



## Legislation Details (With Text)

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**File created:** 12/19/2003 **In control:** ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE

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**Effective date:**

**Title:** A substitute ordinance relating to zoning regulations for family day care homes and day care centers.

**Sponsors:** ALD. BOHL, ALD. DUDZIK, ALD. WITKOWSKI, ALD. DONOVAN, ALD. DAVIS, ALD. MURPHY, ALD. PUENTE

**Indexes:** DAY CARE CENTERS, ZONING

**Attachments:** 1. CPC letter.pdf, 2. City Attorney letter.pdf, 3. City Attorney Opinion.pdf, 4. Dept. of Health & Soc Serv Legal Opinion.pdf, 5. E-mail from Ald. James Bohl.pdf, 6. Publication on January 12, 2005.PDF, 7. Communication from Zoning Code Technical Committee.PDF

Date	Ver.	Action By	Action	Result	Tally
3/9/2004	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
3/16/2004	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
3/19/2004	1	COMMON COUNCIL	NOT RETURNED BY CITY ATTORNEY	Pass	
5/25/2004	1	COMMON COUNCIL	REFERRED TO	Pass	
11/18/2004	1	CITY CLERK	Sponsor added		
12/3/2004	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
12/3/2004	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
12/6/2004	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
12/14/2004	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
12/21/2004	1	COMMON COUNCIL	PASSED	Pass	15:0
12/23/2004	1	MAYOR	SIGNED		
1/12/2005	1	CITY CLERK	PUBLISHED		
9/17/2013	0	JUDICIARY & LEGISLATION COMMITTEE	ASSIGNED TO		
9/24/2013		COMMON COUNCIL	REFERRED TO		
10/15/2013	0	COMMON COUNCIL	PUBLISHED		
11/1/2013	1	COMMON COUNCIL	DRAFT SUBMITTED		
11/1/2013	1	COMMON COUNCIL	PUBLISHED		
12/17/2013	1	COMMON COUNCIL	HEARING NOTICES SENT		

031244  
SUBSTITUTE 1

ALD. BOHL, DUDZIK, WITKOWSKI, DONOVAN, DAVIS, MURPHY AND PUENTE

A substitute ordinance relating to zoning regulations for family day care homes and day care centers.

295-201-137 am

295-201-183 am

295-203-1-h am

295-203-2-a am

295-503-1 (table) am

295-503-2-e-1 am

295-503-2-i cr

This ordinance eliminates the provision allowing the operator of a family day care home located in a 2-family dwelling to live in one dwelling unit and operate the family day care home in the other unit. Under this ordinance, if the operator of a family day care home does not reside in the dwelling unit in which the day care activity is located, the family day care home shall be reclassified as a "day care center".

This ordinance also changes the use classification of day care centers in residential zoning districts from special use to limited use. The limited use standards for day care centers shall be as follows:

1. The day care center shall be an accessory use to an elementary or secondary school, religious assembly, community center, cultural institution or library, shall meet the minimum outdoor play space requirement of s. HFS 46.06(11), Wis. Adm. Code, and shall meet the off-street parking requirement for the existing principal use.

2. A day care center, including a family day care home classified as a day care center because the operator does not live in the dwelling, shall not be permitted in a residential structure in an RS1 to RS6, RT1 to RT3 or RM1 or RM2 district. In all other residential zoning districts, a day care center in a residential structure shall be classified as a special use.

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

Part 1. Section 295-201-137 of the code is amended to read:

#### **295-201. Definitions.**

**137.** DAY CARE CENTER means 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. This term includes, but is not limited to, a day care nursery, nursery school, adult day care center or other supplemental care facility. [~~This term does not include a family day care home.~~] >>This term also includes a family day care home in which the operator does not reside.<<

Part 2. Section 295-201-183 of the code is amended to read:

**183.** FAMILY DAY CARE HOME means a dwelling unit licensed as a family day care center by the Wisconsin department of health and family services under s. 48.65, Wis. Stats., and ch. HFS 45, Wis. Admin. Code, or certified as a day care center by Milwaukee county, where care is provided for not more than 8 children at any given time. >>A family day care home is typically the primary residence of its operator.<<

