

BOROUGH OF RUTLEDGE, DELAWARE COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 27 OF THE CODIFIED ORDINANCES OF THE BOROUGH OF RUTLEDGE, DELAWARE COUNTY, PENNSYLVANIA TO PROVIDE FOR CONDITIONAL USES AND TO PROVIDE FOR GROUP CHILD DAY CARE BY CONDITIONAL USE IN CHURCHES ALREADY PERMITTED BY SPECIAL EXCEPTION.

WHEREAS, the Pennsylvania Municipalities Planning Code, 53 Pa. Stat. 10201 (et seq) authorizes Municipalities to adopt regulations to protect the public health, safety and welfare; and

WHEREAS, the challenges to property maintenance faced by large buildings currently authorized to operate as churches in R districts warrant making available the opportunity for co-location of other needed child care services that benefit the Borough under circumstances reviewed and approved by the Borough Council; and

WHEREAS, the current codified ordinances of the Borough do not allow for conditional uses reviewed and approved by the Borough Council; and

WHEREAS, Borough Council desires to establish regulations providing for conditional uses under the Borough Zoning Code and to provide requirements and considerations for the approval as a conditional use of a co-located group child day care in a church operating in R district.

NOW, THEREFORE, BE IS ENACTED AND ORDAINED by the Borough Council of the Borough of Rutledge, Delaware County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained by its authority that **Chapter 27 of the Codified Ordinances of the Borough relating to Zoning** are amended as follows:

**Section 1. Definitions.**

§27-202, Definition of Terms, is hereby amended to add the following new ~~definition~~definitions:

**Conditional Use:** A use permitted in a particular zoning district pursuant to the provisions of Article .

**Group Child Day-Care:** a location that is not primarily used as a residence in which child care is provided at any one time for more than six children unrelated to the operator without regard to whether it is operated for profit or not-for-profit.

**Section 2. Affected Districts.**

§27-303, Uses Permitted by Special Exception, is hereby amended as follows:

- a. Revise the heading to read as follows: “**Uses Permitted by Special Exception and Uses Permitted by Conditional Use.**”
- b. Insert the following new heading before the initial paragraph of Section 27-303: “**A. Uses Permitted by Special Exception.**”
- c. **After the current language of §27-303, insert the new paragraph B as follows:**

**B. Uses Permitted by Conditional Use.**

The following uses shall be permitted by special exception only, subject to the applicable requirements of Parts 6 and 8: In a church that is a permitted use in an R-Residential District ~~by special exception~~, a group child day-care.

**Section 3. New Section Regarding Conditional Use.**

The Zoning Code of Rutledge Borough is amended by adding the following new §27-616:

**§27-616. Conditional Uses.**

**1. Purpose**

**A.** Chapter 27, Zoning of the Code of the Borough of Rutledge contains provisions for conditional uses, as permitted under Section 53 P.S. § 10603(b)(2) of the Municipal Planning Code. The provisions consist of:

- (1) The standards and criteria to be applied to the various conditional uses in the review process.
- (2) The procedure to be followed for review of the application.

**B.** The reason for a use being made conditional is the unusual impact it may exert upon one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, airports and national defense facilities, the provision of light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements. In addition, the purpose of the use being made conditional is to prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of life, health or property from fire, flood, panic or other dangers.

**2. Procedure.**

**A.** Application for approval of a conditional use shall be in such form and with such supporting data as the Borough Council or the Planning Commission may

prescribe. The appropriate application fee, prescribed by resolution of the Borough Council from time to time, shall be paid in advance.

- B. Upon receipt of an application for conditional use, the Planning Commission shall schedule it for preliminary consideration and discussion at a regular or special meeting within a reasonable time, not to exceed ~~45~~35 days from original receipt date.
- C. The Planning Commission shall be authorized to require of the applicant such further engineering data, test reports, maps, surveys, plot plans, landscape plans, technical information, offers of dedication, bonds and other undertakings as may be necessary to determine and ensure compliance with the standards and criteria hereinbefore and hereinafter set forth.
- D. If the application involves a complex development, a detailed plan review may be required by the borough after the application of the use has been acted upon by the Planning Commission and the Board of Commissioners. This review shall be in accordance with procedures outlined in the Subdivision and Land Development Chapter of the Code, being Chapter 22. If the applicant wishes to provide the necessary documentation, the borough will consider the concurrent review of the conditional use requested and the detailed plans for the development of the use. Time limits for review of the detailed plans, if necessary, will be governed by Chapter 22 of the Code.
- E. No conditional use shall be recommended by the Planning Commission or approved by the Borough Council unless, or except to the extent that, the general and specific standards and criteria are met and appropriate conditions and restrictions are attached to the approval to ensure continuing compliance therewith. The general standards and criteria are set forth below.
  - (1) Taking into consideration the character and type of development in the area surrounding the proposed conditional use, such use, as permitted, shall constitute an appropriate use in the area which will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood.
  - (2) Existing public roads shall be adequate to serve additional traffic reasonably likely to be generated by the proposed use.
  - (3) Development of the property for the proposed use shall promote or be consistent with the coordinated and practical community development, the provision of adequate public and community services, the public health, safety, morals and general welfare.
  - (4) If the proposed site would be created by subdivision of a larger tract or parcel, the balance of such tract or parcel remaining shall be adequate and appropriate for its existing and continuing use in accordance with the foregoing standards.

