



Legislation Text

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961055
SUBSTITUTE 2

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A substitute ordinance relating to the zoning of churches, schools and related land uses.

295-59-5-d-3 cr
295-112-2-c am
295-112-3-a am
295-112-3-b am
295-112-3-c am
295-112-3-d rp
295-113-2-e cr
295-113-3 cr
295-113-4-b am
295-122-2-d am
295-122-3-a am
295-122-3-b am
295-122-3-c am
295-122-3-d rp
295-123-2-f cr
295-123-3 cr
295-123-4-b am
295-132-2-c am
295-132-2-i am
295-132-3-a am
295-132-3-b am
295-132-3-c am
295-132-3-d rp
295-133-2-h cr
295-133-2-i cr
295-133-3 rc
295-133-4-c am
- Analysis -

This ordinance makes convents, churches, elementary and secondary schools and colleges special uses in single-family, 2-family and multi-family residence districts whenever such uses are opened, constructed or enlarged after December 31, 1996. Special use approval shall also be required for churches, elementary and secondary schools, and colleges which change or expand their programs or services after December 31, 1996. This ordinance also classifies transmitter towers accessory to elementary or secondary schools as special uses in single-family, 2-family and multi-family residence districts. Currently, all of these uses are classified as permitted uses in residence districts. Finally, this ordinance makes the opening, construction or enlargement of dormitories a special use in multi-family residence districts, where dormitories are presently a permitted use.

In addition, this ordinance provides that whenever convents, churches, elementary and secondary schools, colleges and dormitories are classified as special uses in the districts listed, the board of zoning appeals shall be required to find:

1. The use is designed, located and operated in a manner so that the public health, safety and welfare is protected.
2. The use will not impact adversely on adjoining property of the neighborhood in general.

The ordinance also provides that the board of zoning appeals shall not be required to find that the use is necessary for the public convenience at a particular location (the board is required to make this finding when reviewing and approving other special uses). Also, special use approval for convents, churches, elementary and secondary schools, colleges and dormitories shall be valid for 20 years unless the board determines that exceptional circumstances warrant a different term.

Whereas, The Common Council finds that convents, churches, elementary and secondary schools and colleges presumptively are necessary for the public convenience in single-family, 2-family and multi-family residence zoning districts, and that dormitories presumptively are necessary for the public convenience in multi-family residence zoning districts; and

Whereas, While churches, schools and related land uses promote public health, safety, welfare and morals, the benefits of these uses must be weighed against the effects that such uses can have on the community, particularly when they are located in residential neighborhoods; and

Whereas, The potential impacts of churches, schools and related land uses on residential neighborhoods include increased vehicular and pedestrian traffic congestion and hazards, greater demand for municipal services (without a corresponding increase in property tax revenues) and deviation from the community's comprehensive development plan; and

Whereas, Under the city's current zoning regulations, churches, schools and similar land uses are permitted uses by right in residential zoning districts, meaning that when a new or expanded church or school is proposed, or when a church or school substantially changes or expands its programs or services, the city has no opportunity to evaluate the benefits and effects of the proposed use, to require the developer to mitigate any potentially harmful effects or to receive neighborhood input; and

Whereas, A requirement for special use approval for the opening, construction or enlargement of churches, schools and similar uses in residential zoning districts is beneficial in that it entails disclosure, to the city and the public, of site plans, parking lot drawings and other specific information about the proposed development, allows the board of zoning appeals to mitigate the potentially harmful impacts of such uses by attaching conditions to the special use approval, and increases neighborhood awareness and discussion of the proposed use; and

Whereas, Such a requirement for special use approval is intended to address land use matters only and should not affect an individual's right to determine and exercise his or her religious beliefs; now, therefore

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

Part 1. Section 295-59-5-d-3 of the code is created to read:

295-59. Board of Appeals.

5. FINDINGS.

d. Procedures for Special Uses.

d-3. For special uses listed in ss. 295-113-2-e and 3-a to c, 295-123-2-f and 3-a to c, and 295-133-2-h and i and 3-b to d, the finding set forth in par. b-1 shall not be required and the special use approval shall be valid for 20 years unless the board determines that exceptional circumstances warrant a different term.

Part 2. Section 295-112-2-c of the code is amended to read:

295-112. Permitted Uses.

2. RESIDENTIAL.

c. Convents >>, except as provided in s. 295-113-2-e<<.

