

BY AUTHORITY

ORDINANCE NO. 384

COUNCIL BILL NO. 327

SERIES OF 1993

COMMITTEE OF REFERENCE:

LAND USE /

PLANNING &

ECONOMIC

DEVELOPMENT

A B I L L

FOR AN ORDINANCE RELATING TO ZONING, AMENDING ARTICLE I (IN GENERAL), ARTICLE II (ADMINISTRATION AND ENFORCEMENT), ARTICLE III (DISTRICT REGULATIONS) OF CHAPTER 59 (ZONING) AND ARTICLE VIII (NONCONFORMING USES AND STRUCTURES) OF THE REVISED MUNICIPAL CODE, AS AMENDED, ADDING DEFINITIONS AND REGULATIONS FOR RESIDENTIAL CARE USES.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Chapter 59 (Zoning) of the Revised Municipal Code, as amended, shall be and hereby is amended and re-enacted as amended in the following particulars:

(a)

Section 59-2(28) of Article I (In General) of said Chapter shall be and hereby is amended and re-enacted as amended to read as follows:

59-2(28) ^{JKZ 4/26} Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. Shelters for the homeless may be operated within and by a church. Such shelter may be operated for up to seventy five (75) days in either consecutive or non-consecutive order per calendar year with any number of residents, or it may be operated throughout the entire year with one of the following: a maximum of either (8) residents or any number of persons bearing to each other a relationship as defined in Section 59-2(131), Single unit dwelling. If such limitation is exceeded the shelter must comply only with the spacing and density requirements of Section 59-80(2)(e)1., Spacing and density regulations, and need not comply with any other requirements of Section 59-80(2), Residential care uses. Accessory buildings and/or uses may include a church-related college provided such college is regulated by the accessory use regulations of the zone in which it is located.

(b)

Section 59-2(111.5) of Article I (In General) of said Chapter shall be and hereby is amended and re-enacted to read as follows:

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establishment. In addition to the elderly residents, up to two (2) people may ~~serve~~^{serve} as live-in managers. Such home shall be contained within a single, detached structure.

(f)

Section 59-2(124.7) of Article I (In General) of said Chapter shall be and hereby is amended and re-enacted to read as follows:

59-2(124.7) Shelter for the homeless. A facility which has as its primary function the provision for overnight sleeping accommodations for homeless people. Such accommodations shall be offered for little or no financial compensation, and shall be operated in a manner which encourages short-term occupancy by residents. Such facility may include accessory support services but shall not be operated in such a manner that changes its primary function to a use classified as follows: adult community corrections facility, hospital, nursing home, rehabilitation center for the handicapped, or residence for the elderly.

(g)

Section 59-2(131.5) of Article I (In General) of said Chapter shall be and hereby is amended and re-enacted to read as follows:

59-2(131.5) Special care home. A special care home is either:

- (a) a single unit dwelling containing more unrelated persons than allowed in the zone district in which the dwelling is located, or
- (b) a rooming and/or boarding house containing five (5) or more residents, or
- (c) a dwelling unit containing five (5) or more residents, where such persons are living as a single housekeeping unit and are receiving more than twelve (12) hours per day of on-premise treatments, supervision, custodial care or special care due to physical condition or illness, mental condition or illness, behavioral or disciplinary problems. This category may include, but is not limited to, the following types of facilities: juvenile group home, half-way house, home for developmentally disabled or mentally ill persons and/or hospice.

(h)

Article I (In General) of said Chapter shall be and hereby is amended and re-enacted as amended by adding thereto Section 59-2(141.2) in the following words, figures and phrases:

59-2(141.2) Supported, independent living facility. A residential structure housing permanent or temporary residents who are living independently but are receiving centralized services and daily assistance in activities of personal care directly from a common provider of such services or through arrangements

(e) Spacing, Density, Site and Other Requirements. All proposed residential care uses shall satisfy the following minimum requirements unless specifically exempt by other provisions herein. All existing residential care uses, any existing P.U.D. zone district used for a residential care use and any church containing a shelter which exceeds the limits of Section 59-2(28) shall be counted when the following spacing and density requirements are applied.