(5) If the proposed site would be created by subdivision of a larger tract or parcel, the balance of such tract or parcel remaining shall be adequate and appropriate for its existing and continuing use in accordance with the foregoing standards.

- (a) If the proposed site would be created by subdivision of a larger tract or parcel, the balance of such tract or parcel remaining shall be adequate and appropriate for its existing and continuing use in accordance with the foregoing standards.
- (b) Ensure compatibility of any building to be erected or altered with the surrounding area in terms of size, shape, materials and placement of structures; and preservation and restoration of any historic buildings.
- (c) Control traffic, noise, signs, lights, parking and other anticipated activity upon the premises to avoid or minimize any adverse effect upon the peace, quiet, privacy and the character of the surrounding area.
- (d) Require such additional landscaping pursuant to an approved landscape plan, as may be appropriate for protective buffering of and the promotion of harmony with adjoining residential or other permitted uses.
- (e) Require, where appropriate, that the applicant enter into agreements to impose upon the property such deed restrictions as are, in the opinion of the Borough Council and Planning Commission, necessary and reasonable to assure the continuation of conditions imposed upon approval of the development or use.
- (f) Require that the applicant make provision for the safe flow of anticipated normal daily traffic in the immediate vicinity of the development and, where appropriate, provide more than one means of ingress and egress and adequate deceleration lanes.
- (g) Permit, where appropriate, staged development and to set deadlines for such staging and conditions for the proper maintenance of that portion of the property not being developed

E. After it reviews the application, the Planning Commission shall transmit the application to the Borough Council accompanied by a written report of its findings and recommendations, including all recommended conditions, a copy of which report shall be furnished the applicant. Such report shall be made by the Planning Commission no later than ten days after the meeting at which the application is considered.

- ~~G. F.~~ ~~The Planning Commission~~ Borough Council shall conduct a full review of the application and shall hold at least one public hearing thereon not later than 60 days after the receipt of such application. ~~The cost of such public hearing or hearings, limited to the cost of giving notice and the taking and transcription of a stenographic record, shall be borne by the applicant.~~ Borough Council may appoint any member of the Borough Council or an independent attorney as a hearing officer to conduct the hearing. Notice of the public hearing, shall be given to those persons and agencies who would be entitled to notice if the same premises were the subject of an application to the Zoning Hearing Board for special exception and to all others who have registered their names with the Zoning Officer for that purpose. The cost of such public hearing or hearings, limited to the cost of giving notice and the taking and transcription of a stenographic record, shall be borne by the applicant.
- ~~G.~~ ~~After a full review of the application, the Planning Commission shall transmit the application to the Borough Council accompanied by a written report of its findings and recommendations, including all recommended conditions, a copy of which report shall be furnished the applicant. Such report shall be made by the Planning Commission no later than 45 days after the close of the record.~~
- H. The Borough Council shall consider and discuss the application and the report of the Planning Commission at its next regular meeting following the closing of the properly noticed public hearing. The cost of giving notice and the taking and transcription of a stenographic record of the portion of such meeting dedicated to the consideration of the Planning Commission record, shall be borne by the applicant. Upon request, the applicant and others affected by the application shall be afforded reasonable opportunity to be heard.
- I. The Borough Council shall ~~approve or disapprove the application by resolution and will send a written notification to the applicant within 10 days of the decision~~ render a written decision on the conditional use application within 45 days after the final closing of the public hearing before the Borough Council or its designated hearing officer, provided that, the applicant may extend the time for the Borough Council to consider the application by agreeing to such extension in writing. Failure of the Board to act with respect to an application within ~~a reasonable time~~ the specified time frame or any extension thereof shall constitute ~~refusal~~ a denial of the application.
- J. Where the applicant or any party with standing notifies the Borough Council within the specified appeal period that it intends to contest the determination of the Borough Council, the decision regarding the application shall be issued in writing and shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- ~~K. J.~~ In case of approval it shall affirm, modify and/or supplement the conditions and requirements recommended by the Commission, as the Borough Council

