

Number
120191
Version
SUBSTITUTE 2
Reference

Sponsor
ALD. MURPHY, BAUMAN AND PEREZ

Title
A substitute ordinance relating to design standards for elementary schools.

Sections
252-77 cr
Analysis

This ordinance requires that any premises upon which use of the premises as an elementary school begins on or after the effective date of the ordinance have outdoor play space for children enrolled in the school. The ordinance also:

1. Specifies the amount of play space that is to be provided.
2. Requires that the play space be located on the school premises.
3. Requires an energy-absorbing surface under and near climbing equipment, swings and slides.
4. Prohibits the use of concrete and asphalt under climbing equipment, swings and slides.
5. Requires the play space to be well-drained and hazard-free.

Finally, this ordinance provides that the department of city development may grant an exemption from these outdoor play space requirements for a school that has no outdoor play space available on the premises of the school if the school submits a written request for an exemption and a plan for the provision of off-premise outdoor play space.

Standards for off-premise outdoor play space are also specified.

Body

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

Part 1. Section 252-77 of the code is created to read:

252-77. Outdoor Play Space for Elementary Schools. 1. DEFINITION. In this section, "elementary school" means a public, parochial or private school which provides an educational program for one or more grades between kindergarten and grade 5, inclusive, and which is commonly known as an elementary school or grade school.

2. REQUIREMENTS. Except when an exemption is requested and approved by the department of city development under sub. 3, every premises upon which use of the premises as an elementary school begins on or after the effective date of this ordinance [city clerk shall insert date] shall comply with all of the following requirements for outdoor play space:

- a. There shall be at least 75 square feet of outdoor play space for each child using the space at any given time.
- b. The total outdoor play space of the school shall accommodate not less than 1/5 of the number of children enrolled in the school or a minimum of 750 square feet, whichever is greater.
- c. The outdoor place space shall be on the premises of the school.
- d. An energy-absorbing surface, such as loose sand, pea gravel or pine or bark mulch, in a depth of at least 9 inches, is required under climbing equipment, swings and slides and in a fall zone of 4 feet beyond and whenever play equipment is 4 feet or more in height. Shredded rubber and poured surfacing shall be installed to the manufacturer's specifications based on the height of the equipment.
- e. Concrete and asphalt under climbing equipment, swings and slides shall be prohibited.
- f. The outdoor play space shall be well-drained and shall be free of hazards such as uncovered wells, cisterns and unused appliances. Structures such as playground equipment, railings, decks and porches accessible to children that have been constructed with CCA-treated lumber shall be sealed with an exterior oil-based sealant or stain. Wood containing creosote, including railroad ties, shall not be accessible to children.

3. EXEMPTION FOR OFF-PREMISE OUTDOOR PLAY SPACE. a. Exemption Request. If a school has no outdoor play space available on the premises of the school, the school may request an exemption from the requirements of sub. 2. A request for an exemption shall be in writing and accompanied by a plan for outdoor play space which does all of the following:

- a-1. Identifies and describes the location to be used, the travel distance from the school to that location and the means of transporting the children to that location.
- a-2. Provides for adequate adult supervision of the children. The minimum number of adults supervising children in the outdoor play space shall be one per 30 children or fraction thereof.
- a-3. Provides for daily vigorous outdoor exercise for the school's children.
- a-4. Describes the arrangements to meet the toileting needs of the children.

a-5. Affirms the school's compliance with the requirements of par. b.

b. Requirements for Off-Premise Outdoor Play Space. The off-premise outdoor play space shall meet the following requirements:

b-1. The off-premise outdoor play space shall be free of hazards such as bodies of water, railroad tracks, unfenced in-ground swimming pools, heavily wooded areas and adjacent arterial streets, as defined in s. 295-201-637.

b-2. There shall be at least 75 square feet of outdoor play space for each child using the space at a given time.

b-3. No climbing equipment, swing or slide in the play space may have concrete or asphalt under it.

c. Department Review and Approval. A school's plan for use of an off-premise outdoor play space is subject to approval by the department of city development. Within 30 days after receipt of a plan and request for an exemption from the requirements of sub. 2, the department shall either approve the plan and grant the exemption or not approved the plan and deny the request for exemption. The department shall notify the school in writing of its decision and, if it does not grant an exemption, shall state its reasons for not granting the exemption.

d. Plan Changes. If any circumstance described in an approved plan for use of an off-premise outdoor play space changes, or if any condition for plan approval is not met or is no longer met, the department of city development may withdraw its approval of the plan and cancel the exemption. A school with an approved plan shall immediately report to the department any significant change in any circumstance described in the plan.

LRB

APPROVED AS TO FORM

Legislative Reference Bureau

Date:_____

Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date:_____

Requestor

Drafter
LRB139481-3
Jeff Osterman
08/30/2012

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