

1
2
3
4
5
6
7
8
9
10
11
12
13

ORDINANCE NO. 4258

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CITY CODE OF ORDINANCES CHAPTER 31- ZONING, ARTICLE VI. SUPPLEMENTAL DISTRICT REGULATIONS, SECTION 31-544- CHILD CARE, DAYCARE AND OTHER PRESCHOOL FACILITIES, IN ORDER TO UPDATE REGULATIONS FOR CHILD CARE HOME AND LARGE FAMILY CHILD CARE HOME; AND AMENDING CHAPTER 31- ZONING, ARTICLE III. – SITE PLAN REVIEW, SECTION 31-61- REVIEW PROCEDURES FOR SPECIAL EXCEPTIONS IN ORDER TO UPDATE FEES; PROVIDING FOR APPLICABILITY, CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

14 **WHEREAS**, The City of Riviera Beach (Applicant), proposes a city-initiated amendment
15 to the Code of Ordinances Chapter 31 Article VI. Supplemental District Regulations
16 Section 31-544 Child Care, Daycare and Other Preschool Facilities in order to update
17 regulations and clarify language for child care home and large family child care home.
18 The proposed amendment also reduces parking requirements for large family child care,
19 but ensures adequate parking and safe drop off/ pick up locations; and

20 **WHEREAS**, the applicant also proposes to amend the Code of Ordinances Chapter 31
21 Article III- Site Plan Review, Section 31-61, Review Procedures for Special Exceptions to
22 update the fees associated with large family child care homes; and

23 **WHEREAS**, The City adheres to the Rules and Regulations set by the Child Care
24 Facilities Board of Palm Beach County under the authority of Chapter 59-1698, Special
25 Acts, Laws of Florida, as amended; and

26 **WHEREAS**, the proposed Zoning Code Text Amendments are designed to make large
27 family child care home more attainable; and

28
29 **WHEREAS**, The Planning & Zoning Board heard this item on March 14, 2024 and voted
30 to recommend that City Council approve this item.

31
32 **NOW, THEREFOR E, BE IT ORDAINED BY THE CITY COUNCIL OF THE**
33 **CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

34
35 **SECTION 1.** The foregoing “WHEREAS” clauses are hereby adopted as true and correct
36 and are incorporated herein. It is the purpose and intent of this Ordinance to promote the
37 health, safety and general welfare of the residents, businesses, and stakeholders of the
38 City.

39
40 **SECTION 2.** The City Council of the City of Riviera Beach hereby approves a request for
41 Text Amendment to the Code of Ordinances, Chapter 31, Article VI Section 31-544,

42 Supplemental District Regulations Section 31-544 Child Care, Daycare and Other
43 Preschool Facilities to update regulations and clarify language to family child care and
44 large family child care homes.

45
46 **SECTION 3.** Section 31-544 is amended as follows:

47
48 **Section 31-544 – Child care, daycare and other preschool facilities.**

49
50 Section 31-544 – Child care, daycare and other preschool facilities.

51
52 [(a)] *Family day care home:*

53 (1) A family day care home is a permitted use in the following zoning districts:

- 54 — RS-5 Single-Family Dwelling District;
55 — RS-6 Single-Family Dwelling District;
56 — RS-8 Single-Family Dwelling District;
57 — RML-12 Low Density Multifamily Dwelling District;
58 — RD-15 Two-Family Dwelling District;
59 — RM-15 Multiple Family Dwelling District;
60 — RMH-15 Multifamily/Hotel District.

61 (2) Shall only be an accessory use in a private residence and may function either
62 for or not-for-profit.

63 (3) ~~Is limited to no more than six children at any one time~~ or the maximum number
64 allowed by the Child Care Facilities Board of Palm Beach County.

65 (4) The person furnishing such service shall have a current, valid permit from Palm
66 Beach County Health Department for operation of a family day care home, as
67 required by Article II of Chapter 39, Palm Beach County Code; and a City of
68 Riviera Beach Certificate of Use and Business Tax Receipt categorizing the
69 use as a "family day care home." A valid permit from the Palm Beach County
70 Health Department or a letter of approval must be submitted when applying for
71 a certificate of use and business tax receipt for the city.