may find proper, pursuant to the standards and criteria set forth above. Unless otherwise provided in the resolution of approval, any subsequent extension of the approved conditional use shall require a reapplication. The Borough Council, as a condition of approval, may require the execution of a developer's agreement, containing the conditions and requirements of the development.

L ~~K~~ Appeals of any decisions of the Borough Council under this Section shall be made in accordance with the Municipal Planning Code.

3. Special conditions for conditional uses.

A. The Borough shall approve any conditional use proposed if it finds that the use meets all the applicable objectives and requirements indicated below, complies with all the site plan review criteria set forth in Chapter 22 of the Code and complies with other applicable provisions of this article. For certain conditional uses, the criteria governing them appear in this Article below instead of in the article in which the use appears and/or additional criteria appearing herein below

(1) Group child day-care shall be permitted as a conditional use in a church operating in an R-Residential District by special exception subject to the following requirements:

- (a) There shall be a fence at least 4 feet high around all outdoor play areas to protect the children within the play area and to provide adequate screening for neighboring properties, subject to §27-615. All outdoor play equipment shall be used and kept within the fenced-in play area. Children, when outdoors of the group child day-care, shall not be allowed to play outside the fenced area.
- (b) The appearance and exterior design of the facility shall not alter the exterior structure of the church and any play area shall include landscaping sufficient to minimize the view of the equipment from the neighboring dwellings.
- (c) The facility shall display no sign which is inconsistent with the character of the neighborhood and shall be subject to §27-613.
- (d) Outdoor play activities shall be limited to the hours between 9 a.m. and 6 p.m.
- (e) Facility operation when children are permitted to be on premises are limited to the hours of 7:30 a.m. to 6 p.m.
- (f) Each facility must have the appropriate certificates as required by the Pennsylvania Department of Public Welfare (DPW) which shall be prominently displayed in the main entrance of the facility. All day care homes must meet all current DPW regulations and any applicable Federal, State or local laws, ordinances and regulations, including building and fire safety codes.

- (g) The operator of the facility shall allow the Code Official to enter the property at reasonable times subject to 24 hour notice to inspect the facility for compliance with this section and other applicable ordinances or regulations.
- (h) The entrance and egress from the church utilized by the daycare to any play area shall not cross any public roadway or motor vehicle access way on the property.
- (i) Off street on premises parking shall be required for the staff and visitors at the following ratio:
  - i. For Staff – 1 spot for each scheduled employees during the largest staffing period during the week;
  - ii. For Drop Off – 5 designated spots noticed to patrons of the group child day care as being for drop off only (painted notice on the pavement or temporary daily signage is permitted);
  - iii. ~~2~~ spots for ~~every~~ 5 children enrolled in the group child day care.
- (j) The day-care shall have a designated drop-off area or vehicle access to parking on the church property with exclusive access to the street or public or private right of way during the day-care hours of operation.
- (k) Each group child day-care home shall also comply with any health regulations for children and staff as set forth in applicable state law.
- (l) No directional, identifying or other type sign for the group child day-care shall be permitted on the exterior of the church structure or the property.
- (m) The operator of the facility shall agree to a maximum number of children permitted to be enrolled at the facility and/or a maximum number of staff permitted to work at the facility as reasonably required by the Borough Council in light of all of the conditions of the site.

**Section 4. Severability.**

The provisions of this ordinance are severable. If any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid, the unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this ordinance. It is hereby declared to the intent

of the Borough Council of Rutledge Borough, Delaware County, Commonwealth of Pennsylvania, that this ordinance would have been adopted had the unconstitutional, illegal, or invalid sentence, clause or section not been included herein.

**Section 5. Effective Date.**

This Ordinance shall become effective upon enactment.

ENACTED AND ORDAINED THIS \_\_\_\_\_ DAY of 20 \_\_\_\_.

ATTEST:

BOROUGH OF RUTLEDGE

By: \_\_\_\_\_

Secretary

By: \_\_\_\_\_

Council President

By: \_\_\_\_\_

Mayor

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