

1 ORDINANCE NO. 2014-28

2 AN ORDINANCE OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 PERTAINING TO CHILD CARE FACILITIES; AMENDING
5 VARIOUS SECTIONS OF CHAPTER 7, ARTICLE I,
6 "LICENSURE OF CHILD CARE FACILITIES," OF THE
7 BROWARD COUNTY CODE OF ORDINANCES ("CODE");
8 ESTABLISHING MINIMUM STANDARDS FOR PHYSICAL
9 ACTIVITY AND OUTDOOR SHADE, PROVIDING
10 LIMITATIONS ON USE OF ELECTRONIC MEDIA;
11 CLARIFYING EXISTING DRINKING WATER STANDARDS;
12 UPDATING AND ESTABLISHING ADDITIONAL MINIMUM
13 STANDARDS FOR THE PROVISION OF FOOD AND
14 NUTRITION; AND PROVIDING FOR SEVERABILITY,
15 INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

16 (Sponsored by Commissioner Martin David Kiar)

17 WHEREAS, the Board of County Commissioners of Broward County, Florida
18 ("Board"), pursuant to its authority under Chapter 402, Florida Statutes, and
19 Rule 65C-22, Florida Administrative Code, enacted the "Broward County Child Care
20 Ordinance," codified in Chapter 7 of the Broward County Code of Ordinances ("Code"),
21 to administer, enforce, and regulate the operation of child care facilities in Broward
22 County through a licensure process; and

23 WHEREAS, the Board desires to amend the Code to establish additional
24 minimum standards for child care facilities relating to daily planned activities, including
requirements for indoor and outdoor physical activities, outdoor shade, use of electronic
media, drinking water, and the provision of food and nutrition,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
BROWARD COUNTY, FLORIDA:

1 Section 1. Section 7-4.07 of the Code is hereby amended to read as follows:

2 **Sec. 7-4.07. Child discipline.**

3 This subsection establishes the minimum standards for discipline of children in
4 child care facilities. An owner of a child care facility must ensure compliance with the
5 minimum standards for child discipline set forth in Section 402.305(12), Florida Statutes,
6 Rule 65C-22.001(8), relating to preschool child care programs, and Rule 65C-22.008(n),
7 Florida Administrative Code, relating to school-age child care programs, in addition to
8 the more stringent requirements set forth in this subsection.

9 (a) Age appropriate, individual, and constructive disciplinary practices shall be
10 used for each child in care in order to reinforce a more appropriate behavior. The written
11 discipline policy required under Rules 65C-22.001(8) and 65C-22.008(n), Florida
12 Administrative Code, shall also include standards that prohibit children from being
13 subjected to any method or practice of discipline or punishment that is cruel, harsh, or
14 unusual, including, but not be limited to, the following:

15 (1) Children shall not be directed or permitted to discipline other children.

16 (2) Children shall not be confined in any form of physical restraints,
17 equipment, devices, or furniture, including, but not limited to, swings,
18 walkers, and spinners.

19 (3) Children shall not be confined in enclosed areas, including, but not limited
20 to, a closets, locked rooms, boxes, or bathrooms.

21 (4) Children shall not be subjected to profane language, physical or verbal
22 threats, derogatory remarks, or any other form of verbal abuse.

23 (5) Children shall not be subjected to any form of physical punishment,
24 including, but not limited to, spanking, hitting, striking, biting, or pinching.

1 (6) Children shall not be prohibited from participating, or required to
2 participate in, any physical activity as a method of punishment.

3 Section 2. Section 7-5.01 of the Code is hereby amended to read as follows:

4 **Sec. 7-5.01. General requirements.**

5 . . .

6 (m) *Drinking water:*

7 (1) Drinking water shall be available and accessible to the children at all times
8 from a public water system or other water source approved and regulated
9 by the State of Florida. Drinking water means potable water safe for
10 human consumption. Use of a garden hose to provide drinking water is
11 prohibited due to potential health risks that could result from cross
12 connections and backflow contamination of the water system.

13 (2) *Drinking fountains.* Any child care facility with a licensed capacity of fifty
14 (50) children or fewer shall install a minimum of two (2) drinking fountains.
15 One (1) drinking fountain shall be located inside the facility and one (1)
16 located outside the facility in the outdoor play area. Child care facilities
17 with a licensed capacity of more than fifty (50) children shall have one (1)
18 additional drinking fountain located either inside or outside the facility, for
19 each additional licensed capacity of fifty (50) children, or any fraction
20 thereof. Commercial water coolers may be used to meet the indoor
21 drinking fountain requirements. Drinking fountains shall be
22 installed and maintained in compliance with all permitting and regulatory
23 requirements of the applicable governmental agency where the facility is
24 located.