72 (5) A family day care home registered with the ~~State Department of Health and~~
73 ~~Rehabilitative Services (HRS)~~ Department of Children and Families is
74 specifically exempt from having to obtain any special exemption or use permit
75 or pay any special fee in excess of \$50.00 to operate ~~within the city~~ in an area
76 zoned for residential use (F.S. § 166.0445).

77 (6) Baby-sitting services provided by an individual at the home of the parents or
78 legal guardians of the child(ren) are deemed to be exempt from these
79 provisions.

80 (7) All family day care homes shall comply with state, county and eCity codes and
81 regulations. The City adheres to the Rules and Regulations set by the

82 Child Care Facilities Board of Palm Beach County under the authority of
83 Chapter 59-1698, Special Acts, Laws of Florida, as amended. In the event of a
84 conflict between Palm Beach County's Rules and State family day care or
85 large family child care home standards, the more stringent shall apply.

86 [(b)] *Large family child care home:*

87 (1) A large family child care home requires city council approval via the special
88 exception process and can only operate in the following zoning districts:

- 89 — RS-6 Single-Family Dwelling District;
- 90 — RS-8 Single-Family Dwelling District;
- 91 — RML-12 Low Density Multifamily Dwelling District;
- 92 — RD-15 Two-Family Dwelling District;
- 93 — RMH-15 Multifamily Dwelling District.

94 (2) *Requirements:*

- 95 a. Two full-time child care personnel must be on the premises during the
96 hours of operation. One of the full-time child care personnel must be the
97 owner or occupant of the residence.
- 98 b. ~~Such use must first have operated as a licensed family day care home for~~
99 ~~two years, with an operator who has had a child development associate~~
100 ~~credential or its equivalent for one year.~~

101 The large family child care home must first have operated as a licensed
102 family child care home for 2 years at either the same or a different
103 location, with an operator who has had a child development associate
104 credential or its equivalent for 1 year, before seeking licensure as a large
105 family child care home. The person furnishing such service shall update
106 their current permit from Palm Beach County Health Department for
107 operation of a large family child care home, and a City of Riviera Beach
108 Certificate of Use and Business Tax Receipt categorizing the use as a
109 "large family child care home." The updated permit from the Palm Beach
110 County Health Department or a letter of approval must be submitted when
111 applying for a certificate of use and business tax receipt for the city.

- 112 c. A large family child care home shall be allowed to provide care for one of
113 the following groups of children which shall include those children under
114 13 years of age who are related to the caregiver:
 - 115 1. A maximum of eight children from birth to 24 months of age; or
 - 116 2. A maximum of 12 children with no more than four children under 24
117 months of age.
- 118 d. *Floor area:* Facilities shall contain a minimum floor area of 35 square feet
119 per child, exclusive of space devoted to bathrooms, halls, kitchen, offices,
120 and storage.

- 121 e. *Outdoor area:* There shall be a minimum area of 75 square feet of outdoor
122 play area per child. The play area shall be located on the same lot as the
123 principal use and shall not be located in the front yard setback or adjacent
124 to any outdoor storage area. The play area shall be surrounded by a four
125 to six-foot high opaque fence or wall. If the fence or wall is not entirely
126 opaque, landscaping shall be installed, four to six feet in height at planting,
127 to create an immediate minimum screening effect of 75 percent of the
128 fenced or walled area. The lot shall be landscaped to code while
129 considering visibility corridors for safety and prohibiting poisonous plant
130 species.
- 131 f. *Parking and loading area:* Parking shall be in accordance with section 31-
132 577(14) of the city's Code of Ordinances. Additionally, a pick-up and drop-
133 off area for children shall be provided in a suitable area adjacent to the
134 building and shall provide clear ingress and egress to the building as
135 determined by the city engineer, police chief, and fire chief (or designees
136 for the aforementioned). One of the required parking spaces may serve as
137 the pickup and drop off area if located as indicated above.
- 138 g. *Separation requirement:* Measured from parcel to parcel, there shall be a
139 minimum of 250 feet between large family child care homes. No large
140 family child care home shall be permitted within 250 feet of any package
141 store, bar, nightclub, or adult entertainment establishment.
- 142 h. *Other regulations:* All large family child care homes shall comply with
143 state, county and city codes and regulations. The City adheres to the
144 Rules and Regulations set by the Child Care Facilities Board of Palm
145 Beach County under the authority of Chapter 59-1698, Special Acts, Laws
146 of Florida, as amended. In the event of a conflict between Palm Beach
147 County's Rules and State family day care or large family child care
148 standards, the more stringent shall apply.

