-2 giving consideration to the existing zoning code of Lebanon and restrictive covenants of subdivisions within cities and towns, although in general, the cities and towns are not bound by the latter, and further, the City of Lebanon wishes to maintain the