1. Spacing and Density Regulations. Staff members are not counted in determining the size of a residential care use.
 - a. A residential care use with nine (9) or more residents must be a minimum of two thousand (2,000) feet from another such use of any size.
 - b. A residential care use with eight (8) or fewer residents must be a minimum of one thousand (1,000) feet from another such use having eight (8) or fewer residents and two thousand (2,000) feet from another such use of nine (9) or more residents.
 - c. No more than two (2) other such uses of any size shall exist within a four thousand (4,000) foot radius measured from the proposed use.
2. Minimum lot dimensions. The proposed use shall have a minimum lot size of six thousand (6,000) square feet and a minimum lot width of fifty (50) feet.
3. Required off-street parking. The proposed use shall provide one (1) off-street parking space for each member of the staff on duty unless the Administrator modifies this requirement after consideration of all pertinent factors including problems of parking congestion on abutting streets and physical constraints on the ability to comply.
4. Limitation on external effects. Such use shall comply with the limitations on external effects as established for uses by right in the district in which it is located.
5. Resident population limitations. In the RS-2, RS-4, R-0, R-1, R-X, R-2 and R-2-A zone districts, a residential care use having more than eight (8) residents shall be located only in a structure existing at the time of adoption of this ordinance and shall be limited to a maximum number of twenty (20) residents. Such structure shall not be enlarged as long as it is used for a residential care use. In the R-3, R-3-X and R-4 zone districts residential care uses shall be limited to a maximum number of forty (40) residents.

- (f) Special Requirements. Proposed residential care uses will be subject to the following special requirements. In case of conflict with the requirements of subsection (e), the provisions of this subsection shall apply.
1. Adult Community Correction Facility.
 - a. Permitted location. This facility shall be allowed only in the B-5, B-7, PRV, I-0, I-1 and I-2 zone districts.
 - b. The proposed number of residents shall not exceed one (1) person per two hundred (200) square feet of gross floor area with a maximum of forty (40) residents in the permitted zone districts; provided, however, if a proposed facility is located in the I-1 or I-2 zone districts on a site at least one thousand (1,000) feet from an "R" zone district, such facility may have up to sixty (60) residents.
 2. Self care elderly home, as regulated by subsections (b) through (e) herein.
 3. Shelter For the Homeless.
 - a. Permitted location. Shelters for the homeless shall be allowed only in the R-3, R-4, R-5, B-A-1, B-3, B-A-3, B-4, B-5, B-7, B-8, I-0, I-1, I-2; and O-1 zone districts.
 - b. Shelters allowed in churches. Shelters operated within and by a church need not comply with the provisions of this subsection provided the following limitation is satisfied. Such shelter may be operated for up to seventy-five (75) days in either consecutive or non-consecutive order per calendar year with any number of residents, or it may be operated throughout the entire year with one of the following; a maximum of eight (8) residents or any number of persons bearing to each other a relationship as defined in Section 59-2(131), Single unit dwelling. If such limitation is exceeded the shelter must comply only with the spacing and density requirements of Section 59-80(2)(e)1., Spacing and density regulations, and need not comply with any other requirements of Section 59-80(2), Residential care uses.
 - c. Spacing required from a school. Proposed facilities shall be located more than five hundred (500) feet from a school meeting all the requirements of the compulsory education laws of the state.

- d. Applications shall contain information addressing the following matters:
- i. Maximum resident capacity;
 - ii. Characteristics of the client group;
 - iii. Accessibility of the site to other services and facilities which are needed by residents of the proposed shelters;
 - iv. General hours of operation;
 - v. Services provided;
 - vi. The adequacy of off-street parking to serve the staff and residents, such parking to be located either on the site and/or nearby sites;
 - vii. If a new building is to be constructed, the compatibility of its proposed architectural characteristics and site design to the surrounding neighborhood;
 - viii. The availability of rest room facilities serving the shelter residents while the shelter is closed, including, but not limited to, rest room facilities provided by the City;
 - ix. The placement and supervision of waiting areas so that the operation of the shelter should not normally create obstructions or problems in the use of adjacent sidewalks;
 - x. Evidence that the proposed shelter for the homeless will comply with the limitations on external effects as established for uses by right in the district in which it is to be located; and
 - xi. Other characteristics of the operation which the applicant may deem to be of significance.
- e. No permit shall be approved unless the Administrator finds that the proposed shelter will not substantially or permanently injure the appropriate use of conforming residential properties located within five hundred (500) feet of the proposed use. Evidence of such injury shall clearly establish the anticipated specific problems attributed to residents of the proposed shelter for the homeless while in or around the shelter as distinct from the general problems attributed to persons using or passing through the subject area.

