

**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 FAMILY DAY CARE HOMES AND LARGE FAMILY CHILD CARE HOMES; 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.**

**WHEREAS**, the City Council of Riviera Beach, as the governing body of the City, pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider changes to its land development regulations (Zoning Code); and

**WHEREAS**, family day care homes and large family child care homes are subject to regulation at the state, county, and municipal levels; and

**WHEREAS**, Chapter 31, Article VI, Section 31-544 of the Code of Ordinances of Riviera Beach provides for the establishment and operation of such homes within the City; and

**WHEREAS**, it is the desire of the City Council to amend Section 31-544 to be in harmony with the regulations established by the Child Care Facilities Board of Palm Beach County, and to provide for conflicts between such regulations and state law; and

**WHEREAS**, it is the desire of the City Council to amend Section 31-544 to ensure a minimum of three (3) parking spaces for large family child care homes by allowing a parking space to meet the requirement for a designated pick-up and drop-off area; and

**WHEREAS**, it is the desire of the City Council to amend Chapter 31, Article III, Section 31-61 to reduce certain application fees for large family child care homes; and

**WHEREAS**, the Planning & Zoning Board heard this matter on March 14, 2024 and voted to recommend approval of the proposed zoning text amendments ~~item~~; and

**WHEREAS**, there is a need for child care services within the City and the City Council finds that the proposed zoning text amendments would make large family child care homes more attainable; and

**WHEREAS**, the City Council has determined that the proposed zoning text amendments are in the best interest of the health, safety, and general welfare of the residents, businesses, and stakeholders of the City.

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

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby adopted as true and correct and are incorporated herein.

**SECTION 2.** Chapter 31, Article VI, Section 31-544 of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows:

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

**(a)** *Family day care home:*

- (1) A family day care home is a permitted use in the following zoning districts:
  - RS-5 Single-Family Dwelling District;
  - RS-6 Single-Family Dwelling District;
  - RS-8 Single-Family Dwelling District;
  - RML-12 Low Density Multifamily Dwelling District;
  - RD-15 Two-Family Dwelling District;
  - RM-15 Multiple Family Dwelling District;
  - RMH-15 Multifamily/Hotel District.
- (2) Shall only be an accessory use in a private residence and may function either for or not-for-profit.
- (3)- Is limited to no more than six children at any one time and shall not exceed the applicable maximum number of children allowed by the Child Care Facilities Board of Palm Beach County.
- (4) The person furnishing such service shall have a current, valid permit from Palm Beach County Health Department for operation of a family day care home, as required by Article II of Chapter 39, Palm Beach County Code; and a City of Riviera Beach Certificate of Use and Business Tax Receipt categorizing the use as a "family day care home." A valid permit from the Palm Beach County Health Department or a letter of approval must be submitted when applying for a certificate of use and business tax receipt for the city.
- (5) A family day care home registered with the ~~State Department of Health and Rehabilitative Services (HRS)~~ Department of Children and Families is specifically exempt from having to obtain any special exemption or use permit or pay any special fee in excess of \$50.00 to operate ~~within the city~~ in an area zoned for residential use (F.S. § 166.0445).

- (6) Baby-sitting services provided by an individual at the home of the parents or legal guardians of the child(ren) are deemed to be exempt from these provisions.
- (7) All family day care homes shall comply with state, county, and city codes and regulations, and with the standards established by the Child Care Facilities Board of Palm Beach County under the authority of Chapter 59-1698, Special Acts, Laws of Florida, as amended. In the event of a conflict between standards established by the state and those established by the Child Care Facilities Board of Palm Beach County, the more stringent shall apply.

(b) *Large family child care home:*

- (1) A large family child care home requires city council approval via the special exception process and can only operate in the following zoning districts:
  - RS-6 Single-Family Dwelling District;
  - RS-8 Single-Family Dwelling District;
  - RML-12 Low Density Multifamily Dwelling District;
  - RD-15 Two-Family Dwelling District;
  - RMH-15 Multifamily Dwelling District.