Part 3. Section 295-203-1-h of the code is amended to read:

## 295-203. Use Definitions.

### 1. RESIDENTIAL USES.

h. "Family day care home" means a dwelling unit licensed as a family day care center by the Wisconsin department of health and family services under s. 48.65, Wis. Stats., and ch. HFS 45, Wis. Admin. Code, or certified as a day care center by Milwaukee county, where care is provided for not more than 8 children at any given time. >>A family day care home is typically the primary residence of its operator.<<

Part 4. Section 295-203-2-a of the code is amended to read:

### 2. EDUCATIONAL USES.

a. "Day care center" means 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. This term includes, but is not limited to, a day care nursery, nursery school, adult day care center or other supplemental care facility. [[~~This term does not include a family day care home.~~]] >>This term also includes a family day care home in which the operator does not reside.<<

Part 5. Table 295-503-1 of the code is amended to read:

Table 295-503-1 RESIDENTIAL DISTRICTS USE TABLE								
Y = Permitted								
Zoning Districts								
Uses	RS1-RS5	RS6	RT1-RT3	RT4	RM1-RM2	RM3-RM7	RO1	RO2
<b>RESIDENTIAL USES</b>								
Single-family dwell	Y	Y	Y	Y	Y	Y	Y	Y
Two-family dwell	L	L	Y	Y	Y	Y	Y	Y
Multi-family dwell	N	N	L	L	Y	Y	Y	Y
Attached single-f	N	N	L	L	Y	Y	Y	Y
Live-work unit	N	N	N	L	L	L	Y	Y
Mobile home	N	N	N	N	N	N	N	N
Watchman/service	N	N	N	N	N	N	N	N
Family day care h	L	L	L	L	L	L	L	L
Group Residential								
Rooming house	N	N	N	S	S	S	S	S
Convent, rectory	Y	Y	Y	Y	Y	Y	Y	Y
Dormitory	N	N	N	S	S	S	S	S
Fraternity or	N	N	N	S	S	S	S	S
Adult family home	L	L	L	L	L	L	L	L
Foster Homes								

Foster family	Y		Y	Y	Y	Y	Y	Y	Y
Small foster h	L		L	L	L	L	L	L	L
Group home or	L		L	L	L	L	L	L	L
Shelter Care Faci									
Family shelter	Y		Y	Y	Y	Y	Y	Y	Y
Small group sh	L		L	L	L	L	L	L	L
Large group sh	N		N	S	S	S	S	S	S
Community living	L		L	L	L	L	L	L	L
Transitional	N	N	N	S	S	S	S	S	
EDUCATIONAL USES									
Dat	[[[[[]]]][[[]]] >>L<<	[[]] >>L<<	[[]] >>L<<	[[]] >>L<<	[[]] >>L<<				
School, elementary	Y	Y	Y	Y	Y	Y	Y	Y	Y
College	N	N	N	S	S	S	Y	Y	
School, specialty	N	L	N	L	N	L	Y	Y	
COMMUNITY-SERVING USES									
Library	Y	Y	Y	Y	Y	Y	Y	Y	
Cultural institut	N	L	N	L	L	L	L	L	
Community center	N	S	N	S	S	S	S	S	
Religious assembly	Y	Y	Y	Y	Y	Y	Y	Y	
Cemetery or other	N	N	N	N	N	N	N	N	
Public safety fac	Y	Y	Y	Y	Y	Y	Y	Y	
Correctional faci	N	N	N	N	N	N	N	N	
COMMERCIAL AND OFFICE USES									
General office	N	L	N	L	N	L	Y	Y	
Government office	N	L	N	L	N	L	Y	Y	
Bank or other fin	N	L	N	L	N	L	Y	Y	
Currency exchange	N	N	N	N	N	N	N	N	
Retail establishm	N	L	N	L	N	L	L	L	
Garden supply or	N	N	N	N	N	N	N	N	
Home improvement	N	N	N	N	N	N	N	N	
Secondhand store	N	N	N	N	N	N	S	S	
Outdoor merchandi	N	N	N	N	N	N	N	N	
Artist studio	N	L	N	L	N	L	Y	Y	
Adult retail esta	N	N	N	N	N	N	N	N	
HEALTH CARE AND SOCIAL ASSISTANCE USES									
Medical office	N	L	N	L	N	L	Y	Y	
Health clinic	N	N	N	N	N	S	S	S	
Hospital	N	N	N	N	N	N	N	N	