- f. Notwithstanding the restriction of subsection (g) 4 and 5, below, the permanent increase in the number of shelter residents or in the amount of floor area of such shelter exceeding ten percent (10%) shall require the approval of a use permit according to the procedure established in subsections (b) and (c) above. In reviewing requests for such increases the review committee and the Administrator shall consider the matters listed in subsections vi, vii, viii and ix above.
4. Special care home, as regulated by subsections (b) through (e) herein.
5. Supported independent living facility, as regulated by subsections (b) through (e) herein.
- (g) Administration. All residential care uses shall comply with the following provisions:
1. Residential care use/neighborhood communication. Operators of such care uses shall designate a staff member to receive questions and concerns from interested neighbors. Any issues not satisfactorily resolved shall be reported to the Administrator which shall contact the licensing agency appropriate to the population being served. The results of the licensing agency investigation shall be forwarded to interested neighbors. The Department of Zoning Administration shall maintain records of resident issues and address them as part of the ongoing licensing requirements.
2. Biennial renewal of the permit. Every permit for residential care use authorized herein shall be effective for a period of two (2) years from the date of authorization, such permit to be renewable biennially by the Department of Zoning Administration. A notice shall be sent, as provided under Section 41-19, Registration and Notification of Neighborhood Organizations, sixty (60) days prior to the renewal. In addition, for residential care uses with nine (9) or more residents, the Department of Zoning Administration shall send a letter of notification to all residents within three hundred and fifty (350) feet of the use. Such notification shall be sent at least sixty (60) days prior to the renewal date and shall solicit comments regarding the operation of the use. In case the Administrator determines that the above notification will cause a danger to residents in certain care situations, the Administrator may waive the notification requirement. The renewal of each such permit shall be accomplished upon a finding by the Administrator that all conditions imposed on the use have been performed, and that the facility will not substantially or

permanently injure the appropriate use of nearby conforming property.

3. Continuation of certain existing uses.
 - a. An institution or any other use operating as a residential care use and existing as of April 1, 1993, shall be classified as a legal, nonconforming use and may continue its operation providing it has a valid zoning permit or has applied for a zoning permit by a date 120 days after the date of adoption of this subsection. Such legal, nonconforming use shall be issued a permit upon compliance with subsection (e)4, External Effects, and (g), Administration, only and shall not be required to comply with any other provisions of Section 59-80(2). This provision, however, does not apply to uses in a planned unit development zone district or to a use under adverse administrative action by the city as of April 1, 1993.
 - b. Any church containing an existing shelter for the homeless as of the date of the adoption of this section shall notify the Department of Zoning Administration within one hundred and twenty (120) days of the adoption of this ordinance.
4. Any exterior additions or exterior structural modifications which increase the gross floor area of an existing structure shall require the approval of a use permit according to the procedure established in subsection (b) and (c) above.
5. Any increase in the number of permitted residents shall require the approval of a use permit according to the procedure established in this Section 59-80(2).
6. Any change in the type of resident of the residential care use either existing at the time of passage of this section or approved under the provisions of this section shall meet the requirements of subsections (b), (c), (d) and (f).
7. Termination.
 - a. Any of the following shall provide a basis to terminate the right to operate a residential care use:
 - i. Failure to comply with the conditions of this section, including the failure to obtain a permit.
 - ii. Changing one type of a residential care use to another type of residential care use without complying with the requirements herein.