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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(I)

TO: Honorable Chairman Jean Monestime and Members, Board of County Commissioners

DATE: May 17, 2016

FROM: Abigail Price-Williams County Attorney

SUBJECT: Ordinance pertaining to zoning; modifying requirements for installation of safety barrier at child care facilities; amending section 33-151.18 of the Code

Ordinance No. 16-54

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 4-12-16 Unincorporated Municipal Service Area Committee. This substitute differs from the original item in that it specifies a safety barrier design that will be accepted, modifies the time for compliance, and specifies the standards under which variances of these requirements can be approved. This substitute also updates the fiscal impact and social equity statements based on these changes.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto, and Co-Sponsors Vice Chairman Esteban L. Bovo, Jr., Commissioner Daniella Levine Cava, Commissioner Jose "Pepe" Diaz, Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan and Commissioner Rebeca Sosa.

Abigail Price-Williams
County Attorney

APW/cp

Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact for Zoning Ordinance Modifying Requirements for Installation of Safety Barrier at Child Care Facilities

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The proposed ordinance pertaining to zoning amends Section 33-151.18 of the Code of Miami-Dade County (Code) modifying the existing language to clarify that all childcare facilities abutting a section line or half-section line right-of-way are to comply with the requirements of the Code or install: a) an anti-ram fixture with a minimum Department of State protection rating of K4, or b) a safety barrier from vehicular traffic along the entire length of the playground/play area abutting the right-of-way. The proposed ordinance also amends the Code to clarify that childcare facilities operated by Miami-Dade County must also comply with the provisions of the Code. The proposed ordinance also adds language to the Code specifying the standards under which variances of these requirements can be approved.

Adoption of the proposed ordinance is not anticipated to have a significant impact on permitting or enforcement activities in the Department of Regulatory and Economic Resources. Therefore, the implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

Jack Osterholt
Deputy Mayor

03616 160516 SUB

Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Social Equity Statement for Zoning Ordinance Modifying Requirements for Installation of Safety Barrier at Child Care Facilities

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The proposed ordinance modifies Section 33-151.18 of the County Code to:

- clarify in the existing County Code language that all childcare facilities are to comply with the requirements of the County Code or install a safety barrier along the entire length of the playground/play area abutting the right-of-way, or an anti-ram fixture with a minimum Department of State protection rating of K4;
- clarify that the provisions of the County Code also apply to childcare facilities operated by Miami-Dade County; and
- add language specifying the standards under which variances of these requirements can be approved.

The cost to comply with the County Code if this item is approved will be incurred by the owner/operator of any child care facility to which the safety barrier requirement applies. The specific cost to install a safety barrier depends on the size and length of the playground/play area that abuts the right-of-way. Non-compliance is enforceable under the County Code and the associated violation costs will also be borne by the owner/operator of the non-compliant facility.

Safer and better protected childcare facilities benefit the children and parents, as well as employees and owners/operators.

Jack Osterholt
Deputy Mayor

160516

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 17, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(I)

Please note any items checked.

_____ "3-Day Rule" for committees applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Statement of social equity required

_____ Ordinance creating a new board requires detailed County Mayor's report for public hearing

_____ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(I)
5-17-16

ORDINANCE NO. 16-54

ORDINANCE PERTAINING TO ZONING; MODIFYING REQUIREMENTS FOR INSTALLATION OF SAFETY BARRIER AT CHILD CARE FACILITIES; AMENDING SECTION 33-151.18 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-151.18 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-151.18. - Physical standards.

* * *

(j) *Location requirement for outdoor recreation playground/play areas for Child Care facilities.* Where the front or side street property line of a child care facility as described in Section 33-151.11(a), (b) and (f), abuts a section line or half section line right-of-way>>,<< no outdoor recreation playground/play area shall be located between the right-of-way and the building line parallel to the right-of-way. [[~~Within two years after the Director mails notice of the requirement of this ordinance~~]]

>>(1) As of<< >>[insert effective date of this ordinance]<<[2] [[~~June 1, 2007,~~]] all existing child care facilities shall either comply with the foregoing requirement or install >>an anti-ram fixture with a minimum Department of State protection rating of K4 or<< a safety barrier from vehicular traffic designed by a professional engineer and approved by the >>Department of Transportation and<< Public Works [[~~Department~~]]. >>The safety barrier shall be installed along the entire length of the playground/play area that abuts the right-of-way.

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[1] Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< shall be added. Remaining provisions are now in effect and remain unchanged.

[2] The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

(2)<< For any existing child care facility which is required to either relocate its outdoor recreation playground/play area or provide a safety barrier, any resulting reduction in outdoor recreation playground/play area shall be deemed in compliance with the minimum playground/play area requirements of Section 33-151.18(a). Any such reduction shall also be deemed to be in substantial compliance with any site plan previously approved at public hearing. In event that such a child care facility whose site plan was approved at public hearing seeks to relocate its playground/play area, such relocation shall be subject to approval after public hearing upon appropriate application. No fee shall be charged for such application.

>>(3)<< This subsection shall not be deemed to allow the future expansion of any child care facility to occur without complying with the requirements of Section 33-151.18(a).

>>(4)<< Notwithstanding any thing in the Code to the contrary>>,<< the provision>>s<< of this subsection >>(j)<< shall >>also<< apply to >>child care facilities operated by<< Miami-Dade County [[~~child care facilities~~]].

>>(5) Variances of the location requirements of this subsection (j) shall only be approved with a condition requiring the installation of a safety barrier meeting the requirements set forth above. No variances of the safety barrier requirements of this subsection (j) may be approved except for use variances in accordance with Section 33-311(A)(4)(a) of this chapter.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: May 17, 2016

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Senator Javier D. Souto
Co-Sponsors: Vice Chairman Esteban L. Bovo, Jr.
Commissioner Daniella Levine Cava
Commissioner Jose "Pepe" Diaz
Commissioner Sally A. Heyman
Commissioner Barbara J. Jordan
Commissioner Rebeca Sosa