

..Number

051177

..Version

PROPOSED SUBSTITUTE B

..Reference

..Sponsor

ALD. DAVIS AND WADE

..Title

A substitute ordinance relating to zoning regulations for day care facilities located near alcohol beverage establishments.

..Sections

295-311-2-h rc

295-503-2-i-4 cr

295-803-2-d-4 cr

295-903-2-b-1-d cr

295-905-2-b-4-d cr

295-1015-3-b-1-d cr

..Analysis

This ordinance provides that, in zoning districts where a day care center is classified as a limited use, one of the limited use standards shall be:

For any day care center other than an adult day care center, if the day care center is located in a building containing an elementary or secondary school, religious assembly, community center, cultural institution or library as a principal use (or some other district-specific combination of these community-serving uses), the facility shall not be located within 300 feet of a premises for which the common council has granted a currently-valid Class "A" retailer's intoxicating liquor license (off-premise consumption), Class "B" retailer's intoxicating liquor license (on-premise consumption) or Class "A" fermented malt beverage retailer license (off-premise consumption).

If the day care center is not located in a building containing one of the community-serving uses as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted one of the specified license types. If this standard is not met, the day care center is a prohibited use.

This ordinance also provides that in zoning districts or circumstances where a day care center is classified as a special use, no special use permit for a day care center, other than an adult day care center, shall be granted by the board of zoning appeals unless the board finds, in addition to the existing required findings for such use, that, if the day care center is not located in a building containing an elementary or secondary school, religious assembly, community center, cultural institution or library as a principal use, the facility will not be located within 300 feet of a premises for

which the common council has granted any of the specified types of alcohol beverage licenses and such license is currently valid.

The requirements of this ordinance shall not apply to a day care center in operation on the effective date of this ordinance [city clerk to insert date].

..Body

Whereas, In recent years, numerous acts of violence, including, assaults, robberies and fatal and non-fatal shootings and stabbings have occurred in or just outside licensed alcohol beverage establishments in the City of Milwaukee; and

Whereas, Alcohol beverage establishments also tend to attract patrons or passers-by who loiter outside those establishments, often engaging in unruly behavior or loud, profanity-laced conversations; and

Whereas, For these reasons, the Common Council finds that it is inappropriate and potentially threatening to the health, safety and welfare of Milwaukee children and their parents for day care centers to be located in close proximity to alcohol beverage establishments; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 295-311-2-h of the code is repealed and recreated to read:

295-311. Appeals.

2. SPECIAL USE PERMITS.

h. Additional Finding for Day Care Centers. No special use permit for a day care center, other than an adult day care center, shall be granted by the board unless the board finds, in addition to the findings required by par. d, that:

h-1. The proposed day care center will not be located within 500 feet of an adult retail establishment or an adult entertainment establishment.

h-2. If the day care center is not located in a building containing an elementary or secondary school, religious assembly, community center, cultural institution or library as a principal use, the facility will not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid. This finding shall not be required for a day care center for which the board granted a special use permit prior to the effective date of this ordinance [city clerk to insert date].

Part 2. Section 295-503-2-i-4 of the code is created to read:

295-503. Uses.

2. LIMITED USE STANDARDS.

i. Day Care Center.

i-4. For any day care center other than an adult day care center, if the day care center is located in a building containing an elementary or secondary school, religious assembly, community center, cultural institution or library as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid. This standard shall not apply to a day care center in operation on the effective date of this ordinance [city clerk to insert date].

Part 3. Section 295-803-2-d-4 of the code is created to read:

295-803. Uses.

2. LIMITED USE STANDARDS.

d. Day Care Center.

d-4. For any day care center other than an adult day care center, if the day care center is located in a building containing an elementary or secondary school, college, library or cultural institution as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid. This standard shall not apply to a day care center in operation on the effective date of this ordinance [city clerk to insert date].

Part 4. Section 295-903-2-b-1-d of the code is created to read:

295-903. Parks District (PK).

2. USES.

b. Limited Use Standards.

b-1. Day Care Center.

b-1-d. For any day care center other than an adult day care center, if the day care center is located in a building containing an elementary or secondary school, college, library or cultural institution as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid.

This standard shall not apply to a day care center in operation on the effective date of this ordinance [city clerk to insert date].

Part 5. Section 295-905-2-b-4-d of the code is created to read:

295-905. Institutional District (TL).

2. USES.

b. Limited Use Standards.

b-4. Day Care Center.

b-4-d. For any day care center other than an adult day care center, if the day care center is located in a building containing an elementary or secondary school, college, library, cultural institution or religious assembly as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid. This standard shall not apply to a day care center in operation on the effective date of this ordinance [city clerk to insert date].

Part 6. Section 295-1015-3-b-1-d of the code is created to read:

295-1015. Lakefront Overlay Zone (LF).

3. STANDARDS.

b. Limited Use Standards.

b-1. Day Care Center.

b-1-d. For any day care center other than an adult day care center, if the day care center is located in a building containing a library or cultural institution as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid. This standard shall not apply to a day care center in operation on the effective date of this ordinance [city clerk to insert date].

..LRB

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

..Attorney
IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney
Date:_____

..Requestor

..Drafter
LRB05507-4
JDO
10/18/2006