(2) *Requirements:*

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

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

- c. *Maximum number of children:* A large family child care home shall be allowed to provide care for one of the following groups of children which shall include those children under 13 years of age who are related to the caregiver:

1. A maximum of eight children from birth to 24 months of age; or

2. A maximum of 12 children with no more than four children under 24 months of age.

A large family child care home shall not exceed the applicable maximum number of children allowed by the Child Care Facilities Board of Palm Beach County.

- d. *Floor area:* Facilities shall contain a minimum floor area of 35 square feet per child, exclusive of space devoted to bathrooms, halls, kitchen, offices, and storage.
- e. *Outdoor area:* There shall be a minimum area of 75 square feet of outdoor play area per child. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback or adjacent to any outdoor storage area. The play area shall be surrounded by a four to six-foot high opaque fence or wall. If the fence or wall is not entirely opaque, landscaping shall be installed, four to six feet in height at planting, to create an immediate minimum screening effect of 75 percent of the fenced or walled area. The lot shall be landscaped to code while considering visibility corridors for safety and prohibiting poisonous plant species.
- f. *Parking and loading area:* ~~Parking shall be in accordance with section 31-577(14) of the city's Code of Ordinances.~~ A minimum of three parking spaces shall be provided for large family day cares. Additionally, a pick-up and drop-off area for children shall be provided in a suitable area adjacent to the building and shall provide clear ingress and egress to the building as determined by the city engineer, police chief, and fire chief (or designees for the aforementioned). One of the required parking spaces may serve as the pick-up and drop-off area if located as indicated above.
- g. *Separation requirement:* Measured from parcel to parcel, there shall be a minimum of 250 feet between large family child care homes. No large family child care home shall be permitted within 250 feet of any package store, bar, nightclub, or adult entertainment establishment.
- h. *Other regulations:* All large family child care homes shall comply with state, county, and city codes and regulations, and with the standards established by the Child Care Facilities Board of Palm Beach County under the authority of Chapter 59-1698, Special Acts, Laws of Florida, as amended. In the event of a conflict between standards established by the state and those established by the Child Care Facilities Board of Palm Beach County, the more stringent shall apply.

(c) Child care facility:

- (1) A child care facility requires city council approval via the special exception process and can only operate in the following zoning districts:
  - RML-12 Low Density Multifamily Dwelling District;
  - RM-15 Multifamily Dwelling District;

- CN Neighborhood Commercial;
  - CG General Commercial.
- (2) *Separation requirement:* Measured from parcel to parcel, there shall be a minimum of 500 feet between child care facilities. No child care facility shall be permitted within 500 feet of any package store, bar, nightclub, or adult entertainment establishment.
  - (3) *Minimum floor area:* There shall exist a minimum usable floor area, exclusive of any space devoted to the kitchen, halls, office, storage and bathroom facilities, of not less than 1,000 square feet is required. Facilities with capacities exceeding 25 children shall provide 35 square feet of additional floor area per child.
  - (4) *Property development regulations:* The building height, setbacks, parking and total floor area shall be governed by the applicable zoning district and/or site plan review.
  - (5) *Parking and loading area:* Parking shall be in accordance with section 31-577(14) of the city's Code of Ordinances. Additionally, a pick-up and drop-off area for children shall be provided in a suitable area adjacent to the building and shall provide clear ingress and egress to the building as determined by the city engineer, police chief, and fire chief (or designees for the aforementioned).
  - (6) *Outdoor play area:*
    - a. There shall be provided a minimum of 1,500 square feet of outdoor play area or 100 square feet of outdoor play area per child, whichever produces the larger area. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback or adjacent to any outdoor storage area. The play area shall be surrounded by a four to six-foot high opaque fence or wall. If the fence or wall is not entirely opaque, landscaping shall be installed, four to six feet in height at planting, to create an immediate minimum screening effect of 75 percent of the fenced or walled area. The lot shall be landscaped to code, while considering visibility corridors for safety and prohibiting poisonous plant species.
    - b. For child care facilities with enrollments of 30 or more, the outside play area may be utilized on a split shift basis, provided that a written statement and schedule of play periods, with age groups, are submitted for prior approval by the community development director, and provided that minimum outdoor play area shall not be less than that required for one-third of the total enrollment.
  - (7) *Other:* All child care facilities shall comply with state, county and city codes and regulations. A certificate of use and business tax receipt must be obtained from the city prior to operation. Submittal of an active permit from Palm Beach County Health Department or a letter of approval from the Palm Beach County Health Department must be submitted in order to apply for city licensing. In the event of a conflict between Palm Beach County's Rules and State family day care or large family child care standards, the more stringent shall apply.

