

MEMORANDUM

Agenda Item No. 7(B)


TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Second Reading: 10-3-23)
July 6, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance pertaining to zoning in the unincorporated area of Miami-Dade County; amending sections 33-1, 33-223.1, 33-223.6, 33-238, 33-259, 33-264, and 33-284.30 of the Code; requiring that adult day care centers be spaced a certain distance from one another in certain commercial, industrial, and mixed-use zoning districts; making technical and reorganizational changes

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/gh

MDC001

Memorandum



Date: October 3, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive style.

Subject: Fiscal Impact Statement for Ordinance Relating to Zoning Adult Day Care Centers


The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to be "Jimmy Morales". The signature is written in a cursive style.

Jimmy Morales
Chief Operations Officer

Date: October 3, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Relating to Spacing for Adult Day Care Facilities

The proposed ordinance relating to the spacing requirements of Adult Day Care facilities amends sections 33-1, 33-223.1, 33-223.6, 33-238, 33-259, 33-264, and 33-284.3 of the Code of Miami-Dade County (Code) to provide for spacing between such facilities. Adult Day Care facilities are currently permitted in business, office, and industrial zoning districts, and the proposed ordinance does not change the zoning districts in which such facilities are permitted. Section 33-1 of the Code provides the following definition:

“As defined in Chapter 429, Florida Statutes, an Adult Day Care Center shall include a facility that provides, for a part of a day, care services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Said care services may include, but are not limited to, providing a protective and noninstitutional setting with therapeutic programs of social and health activities and services; leisure activities; self-care training; rest; nutritional services; and respite care. Care services shall not include regular physician visits or treatment programs for alcohol or substance abuse addiction or impairment. On-site supportive and optional services provided at an adult day care center may include, but are not limited to, speech, occupational, and physical therapy; legal consultation; consumer education; and referrals for follow-up services. Overnight stay or overnight care is not permitted. A valid Certificate of Use shall be obtained and renewed annually. Adult day care centers shall be licensed in accordance with Chapter 429, Florida Statutes, and proof of such license shall be provided to the County prior to issuance of a certificate of use.”

The proposed ordinance makes technical, but not substantive, amendments to this definition, relocating the state licensure and Certificate of Use requirements to another portion of the Code.

Overnight stay is not permitted at Adult Day Care facilities, and currently the Code does not impose any spacing requirement for such facilities. There are currently 127 adult daycare facilities in unincorporated Miami-Dade County.

As indicated in the recital clauses, the intent of the proposed ordinance is to address an overconcentration of Adult Day Care facilities in certain areas of Miami-Dade County, which may impact traffic due to drop-off and pick-up, and proposes a spacing requirement of no less than 1,000 feet from another existing, unabandoned legally established facility. Of the 127 licensed facilities, 17 are currently spaced less than 1,000 feet (see attached). Should the proposed ordinance be adopted, those existing facilities would remain unaffected and be able to continue operation without adjustment, unless such use is abandoned or discontinued.

The Code imposes spacing requirements in various other contexts as a mechanism to regulate overconcentration and prevent negative effects on surrounding uses. For example, the County presently regulates spacing for group residential homes, which permit up to 6 unrelated residents, to be spaced a minimum of 1,000 feet from any other such facilities. These group homes are located in residential communities and provide for permanent habitation with overnight stay permitted. By way of further example, the Code also regulates spacing in certain commercial zoning districts for medical observation dormitory facilities and self-service mini-warehouse storage facilities where in both instances spacing is a minimum of 2,500 feet from any other such facilities. Additionally, certain alcoholic beverage establishments are required to be spaced a minimum 1,500 feet from other such facilities.

While a local spacing restriction may limit development of new facilities in specific locations, because there are relatively few Adult Day Care facilities that are currently spaced less than 1,000 feet, and an abundance of commercial and industrially zoned property where such facilities could be sited in the future, the proposed ordinance is not anticipated to create an undue burden for placing new facilities. New facilities that do not meet the minimum spacing requirement may seek a non-use variance from the spacing requirements, similar to other spacing variances. The existing Code provides for parking and pick-up/drop-off standards for Adult Day Care facilities to mitigate vehicular impact. The current Code standard also provides for one parking space for each 500 square feet of floor area or equal to the combined total of personnel and transportation vehicles, whichever is greater.



