



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

WILLIAM L. WEBSTER
ATTORNEY GENERAL

P. O. Box 899
(314) 751-3321

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OPINION LETTER NO. 72-86

The Honorable Mark A. Youngdahl
Representative, District 9
415 Kirkpatrick Building
St. Joseph, Missouri 64501



Dear Representative Youngdahl:

This letter is in response to your question asking:

Does paragraph number 2 of Section 89.020, RSMo 1985, as amended, relating to group homes which requires their inclusion in single family residential districts apply to a Constitutional Charter City such as St. Joseph, Missouri?

Section 89.020 2, RSMo Supp. 1985, provides:

2. For the purpose of any zoning law, ordinance or code, the classification single family dwelling, or residence shall include any home in which eight or fewer unrelated mentally retarded or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally retarded or physically handicapped persons residing in the home. In the case of any such residential home for mentally retarded or physically handicapped persons, the local zoning authority may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards. Further, the local zoning authority may establish reasonable standards regarding the density of such individual homes in any specific single family dwelling neighborhood.

The Honorable Mark A. Youngdahl

Section 19(a) of Article VI, Missouri Constitution, provides:

Any city which adopts or has adopted a charter for its own government, shall have all powers which the general assembly of the state of Missouri has authority to confer upon any city, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.

Under Section 89.010, RSMo 1978, the provisions of Sections 89.010 to 89.140 apply to all cities, towns and villages in the state.

There does not appear to be any doubt that the provisions of Section 89.020 2 apply to constitutional charter cities. See State ex inf. Hannah ex rel. Christ v. City of St. Charles, 676 S.W.2d 508, 513 (Mo. banc 1984).

Very truly yours,



WILLIAM L. WEBSTER
Attorney General