1 (3) Commercially bottled water, electrically powered commercial water
2 coolers, or clean and insulated drinking coolers may be used to dispense
3 drinking water into individual spill-proof cups, sports bottles, or single-use
4 disposable cups. Sharing of cups or individual water bottles is prohibited.
5 Electrically powered commercial water coolers shall be prohibited for use
6 outside the facility.

7 . . .

8 Section 3. Section 7-5.02 of the Code is hereby amended to read as follows:

9 **Sec. 7-5.02. Usable indoor space.**

10 . . .

11 (g) *Planned activities:* This subsection establishes the minimum standards for
12 the daily schedule of planned activities in child care facilities. The owner of a child care
13 facility must ensure compliance with the minimum standards set forth in
14 Rule 65C-22.001(7), Florida Administrative Code, relating to preschool child care
15 programs, and Rule 65C-22.008(t)(12), Florida Administrative Code, relating to
16 school-age child care programs, in addition to the more stringent requirements set forth
17 in this subsection.

18 (1) A written daily schedule of planned activities for each classroom or age
19 group of children, shall be posted in a location that is visible and
20 accessible to the parents, and shall include field trips scheduled in
21 accordance with Subsection 7-8.09 of this Ordinance. The daily schedule
22 of planned activities shall include flexibility to meet the individual needs of
23 the children and provide for alternate indoor physical activities in the event
24 of inclement weather as described in Subsection (g)(2) below.

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(2) *Incllement weather* shall mean any outside condition which necessitates remaining indoors for safety reasons, including, but not limited to, rain, lightning, heat advisories, and air quality alerts.

(3) Planned activities shall be appropriate to the developmental age of the child, and promote emotional, social, intellectual, and physical growth.

- (4) Planned activities shall include, but are not limited to, the following:
- a. Broad blocks of time for activities in art, language development, music, block building, creative and dramatic play, science, manipulative play, active play, including indoor and outdoor (weather permitting) play periods, and field trips;
 - b. Tummy time for infants;
 - c. Meals and snacks times; and
 - d. Quiet or nap time.

(5) *Indoor and outdoor physical activity requirements.*

a. *Preschool child care programs.* Planned activities for children one (1) year of age and up to enrollment in kindergarten shall include a minimum of forty (40) minutes of combined indoor and outdoor physical activity for every three and one-half (3½) hours in care, excluding quiet or nap times.

- b. *School-age child care programs.*
- 1. *After school programs.* Planned activities for school-age children (*kindergarten through 5th grade*) enrolled in after school child care programs shall include a minimum of forty

1 (40) minutes of outdoor physical activity for every three (3)
2 hours in care.

3 2. *Out-of-school time child care programs.* Out-of-school time
4 child care programs shall refer to programs for school-age
5 children (*kindergarten through 5th grade*) enrolled when
6 school is not in session, including, but not limited to, winter
7 and spring breaks, teacher planning days, and holidays, but
8 excluding summer break. Planned activities for
9 out-of-school time child care programs shall include a
10 minimum of forty (40) minutes of combined indoor and
11 outdoor physical activity for every three and one-half (3½)
12 hours in care.

13 c. The indoor and outdoor physical activity requirements shall not be
14 applicable when field trips are scheduled in accordance with
15 Section 7-8.09 of this Ordinance.

16 d. Child care personnel shall promote teamwork and fair and honest
17 behavior in sports when children are engaged in physical activities.

18 e. There shall be a written policy on physical activity participation
19 signed by each child's parent and maintained on file at the facility,
20 which describes the types and duration of physical activities (indoor
21 and outdoor) provided, and recommended footwear and
22 appropriate clothing.

23 (6) *Use of electronic media.*
24

1 a. Electronic media shall refer to electronic devices which transmit
2 information or programming, including, but not limited to,
3 computers, televisions, radios, smart phones, and other hand-held
4 devices. The limitations on use of electronic media set forth in this
5 subsection shall not apply when children are listening to music
6 during planned activities.

7 b. Electronic media use shall be limited to instructional physical
8 activity and educational purposes, including, but not limited to,
9 academics, character development, life skills, health education,
10 critical thinking, and conflict resolution, as provided for in this
11 subsection.