149 [(c)] *Child care facility:*

- 150 (1) A child care facility requires city council approval via the special exception
151 process and can only operate in the following zoning districts:
- 152 — RML-12 Low Density Multifamily Dwelling District;
 - 153 — RM-15 Multifamily Dwelling District;
 - 154 — CN Neighborhood Commercial;
 - 155 — CG General Commercial.
- 156 (2) *Separation requirement:* Measured from parcel to parcel, there shall be a
157 minimum of 500 feet between child care facilities. No child care facility shall be
158 permitted within 500 feet of any package store, bar, nightclub, or adult
159 entertainment establishment.
- 160 (3) *Minimum floor area:* There shall exist a minimum usable floor area, exclusive
161 of any space devoted to the kitchen, halls, office, storage and bathroom

162 facilities, of not less than 1,000 square feet is required. Facilities with
163 capacities exceeding 25 children shall provide 35 square feet of additional floor
164 area per child.

165 (4) *Property development regulations:* The building height, setbacks, parking and
166 total floor area shall be governed by the applicable zoning district and/or site
167 plan review.

168 (5) *Parking and loading area:* Parking shall be in accordance with section 31-
169 577(14) of the city's Code of Ordinances. Additionally, a pick-up and drop-off
170 area for children shall be provided in a suitable area adjacent to the building
171 and shall provide clear ingress and egress to the building as determined by the
172 city engineer, police chief, and fire chief (or designees for the aforementioned).

173 (6) *Outdoor play area:*

174 a. There shall be provided a minimum of 1,500 square feet of outdoor play
175 area or 100 square feet of outdoor play area per child, whichever
176 produces the larger area. The play area shall be located on the same lot
177 as the principal use and shall not be located in the front yard setback or
178 adjacent to any outdoor storage area. The play area shall be surrounded
179 by a four to six-foot high opaque fence or wall. If the fence or wall is not
180 entirely opaque, landscaping shall be installed, four to six feet in height at
181 planting, to create an immediate minimum screening effect of 75 percent
182 of the fenced or walled area. The lot shall be landscaped to code, while
183 considering visibility corridors for safety and prohibiting poisonous plant
184 species.

185 b. For child care facilities with enrollments of 30 or more, the outside play
186 area may be utilized on a split shift basis, provided that a written statement
187 and schedule of play periods, with age groups, are submitted for prior
188 approval by the community development director, and provided that
189 minimum outdoor play area shall not be less than that required for one-
190 third of the total enrollment.

191 (7) *Other:* All child care facilities shall comply with state, county and city codes and
192 regulations. A certificate of use and business tax receipt must be obtained from
193 the city prior to operation. Submittal of an active permit from Palm Beach
194 County Health Department or a letter of approval from the Palm Beach County
195 Health Department must be submitted in order to apply for city licensing. In the
196 event of a conflict between Palm Beach County's Rules and State family day
197 care or large family child care standards, the more stringent shall apply.

198 (Ord. No. 2152, § 3(B)(23.AA-24.III), 3-17-82; Ord. No. 3092, § 2, 5-18-11)

199
200 **SECTION 4.** The City Council of the City of Riviera Beach hereby approves a request for
201 Text Amendment to the Code of Ordinances, Chapter 31, Article III Section 31-61, Review
202 procedures for special exceptions to update fees for large family child care homes.
203

204 **SECTION 5.** Section 31-61 is amended as follows:

