



Legislation Details (With Text)

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On agenda: **Final action:** 4/14/2009

Effective date:

Title: An ordinance relating to board of zoning appeals consideration of variance and special use permit applications for day care centers.

Sponsors: ALD. DAVIS, ALD. BAUMAN

Indexes: BOARD OF ZONING APPEALS, DAY CARE CENTERS, ZONING

Attachments: 1. City Plan Commission Letter.pdf, 2. Zoning Code Technical Committee Letter, 3. 2004 Legal Opinion, 4. 1996 Legal Opinion, 5. Milwaukee Journal Sentinel Articles on Child-Care Scams, 6. Minutes of the Zoning Code Technical Committee Meeting, 7. Recording of the Zoning Code Technical Committee Meeting - Part 1, 8. Recording of the Zoning Code Technical Committee Meeting - Part 2, 9. Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
2/10/2009	0	COMMON COUNCIL	ASSIGNED TO		
2/13/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
2/13/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
2/13/2009	0	ZONING CODE TECHNICAL COMMITTEE	HEARING NOTICES SENT		
2/13/2009	0	ZONING CODE TECHNICAL COMMITTEE	HEARING NOTICES SENT		
4/8/2009	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PLACING ON FILE	Pass	5:0
4/14/2009	0	COMMON COUNCIL	PLACED ON FILE	Pass	14:0

081482
ORIGINAL

ALD. DAVIS AND BAUMAN

An ordinance relating to board of zoning appeals consideration of variance and special use permit applications for day care centers.

295-311-4-g cr

This ordinance establishes a moratorium on board of zoning appeals consideration of special use permit or use variance applications for new day care centers. The moratorium commences on the effective date of this ordinance and lasts for a period of 6 months. This moratorium shall not apply to applications for renewal of special use permits or use variances to continue operation of existing day care centers.

Whereas, The City’s Zoning Code defines a “day care center” as “an establishment in which the operator is provided with compensation in return for providing individuals with care for less than 24 hours at a time”; and

Whereas, This definition also includes a “family day care home” (facility providing care for 8 or fewer children) in which the operator does not reside; and

Whereas, The Zoning Code requires operators of day care centers located in various zoning districts or in certain other specified circumstances to obtain special use permits from the Board of Zoning Appeals; and

Whereas, In circumstances where a day care center is classified as a prohibited use, an interested party may still apply to the Board of Zoning appeals for a use variance to allow operation of the facility; and

Whereas, A recent 4-month investigation by the *Milwaukee Journal Sentinel* uncovered numerous examples of fraud, deceit and loopholes within the State of Wisconsin’s \$340 million taxpayer-funded “Wisconsin Shares” child-care assistance program, as well as evidence of inadequate caseworker oversight, regulatory leniency within the program and an overall lack of accountability for how taxpayer dollars are spent; and

Whereas, In response to the Journal Sentinel expose, various elected officials and state and local regulators have called for, among other things, a comprehensive audit of Wisconsin Shares, new rules to cut fraud within the program, additional funding for fraud investigations and clearer guidelines on how to run the program; and

Whereas, Until the State audit is completed and other actions are taken to improve the integrity and accountability of the Wisconsin Shares program, it is not in the best interest of the City of Milwaukee and its residents and taxpayers for the Board of Zoning Appeals to grant special use permits or use variances for new day care centers; now, therefore

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

Part 1. Section 295-311-4-g of the code is created to read:

295-311. Appeals.

4. ADDITIONAL SPECIAL USE AND VARIANCE REGULATIONS.

g. Day Care Center Moratorium. g-1. Purpose. The common council finds that the state of Wisconsin’s taxpayer-funded child-child care assistance program, Wisconsin shares, is currently plagued by problems of fraud, deceit, regulatory loopholes and lax oversight. The common council further finds that it is not in the best interest of Milwaukee residents and taxpayers to permit the opening of additional day care centers in the city until these problems are corrected. For these reasons, this paragraph establishes a temporary moratorium on board of zoning appeals consideration of special use permit or use variance applications for new day care centers.

g-2. Moratorium. A moratorium on board of zoning appeals consideration of special use permit or use variance applications for new day care centers is established, commencing on the effective date of this ordinance [city clerk to insert date] and ending on the date that is 6 months after the effective date of this ordinance [city clerk to insert date]. This moratorium shall not apply to applications for renewal of special use permits or use variances to continue operation of existing day care centers.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB09040-1

JDO

02/10/2009