12 c. Electronic media use shall be limited in accordance with the ages of
13 the children as follows:

14 1. *Children younger than two (2) years of age.* Electronic
15 media use is prohibited for children younger than two (2)
16 years of age, including during inclement weather as
17 described in Subsection (g)(2) above.

18 2. *Children two (2) years of age and up to enrollment in*
19 *kindergarten.* Electronic media use shall be limited as
20 provided for in Rule 65C-22.001(7)(a)(2) and (3), Florida
21 Administrative Code.

22 3. *School-age children (kindergarten through 5th grade).*

23 a. *After-school programs.* Electronic media use in
24 after-school child care programs shall be limited to

1 ninety (90) minutes per week, for educational
2 purposes, and ninety (90) minutes per week for
3 instructional physical activity, except computer use
4 solely for school-related assignments and educational
5 e-books.

6 b. *Out-of-school time child care programs.* Electronic
7 media use for school-age children (*kindergarten*
8 *through 5th grade*) enrolled in out-of-school time child
9 care programs, as described in Subsection (5)(b)(2)
10 above, shall be limited to ninety (90) minutes per
11 week for educational purposes, and ninety (90)
12 minutes per week for instructional physical activity,
13 except computer use solely for school-related
14 assignments and educational e-books.

15 4. Notwithstanding the time limitations on electronic media use
16 set forth in this subsection, children two (2) years of age and
17 older shall be permitted to use electronic media for
18 instructional physical indoor activity during inclement
19 weather, as described in Subsection (g)(2) above, for a
20 maximum of two (2) hours a day.

21 . . .

22 Section 4. Section 7-5.03 of the Code is hereby amended to read as follows:

23 **Sec. 7-5.03. Outdoor play space.**

24 . . .

1 (g) The outdoor play space shall provide for exposure to sunlight and include
2 shade. Shade means the ability to block exposure to direct sunlight enabling the body
3 to cool off. The shade area shall, at a minimum, be large enough for children using the
4 outdoor play space at the same time to sit down comfortably without coming into direct
5 contact with another child.

6 . . .

7 Section 5. Section 7-7.01 of the Code is hereby amended to read as follows:

8 **Sec. 7-7.01. Food and nutrition.**

9 This subsection establishes the minimum standards for the provision of food and
10 nutrition in child care facilities. The owner of a child care facility must ensure that any
11 meals, snacks, or beverages served to children that are not provided by the parents are
12 in compliance with the minimum standards for food and nutrition set forth in
13 Rule 65C-22.005, Florida Administrative Code, relating to preschool child care
14 programs, and Rule 65C-22.008(p), Florida Administrative Code, relating to school-age
15 child care programs, in addition to the more stringent requirements set forth in this
16 subsection.

17 (a) Meals, snacks, or beverages served to infants, or children one (1) to two
18 (2) years of age, shall be in compliance with the rules and regulations for meal pattern
19 requirements under the *Child and Adult Care Food Program* ("Program"), promulgated
20 by the United States Department of Agriculture ("USDA") in the Code of Federal
21 Regulations ("C.F.R.") at 7 C.F.R. Part 226.20, regardless of whether a child care
22 facility participates in the Program and is qualified for reimbursement of costs
23 associated with food service operations.

1 (b) The owner or director must sign and have executed a notarized affidavit
2 certifying that the meals, snacks, or beverages served to the children are in compliance
3 with the requirements set forth in this subsection. In the event that a catering service is
4 used to provide any meals, snacks, or beverages, the owner or director must ensure
5 that an authorized representative of the catering service provides a signed and
6 notarized affidavit certifying that the items provided to the facility comply with
7 requirements set forth in this subsection. The affidavits required under this subsection
8 shall be maintained on file at the facility.

9 (c) Milk provided to children two (2) years of age and older shall be fat-free
10 milk (marketed as skim or nonfat milk) or low fat milk (marketed as 1% milk).
11 Additionally, 2% milk may be offered. The requirement under this subsection is not
12 applicable to a child if there is documentation on file at the facility of an alternate
13 nutrition plan for the child in accordance with Section 7-7.02 of this Ordinance, or a
14 special diet prescribed by the child's physician in accordance with Section 7-7.04 of this
15 Ordinance.

16 (d) Meals or snacks furnished by a parent for sharing with other children shall
17 be limited to commercially prepared foods.