Medical research	N	N	N	N	N	N	N	N
Medical service f	N	N	N	N	N	N	N	N
Social service	N	N	N	S	N	S	S	S
Emergency residen	N	N	N	N	S	S	S	S
Nursing home	N	S	N	S	S	S	S	S
<b>GENERAL SERVICE USES</b>								
Personal service	N	L	N	L	N	L	Y	Y
Business service	N	S	N	S	N	S	L	L
Building maintena	N	N	N	N	N	N	N	N
Catering service	N	L	N	L	N	L	L	L
Funeral home	N	L	N	L	N	L	Y	Y
Laundromat	N	N	N	N	N	N	L	L
Dry cleaning esta	N	L	N	L	N	L	L	L
Furniture and app	N	N	N	N	N	N	N	N
Household mainten	N	N	N	N	N	N	N	N
Tool/equipment re	N	N	N	N	N	N	N	N
<i>Animal Services</i>								
Animal hospita	N	N	N	N	N	N	N	N
Animal boardin	N	N	N	N	N	N	N	N
Animal groomin	N	N	N	N	N	N	N	N
<b>MOTOR VEHICLE USES</b>								
<i>Light Motor Vehic</i>								
Sales facility	N	N	N	N	N	N	N	N
Rental facilit	N	N	N	N	N	N	N	N
Repair facilit	N	N	N	N	N	N	N	N
Body shop	N	N	N	N	N	N	N	N
Outdoor storag	N	N	N	N	N	N	N	N
Limited wholes	N	N	N	N	N	N	N	N
<i>Heavy Motor Vehic</i>								
Sales facility	N	N	N	N	N	N	N	N
Rental facilit	N	N	N	N	N	N	N	N
Repair facilit	N	N	N	N	N	N	N	N
Body shop	N	N	N	N	N	N	N	N
Outdoor storag	N	N	N	N	N	N	N	N
<i>General Motor Veh</i>								
Filling station	N	N	N	N	N	N	N	N
Car wash	N	N	N	N	N	N	N	N
Drive-through	N	N	N	N	N	N	N	N
Parking								

Parking lot, p	N	S	N	S	S	S	S	S
Parking lot, a	Y	L	Y	L	Y	L	Y	L
Parking struct	N	N	N	N	N	S	S	S
Parking struct	N	N	N	N	Y	Y	Y	L
Heavy motor ve	N	N	N	N	N	N	N	N
Heavy motor ve	N	N	N	N	N	N	N	N
<b>ACCOMMODATION AND FOOD SERVICE USES</b>								
Bed and breakfast	S	L	L	L	L	L	Y	Y
Hotel, commercial	N	N	N	N	N	N	N	S
Hotel, residential	N	N	N	N	N	N	N	Y
Tavern	N	L	N	L	N	L	N	S
Assembly hall	N	N	N	N	N	N	N	S
Restaurant, sit-d	N	L	N	L	N	L	Y	Y
Restaurant, fast-	N	L	N	L	N	L	L	L
<b>ENTERTAINMENT AND RECREATION USES</b>								
Park or playground	Y	Y	Y	Y	Y	Y	Y	Y
Festival grounds	N	N	N	N	N	N	N	N
Recreation facili	N	N	N	N	N	N	S	S
Recreation facili	N	N	N	N	N	N	N	N
Health club	N	N	N	N	N	N	Y	Y
Sports facility	N	N	N	N	N	N	N	N
Gaming facility	N	N	N	N	N	N	N	N
Theater	N	N	N	N	N	N	L	L
Convention and ex	N	N	N	N	N	N	N	N
Marina	N	N	N	N	N	N	N	N
Outdoor racing fa	N	N	N	N	N	N	N	N
Adult entertainme	N	N	N	N	N	N	N	N
<b>STORAGE, RECYCLING AND WHOLESALE TRADE USES</b>								
Recycling collect	N	N	N	N	N	N	S	S
Mixed-waste proce	N	N	N	N	N	N	N	N
Material reclamati	N	N	N	N	N	N	N	N
Salvage operation	N	N	N	N	N	N	N	N
Salvage operation	N	N	N	N	N	N	N	N
Wholesale and dis	N	N	N	N	N	N	N	N
Wholesale and dis	N	N	N	N	N	N	N	N
Storage Facilitie								
Indoor	N	N	N	N	N	N	N	N
Outdoor	N	N	N	N	N	N	N	N
Hazardous mate	N	N	N	N	N	N	N	N