Part 3. Section 295-112-3-a to c of the code is amended to read:

3. CHURCHES AND SCHOOLS. a. Churches >>, except as provided in s. 295-113-3-a<<.

b. Elementary and secondary schools >>, except as provided in s. 295-113-3-b<<.

c. Colleges >>, except as provided in s. 295-113-3-c<<.

Part 4. Section 295-112-3-d of the code is repealed. (Note: The provisions being repealed read as follows:

d. Transmitter towers accessory to elementary and secondary schools.)

Part 5. Section 295-113-2-e of the code is created to read:

295-113. Special Uses.

2. RESIDENTIAL.

e. Convents which are opened, constructed or enlarged after December 31, 1996.

Part 6. Section 295-113-3 of the code is created to read:

3. CHURCHES AND SCHOOLS. a. Churches which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

b. Elementary and secondary schools which are opened, constructed or enlarged, or which change or expand their programs or

services, after December 31, 1996.

c. Colleges which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

d. Transmitter towers accessory to elementary and secondary schools.

Part 7. Section 295-113-4-b of the code is amended to read:

4. PUBLIC AND QUASI-PUBLIC.

b. Transmitter towers, except towers which are [[accessory to elementary or secondary schools or]] used for governmental purposes.

Part 8. Section 295-122-2-d of the code is amended to read:

295-122. Permitted Uses.

2. RESIDENTIAL.

d. Convents >>, except as provided in s. 295-123-2-f<<.

Part 9. Section 295-122-3-a to c of the code is amended to read:

3. CHURCHES AND SCHOOLS. a. Churches >>, except as provided in s. 295-123-3-a<<.

b. Elementary and secondary schools >>, except as provided in s. 295-123-3-b<<.

c. Colleges >>, except as provided in s. 295-123-3-c<<.

Part 10. Section 295-122-3-d of the code is repealed. (Note: The provisions being repealed read as follows:

d. Transmitter towers accessory to elementary and secondary schools.)

Part 11. Section 295-123-2-f of the code is created to read:

295-123. Special Uses.

2. RESIDENTIAL.

f. Convents which are opened, constructed or enlarged after December 31, 1996.

Part 12. Section 295-123-3 of the code is created to read:

3. CHURCHES AND SCHOOLS. a. Churches which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

b. Elementary and secondary schools which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

c. Colleges which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

d. Transmitter towers accessory to elementary and secondary schools.

Part 13. Section 295-123-4-b of the code is amended to read:

4. PUBLIC AND QUASI-PUBLIC.

b. Transmitter towers, except towers which are [[accessory to elementary or secondary schools or]] used for governmental purposes.

Part 14. Section 295-132-2-c and i of the code are amended to read:

295-132. Permitted Uses.

2. RESIDENTIAL.

c. Convents >>, except as provided in s. 295-133-2-h<<.

i. Dormitories >>, except as provided in s. 295-133-2-i<<.

Part 15. Section 295-132-3-a to c of the code is amended to read:

3. CHURCHES AND SCHOOLS. a. Churches >>, except as provided in s. 295-133-3-a<<.

b. Elementary and secondary schools >>, except as provided in s. 295-133-3-b<<.

c. Colleges >>, except as provided in s. 295-133-3-c<<.

Part 16. Section 295-132-3-d of the code is repealed. (Note: The provisions being repealed read as follows:

d. Transmitter towers accessory to elementary and secondary schools.)

Part 17. Section 295-133-2-h and i of the code are created to read:

295-133. Special Uses.

2. RESIDENTIAL.

h. Convents which are opened, constructed or enlarged after December 31, 1996.

i. Dormitories which are opened, constructed or enlarged after December 31, 1996.

Part 18. Section 295-133-3 of the code is repealed and recreated to read:

3. CHURCHES AND SCHOOLS. a. Day care centers.

b. Churches which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

c. Elementary and secondary schools which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

d. Colleges which are opened, constructed or enlarged, or which change or expand their programs or services, after December 31, 1996.

e. Transmitter towers accessory to elementary and secondary schools.

Part 19. Section 295-133-4-c of the code is amended to read:

4. PUBLIC AND QUASI-PUBLIC.

c. Transmitter towers, except towers which are [[accessory to elementary or secondary schools or]] used for governmental purposes.
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: _____

LRB96433.3

JDO

11/6/96