205 **Section 31-61. Review procedures for special exceptions.**

206 Section 31-61. Review procedures for special exceptions.

- 207 (a) Purpose. This section is intended to address the review procedures for those uses
208 which have been designated as special exceptions within the permitted uses of the
209 applicable zoning district. The city council shall decide only upon such special
210 exceptions that are specifically authorized by the terms of this chapter, i.e., to grant
211 special exceptions with such conditions and safeguards as are appropriate under
212 this chapter or to deny special exceptions when not in harmony with the purpose,
213 intent and requirements of this chapter.
- 214 (b) Public hearings required. A public hearing shall be held by the planning and zoning
215 board and city council in accordance with the public hearing procedures and notice
216 requirements in section 31-4, prior to any decision regarding a request for special
217 exception.
- 218 (c) Submission. A site plan shall be submitted concurrently with the special exception.
219 For special exceptions, the grant of the special exception shall expire if a building
220 permit is not issued within two years from the date the special exception was
221 granted by the city council.
- 222 (d) Fees. The fees for special exceptions are set out in section 31-691 of this code,
223 which references the land development application fee schedule. Large family child
224 care homes are only subject to half of the applicable site plan, special exception
225 and advertisement fees.
- 226 (d) Payment plan option. A payment plan option is available for the three following
227 special exception uses: community residential home, large family child care home,
228 and place of worship. The aforementioned uses may choose to utilize the payment
229 plan option as follows:
- 230 (1) Half of the required fees due to apply for a special exception use approval
231 (including special exception fees, site plan fees and advertising fees) may be
232 submitted in lieu of full payment when a complete special exception application
233 packet is officially submitted to staff. This payment will provide for review by
234 both staff and the planning and zoning board. The remainder of fees due shall
235 be provided by the applicant prior to application review by the city council
236 within one year of planning and zoning board review or the application shall
237 expire and officially be considered withdrawn.
- 238 (2) Partial payment of fees submitted through this payment plan option are non-
239 refundable and does not guarantee a final use approval,
- 240 (Ord. No. 2152, § 3(B)(23.AA-27.II.A, B), 3-17-82; Ord. No. 2366, § 2, 4-6-88; Ord. No.
241 2969, § 3, 6-2-04; Ord. No. 4028, § 1, 9-4-13)

242

243 **SECTION 6.** If any section, subsection, sentence, clause, phrase or portion of this
244 Ordinance for any reason is held invalid or unconstitutional by any court of competent
245 jurisdiction, such portion shall be deemed a separate, distinct and independent provision
246 and such holding shall not affect the validity of the remaining portions thereof.

247
248 **SECTION 7.** All Ordinances or parts of Ordinances in conflict herewith are hereby
249 repealed to the extent of such conflict.

250
251 **SECTION 8.** The effective date of these Text Amendments, if these Text Amendments
252 are not timely challenged, shall be the date of adoption.

253
254
255 **PASSED AND APPROVED** on first reading this ____ day of _____, 2024

256
257 **PASSED AND ADOPTED** on second and final reading this ____ day of
258 _____ 2024.

259
260
261 The remainder of this page is intentionally left blank.

262

263 **Ordinance No.**
264 **Page**

265
266
267

268 **APPROVED:**

269
270
271

272 _____
273 **Ronnie L. Felder**
274 **Mayor**

_____ **Dr. Glen Spiritis, PhD**
Chairperson

275
276

277 **ATTEST:**

278
279
280

_____ **KaShamba Miller-Anderson**
Chair Pro Tem

281

282 _____
283 **Debrah Hall-McCullon, CMC, FCRM**
284 **Certified Municipal Clerk**
285 **Acting City Clerk**

_____ **Tradrick McCoy**
Councilperson

286
287

_____ **Shirley D. Lanier**
Councilmember

288
289
290

291

292

_____ **Douglas A. Lawson**
Councilperson

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339

1ST READING

2ND & FINAL READING

MOTIONED BY: _____

MOTIONED BY: _____

SECONDED BY: _____

SECONDED BY: _____

T. MCCOY _____

T. MCCOY _____

K. MILLER-ANDERSON _____

K. MILLER-ANDERSON _____

S. LANIER _____

S. LANIER _____

G. SPIRITIS _____

G. SPIRITIS _____

D. LAWSON _____

D. LAWSON _____

Reviewed as to Legal Sufficiency:

Dawn S. Wynn
City Attorney

Date: _____