**SECTION 3.** Chapter 31, Article III, Section 31-61 of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows:

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

- (a) Purpose. This section is intended to address the review procedures for those uses which have been designated as special exceptions within the permitted uses of the applicable zoning district. The city council shall decide only upon such special exceptions that are specifically authorized by the terms of this chapter, i.e., to grant special exceptions with such conditions and safeguards as are appropriate under this chapter or to deny special exceptions when not in harmony with the purpose, intent and requirements of this chapter.
- (b) Public hearings required. A public hearing shall be held by the planning and zoning board and city council in accordance with the public hearing procedures and notice requirements in section 31-4, prior to any decision regarding a request for special exception.
- (c) Submission. A site plan shall be submitted concurrently with the special exception. For special exceptions, the grant of the special exception shall expire if a building permit is not issued within two years from the date the special exception was granted by the city council.
- (d) Fees. The fees for special exceptions are set out in section 31-691 of this code, which references the land development application fee schedule. As applied to large family child care homes, the total land development application fees for site plan approval, special exception approval, and advertisement, shall be reduced by eighty (80) percent or to an amount not to exceed \$800.00, whichever is less.
- (d) Payment plan option. A payment plan option is available for the three following special exception uses: community residential home, large family child care home, and place of worship. The aforementioned uses may choose to utilize the payment plan option as follows:
  - (1) Half of the required fees due to apply for a special exception use approval (including special exception fees, site plan fees and advertising fees) may be submitted in lieu of full payment when a complete special exception application packet is officially submitted to staff. This payment will provide for review by both staff and the planning and zoning board. The remainder of fees due shall be provided by the applicant prior to application review by the city council within one year of planning and zoning board review or the application shall expire and officially be considered withdrawn.
  - (2) Partial payment of fees submitted through this payment plan option are non-refundable and does not guarantee a final use approval,

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance for any reason is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 6.** This ordinance shall take effect immediately upon its final approval and adoption.

**PASSED AND APPROVED** on first reading this \_\_\_\_ day of \_\_\_\_\_, 2024

**PASSED AND ADOPTED** on second and final reading this \_\_\_\_ day of \_\_\_\_\_ 2024.

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**Ordinance No.**  
**Page**

**APPROVED:**

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**Ronnie L. Felder**  
**Mayor**

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**Douglas A. Lawson**  
**Chairperson**

**ATTEST:**

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**Tradrick McCoy**  
**Chair Pro Tem**

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**Debrah Hall-McCullon, CMC, FCRM**  
**Certified Municipal Clerk**  
**Acting City Clerk**

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**KaShamba Miller-Anderson**  
**Councilperson**

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**Shirley D. Lanier**  
**Councilmember**

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**Dr. Glen Spiritis, PhD**  
**Councilperson**



**1<sup>ST</sup> READING**

**2<sup>ND</sup> & FINAL READING**

MOTIONED BY: \_\_\_\_\_

MOTIONED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

T. MCCOY \_\_\_\_\_

T. MCCOY \_\_\_\_\_

K. MILLER-ANDERSON \_\_\_\_\_

K. MILLER-ANDERSON \_\_\_\_\_

S. LANIER \_\_\_\_\_

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G. SPIRITIS \_\_\_\_\_

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D. LAWSON \_\_\_\_\_

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Reviewed as to Legal Sufficiency:

\_\_\_\_\_  
Dawn S. Wynn  
City Attorney

Date: \_\_\_\_\_