Jimmy Morales
Chief Operations Officer

CORPORATE NAME	COMM DISTRICT	ADDRESS
A & D LOVE AND CARE, INC	1	5931 NW 173 DR
A&L ADULT DAY CARE CORP.	1	5911 NW 173 DR
FAMILIA ADULT DAY CARE INC.	1	5951 NW 173 DR
DIAMAR ADULT DAYCARE CENTER CORP	9	10985 SW 186 ST
GILD ADULT DAYCARE, LLC.	9	18901 SW 106 AVE
JESUS ES MI ROCA INC.	9	10900 SW 184 ST
LA EDAD PRODIGIOSA INC	9	18900 SW 106 AVE
CARE ANGLES ADULT CENTER, INC.	10	2500 SW 107 AVE
MI CASITA SENIORS CLUB ADULT	10	10758 SW 24 ST
GOLDEN TIME ADULT DAY CARE	11	11980 SW 8 ST
LIBERTAD ADULT DAY CARE	11	925 SW 122 AVE
MIAMI SOCIAL CLUB ADULT DAY CARE	11	12242 SW 8 ST
NANA'S ADULT DAY CARE & RECREATIO	11	13655 SW 26 ST
PEACEFUL ADULT DAY CARE LLC	11	14900 SW 136 ST
PROFESSIONAL ADVANCED ADULT DAY	11	2668 SW 137 AVE
SANTOS ACTIVITY CENTER INC.	11	13780 SW 26 ST 103
THE JOY OF LIFE ADULT DAY CARE	11	15190 SW 136 ST 6



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 3, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(B)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(B)
10-3-23

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING IN THE UNINCORPORATED AREA OF MIAMI-DADE COUNTY; AMENDING SECTIONS 33-1, 33-223.1, 33-223.6, 33-238, 33-259, 33-264, AND 33-284.30 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING THAT ADULT DAY CARE CENTERS BE SPACED A CERTAIN DISTANCE FROM ONE ANOTHER IN CERTAIN COMMERCIAL, INDUSTRIAL, AND MIXED-USE ZONING DISTRICTS; MAKING TECHNICAL AND REORGANIZATIONAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in 2011, the Board adopted Ordinance No. 11-04, permitting adult day care centers as of right in certain commercial, industrial, and mixed-use zoning districts; and

WHEREAS, section 33-1 of the County Code defines an adult day care center as “a facility that provides, for a part of a day, care services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services”, which may include “therapeutic programs of social and health activities and services; leisure activities; self-care training; rest; nutritional services; and respite care”, within “a protective and noninstitutional setting”; and

WHEREAS, section 33-1 further provides that, at adult day care centers, “[c]are services shall not include regular physician visits or treatment programs for alcohol or substance abuse addiction or impairment”, but “[o]n-site supportive and optional services” such as “speech, occupational, and physical therapy; legal consultation; consumer education; and referrals for follow-up services” are permitted; and

WHEREAS, the County Code requires adult day centers to be licensed in accordance with chapter 429 of the Florida Statutes, with proof of such licensure provided to the County prior to the issuance of a certificate of use; and

WHEREAS, while these facilities serve an important function, there is currently an over-concentration of adult day care centers in certain areas of Miami-Dade County and an under-concentration of such facilities in other areas; and

WHEREAS, these types of businesses can have negative impacts on the surrounding community when over-concentrated in a given area; and

WHEREAS, in particular, adult day care centers can result in increased traffic due to drop-off and pick-up of seniors at the facilities and buses and vans transporting the aging population to and from their homes, medical appointments, and adult day care centers, all of which lead to greater traffic congestion and safety concerns; and

WHEREAS, such facilities require adequate space for drop-off and pick-up of seniors, including adequate areas for buses and vans to turn into and out of the sites, without impacting traffic flow and congestion on adjacent roadways; and

WHEREAS, to ensure that adult day care centers can appropriately and safely serve the growing aging population throughout the County, this Board wishes to require that such facilities be spaced a certain distance from one another,

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

Section 1. The foregoing recitals are approved and incorporated herein.