18 (e) A signed parental permission form is required prior to a child's
19 participation in multicultural learning events that involve the sharing of home prepared
20 foods. A permission form may include one (1) or more individual events, or all
21 multicultural events for the year, if known.

22 (f) Child care personnel shall promote table manners and reinforce healthy
23 food choices during meal times.

24

1 (g) In the event that food, beverages, or snacks are provided to children
2 enrolled in a child care facility pursuant to a contract with a catering service entered into
3 prior to January 1, 2015, the owner or director shall not be required to comply with the
4 requirements set forth in Subsections (a), (b), and (c) above until the end of the current
5 term of the contract; however, any renewal option exercised under the terms of the
6 contract shall require the owner or director to ensure compliance with such
7 requirements.

8 Section 6. Sections 7-14 through 7-14.02 of the Code are hereby amended to
9 read as follows:

10 **Section 7-14. School-age child care programs.**

11 This section establishes the minimum standards for licensure of school-age child
12 care programs, as described in Rule 65C-22.008, Florida Administrative Code.

13 (a) Notwithstanding the exemption from licensure provided in
14 Rule 65C-22.008(2)(c)(1), Florida Administrative Code, any after-school program that
15 operates on a public or nonpublic school site pursuant to an agreement with the school
16 is subject to licensure under this Ordinance.

17 (b) Any person or entity that provides only school-age child care programs,
18 and which is subject to licensure as a child care facility under this Ordinance, must
19 ensure compliance with all the minimum standards for licensure established under
20 Article I of this Ordinance and this subsection, except as provided for in Subsection (e)
21 below.

22 (c) Child care personnel must immediately notify a child's parent or other
23 authorized contact person listed on the enrollment information in the event that the child
24 is unexpectedly absent from the program.

1 (d) Except as provided for in Subsection (a) above, school-age child care
2 programs are exempt from licensure under this Ordinance if an exemption from
3 licensure is provided under Chapter 402, Florida Statutes, or Rule 65C-22.008, Florida
4 Administrative Code.

5 (e) *Exempted provisions:* School-age child care programs subject to
6 licensure under this Ordinance shall not be required to comply with the following
7 provisions of this Ordinance:

8 . . .

9 (3) Sec. 7-5.03(b) relating to the requirement for the outdoor play ~~space~~ area
10 to adjoin the facility, and Section 7-5.03(d) relating to fence requirements,
11 if the school-age child care program meets the requirements under Rule
12 65C-22.008(j), Florida Administrative Code, and obtains written
13 authorization from the local licensing agency to operate without a fence;

14 . . .

15 (8) Sec. 7-8.02 relating to health examinations and health maintenance; and

16 (9) Sec. 7-13 relating to drop-in child care.

17 Section 7. Section 7-46 of the Code is hereby amended to read as follows:

18 **Sec. 7-46. Adoption of Florida Statutes and Florida Administrative Code.**

19 Chapter 402, Florida Statutes, Rule 65C-22, Florida Administrative Code, and
20 any other applicable state or local law, rule, or regulation, relating to the minimum
21 standards for licensure of child care facilities are hereby adopted and incorporated into
22 this Ordinance by reference. In the case of a direct conflict between any provision of
23 this Ordinance and a provision of any other applicable state or local law, rule, or
24 regulation, the more restrictive provision shall apply.

1 Section 8. SEVERABILITY.

2 If any portion of this Ordinance is determined by any Court to be invalid, the
3 invalid portion shall be stricken, and such striking shall not affect the validity of the
4 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
5 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
6 or circumstance(s), such determination shall not affect the applicability hereof to any
7 other individual, group, entity, property, or circumstance.

8 Section 9. INCLUSION IN CODE.

9 It is the intention of the Board of County Commissioners that the provisions of
10 this Ordinance shall become and be made a part of the Broward County Code; and that
11 the sections of this Ordinance may be renumbered or relettered and the word
12 "ordinance" may be changed to "section," "article," or such other appropriate word or
13 phrase in order to accomplish such intentions.

14 Section 10. EFFECTIVE DATE.

15 This Ordinance shall become effective January 1, 2015.

16 ENACTED September 9, 2014

17 FILED WITH THE DEPARTMENT OF STATE

18 EFFECTIVE January 1, 2015

19 Approved as to form and legal sufficiency:
20 Joni Armstrong Coffey, County Attorney

21 By /s/ Patrice M. Eichen 09/10/14
22 Patrice M. Eichen (date)
23 Assistant County Attorney

24 PME/hb
09/10/14
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