hazardous materials	LV	LV	LV	LV	LV	LV	LV	LV
<b>TRANSPORTATION USES</b>								
Ambulance service	N	N	N	N	N	N	N	N
Ground transportation	N	N	N	N	N	N	N	N
Passenger terminal	N	N	N	N	N	N	N	N
Helicopter landing	N	N	N	N	N	N	N	N
Airport	N	N	N	N	N	N	N	N
Ship terminal or	N	N	N	N	N	N	N	N
Truck freight terminal	N	N	N	N	N	N	N	N
Railroad switching	N	N	N	N	N	N	N	N
<b>INDUSTRIAL USES</b>								
Manufacturing, light	N	N	N	N	N	N	N	N
Manufacturing, heavy	N	N	N	N	N	N	N	N
Manufacturing, industrial	N	N	N	N	N	N	N	N
Research and development	N	N	N	N	N	N	N	N
Processing or recycling	N	N	N	N	N	N	N	N
Contractor's shop	N	N	N	N	N	N	N	N
Contractor's yard	N	N	N	N	N	N	N	N
<b>AGRICULTURAL USES</b>								
Plant nursery or	Y	Y	Y	Y	Y	Y	Y	Y
Raising of crops	Y	Y	Y	Y	Y	Y	Y	Y
<b>UTILITY AND PUBLIC SERVICE USES</b>								
Broadcasting or radio	N	N	N	N	N	N	N	N
Transmission tower	L	L	L	L	L	L	L	L
Water treatment plant	S	S	S	S	S	S	S	S
Sewage treatment	N	N	N	N	N	N	N	N
Power generation	N	N	N	N	N	N	N	N
Substation/distribution	S	S	S	S	S	S	S	S
Substation/distribution	L	L	L	L	L	L	L	L
<b>TEMPORARY USES</b>								
Seasonal market	L	L	L	L	L	L	L	L
Temporary real estate	L	L	L	L	L	L	L	L
Concrete/batch plant	L	L	L	L	L	L	L	L
Live entertainment	L	L	L	L	L	L	L	L

Part 6. Section 295-503-2-e-1 of the code is amended to read:

**295-503. Uses.**

**2. LIMITED USE STANDARDS.**

e. Family Day Care Home.

e-1. The operator of the family day care home shall reside in the dwelling unit in which the day care home is located ~~[[, except in a 2-family dwelling, in which case the operator may reside in one dwelling unit and operate the family day care home in the other unit]]~~ . >>If this standard is not met, the facility is classified as a day care center and subject to the limited use standards for day care centers.<<

Part 7. Section 295-503-2-i of the code is created to read:

i. Day Care Center. i-1. The day care center shall be an accessory use to an elementary or secondary school, religious assembly, community center, cultural institution or library, shall meet the minimum outdoor play space requirement of s. HFS 46.06(11), Wis. Adm. Code, and shall meet the off-street parking requirement for the existing principal use. If any of these standards are not met, a day care center is a special use.

i-2. Day care centers, including family day care homes classified as day care centers because they do not meet the standard of par. e-1, shall not be permitted in residential structures in the RS1 to RS6, RT1 to RT3 and RM1 and RM2 districts. In all other residential zoning districts, a day care center in a residential structure shall be classified as a special use.

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:\_\_\_\_\_

LRB03565-2

JDO

2/12/04