Section 2. Section 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

(1.2) *Adult Day Care Center.* As defined in Chapter 429, Florida Statutes, ~~[[an Adult Day Care Center shall include]]~~ a facility that provides, for a part of a day, care services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Said care services may include, but are not limited to, providing a protective and noninstitutional setting with therapeutic programs of social and health activities and services; leisure activities; self-care training; rest; nutritional services; and respite care. Care services shall not include regular physician visits or treatment programs for alcohol or substance abuse addiction or impairment. On-site supportive and optional services provided at an adult day care center may include, but are not limited to, speech, occupational, and physical therapy; legal consultation; consumer education; and referrals for follow-up services. Overnight stay or overnight care is not permitted. ~~[[A valid Certificate of Use shall be obtained and renewed annually. Adult day care centers shall be licensed in accordance with Chapter 429, Florida Statutes, and proof of such license shall be provided to the County prior to issuance of a certificate of use.]]~~

* * *

Section 3. Section 33-223.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 33-223.1. Uses permitted.

No land, body of water or structure shall be used, or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved or structurally altered or maintained for any purpose in an RU-5 District which is designed, arranged, or intended to be used or occupied for any purpose, except for one or more of the following uses, and all other uses are hereby prohibited:

* * *

(6.1) Adult day care center>>, subject to the following conditions:

- (a) Such facility shall be licensed in accordance with chapter 429, Florida Statutes;
- (b) A valid certificate of use shall be obtained and renewed annually, with proof of state licensure provided to the County prior to issuance or renewal of the certificate of use; and
- (c) No such facility shall be located any less than 1,000 feet from any other existing, unabandoned legally established adult day care center facility, measured by following a straight line from the nearest portion of the structure of the proposed use to the nearest portion of the structure of the existing use.<<

* * *

Section 4. Section 33-223.6 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-223.6. Uses Permitted.

No land, body of water or structure shall be used, or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved or structurally altered or maintained for any purpose in an RU-5A District which is designed, arranged, or intended to be used or occupied for any purpose, except for one or more of the following uses, and all other uses are hereby prohibited:

* * *

(3.1) Adult day care center>>, in accordance with the conditions set forth in section 33-223.1 of this Code<<

* * *

Section 5. Section 33-238 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-238. Uses Permitted.

No land, body of water, or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered, or maintained in any BU-1 District, which is designed, arranged, or intended to be used or occupied for any purpose, except for one or more of the following uses:

* * *

(1.3) Adult day care center>>, in accordance with the conditions set forth in section 33-223.1 of this Code<<

* * *

Section 6. Section 33-259 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-259. Uses Permitted.

No land, body of water, or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered, or maintained, in any IU-1 District, which is designed, arranged, or intended to be used or occupied for any purpose, except for one or more of the following uses:

* * *

(2.1) Adult day care center>>, in accordance with the conditions set forth in section 33-223.1 of this Code<<

* * *

Section 7. Section 33-284.30 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-284.30. Uses Permitted.

(A) No land, body of water and/or structures shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, moved, reconstructed, or structurally altered or maintained in any OPD District, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise herein provided, excepting for one (1) or more of the following uses:

* * *

(2) *Accessory uses.* Accessory uses are those uses that are associated with the principal use(s) and which provide service primarily to employees and patrons of the office park. The accumulative total of all accessory uses shall be limited to a maximum of fifteen (15) percent of the total gross interior square footage of the buildings proposed for the site. Such uses shall have no outside advertising. Areas devoted to structure parking shall not be included in the above calculations. Service facilities shall constitute the following:

* * *

(d) Personal services such as:

* * *

(x) Adult day care center>>, in accordance with the conditions set forth in section 33-223.1 of this Code.<<

* * *

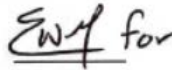
Section 8. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 9. 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 10. 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:

Approved by County Attorney as
to form and legal sufficiency:

Handwritten signature in black ink, appearing to read "EWJ for".

Prepared by:

Handwritten signature in blue ink, appearing to be a stylized name.

James Eddie Kirtley
Dennis A. Kerbel

Prime Sponsor: Senator René García