



Interoffice Memorandum

04-26-16P02:18 RCVD



04-26-16P02:23 RCVD

April 25, 2016

**TO:** Katie Smith, Deputy Clerk  
Board of County Commissioners

**THROUGH:** Cheryl Gillespie, Supervisor  
Agenda Development BCC

**FROM:** Jon V. Weiss, P.E., Director  
Community, Environmental and Development Services Department

**CONTACT PERSON:** Alan Marshall, Assistant to the Director  
Community, Environmental and Development Services  
Department  
(407) 836-5884 or Alan.Marshall@ocfl.net

**SUBJECT:** Request for a public hearing on May 24, 2016 at 2:00 PM  
Proposed Ordinance Related To Vehicle Impact Protection  
Requirements And Standards For Child Care Centers; New  
Article XVII, Chapter 9, Orange County Code

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**AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA; CREATING A NEW ARTICLE XVII OF CHAPTER 9 OF THE ORANGE COUNTY CODE BY ESTABLISHING REQUIREMENTS AND STANDARDS PERTAINING TO VEHICLE IMPACT PROTECTION MEASURES FOR CHILD CARE CENTERS; AND PROVIDING AN EFFECTIVE DATE**

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**APPLICANT / AGENT:** Orange County

**DISTRICT #:** District 1, 2, 3, 4, 5, & 6

**TYPE OF HEARING:** Public hearing for Adoption of Ordinance No. 2016-\_\_  
Vehicle Impact Protection Requirements and Standards  
For Child Care Centers

**ESTIMATED TIME REQUIRED FOR PUBLIC HEARING:** 15 minutes

May 24, 2016 @ 2pm

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Request for a public hearing on May 24, 2016 at 2:00 PM

Proposed Ordinance Related To Vehicle Impact Protection Requirements And Standards For Child Care Centers; New Article XVII, Chapter 9, Orange County Code

**HEARING CONTROVERSIAL:** No

**HEARING REQUIRED BY FL STATUTE OR CODE:** Chapter 125, Florida Statutes

**ADVERTISING REQUIREMENTS:** Publish the notice of the public hearing for the adoption of the ordinance in the local newspaper of general circulation.

**ADVERTISING TIMEFRAMES:** At least ten (10) days prior to public hearing for adoption of the ordinance in a local newspaper of general circulation.

**APPLICANT/ABUTTERS TO BE NOTIFIED:** N/A

**SPANISH CONTACT PERSON:** Para mas información en español acerca de estas reuniones públicas o de cambios por ser efectuados, favor de llamar a la División de Planificación, al 407-836-5600.

**MATERIALS BEING SUBMITTED AS BACKUP FOR PUBLIC HEARING REQUEST:** A draft copy of the ordinance to be submitted prior to advertising.

**SPECIAL INSTRUCTIONS TO CLERK (IF ANY):** N/A

- c: Christopher R. Testerman, AICP, Assistant County Administrator, Infrastructure Services and Government Relations
- Joel Prinsell, Deputy County Attorney, County Attorney's Office
- Jon Weiss, P.E., Director, Community, Environmental, and Development Services
- Tim Boldig, Deputy Director, Community, Environmental and Development Services
- Alan C. Plante, Manager, Building Safety Division
- Otto Drozd III, Chief, Fire Rescue Department
- Lavon Williams, AICP, Manager, Neighborhood Preservation & Revitalization Division

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**ORDINANCE NO. 2016-\_\_**

**AN ORDINANCE AFFECTING THE USE OF LAND  
IN ORANGE COUNTY, FLORIDA; CREATING A  
NEW ARTICLE XVII OF CHAPTER 9 OF THE  
ORANGE COUNTY CODE BY ESTABLISHING  
REQUIREMENTS AND STANDARDS PERTAINING  
TO VEHICLE IMPACT PROTECTION MEASURES  
FOR CHILD CARE CENTERS; AND PROVIDING  
AN EFFECTIVE DATE**

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

***Section 1. Creation of Ordinance Pertaining to Vehicle Impact Protection***

***Requirements and Standards for Child Care Centers.*** An ordinance pertaining to vehicle impact protection requirements and standards for child care centers is hereby created as a new Article XVII of Chapter 9 to read as follows:

**ARTICLE XVII.**

**VEHICLE IMPACT PROTECTION  
REQUIREMENTS AND STANDARDS FOR CHILD  
CARE CENTERS**

**Sec. 9-656. Title.**

This Article shall be known and may be cited as the "Lily Quintus Child Care Center Vehicle Impact Protection Ordinance."

**Sec. 9-657. Scope.**

This Article shall be effective only throughout the unincorporated area of Orange County.

**Sec. 9-658. Intent and purpose.**

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The intent and purpose of this Article are to establish requirements and standards for safety barriers to lessen the potential for injury or death from vehicles that may, through operator error or otherwise, drive into exposed areas at child care centers.

**Sec. 9-659. Findings.**

The Board of County Commissioners makes the following findings in connection with the adoption of this Article:

- (a) Experts in vehicle-into-building crashes have estimated that each day in the United States there are up to sixty (60) vehicle-into-building crashes.
- (b) As many as five hundred (500) people die each year as victims of vehicle-into-building crashes.
- (c) On April 9, 2014, Lily Quintus was killed and several other children were seriously injured in Orange County when a vehicle-into-child care center crash occurred.
- (d) Experts in vehicle-into-building crashes indicate that parking lot wheel stops, curbs, and raised sidewalks are not sufficient, by themselves, to stop the force of a vehicle in such accidents, and that other design standards and devices are needed to better protect children, workers, pedestrians and others.
- (e) Building codes have design standards to protect gas meters, fire hydrants, electrical switching equipment, trash enclosures, and other equipment from vehicle crashes but have yet to establish and impose appropriate standards for protection of child care centers and other establishments.
- (f) Injuries and deaths at child care centers are preventable if child care centers are designed or retrofitted with vehicle impact safety devices to prevent vehicles from driving into exposed areas.

86 (g) No one design, device, requirement or  
88 standard is appropriate for all child care centers and all  
90 conditions. Therefore, property owners, architects,  
92 engineers, and business owners should be given the  
flexibility to utilize and choose from a variety of design  
elements and devices to protect exposed areas at child care  
centers.

94 (h) The goal of this Article is to establish  
96 performance-based requirements and standards for the  
design of vehicle impact protective devices that achieve an  
98 appropriate level of safety at child care centers, but not  
require unnecessarily expensive or aesthetically  
inappropriate structures.

100 (i) The Board desires to establish development  
102 requirements and standards for areas adjacent to child care  
centers that balance: (1) the public interest in protecting  
104 child care centers from vehicle-into-exposed area crashes;  
106 (2) the financial burden on owners and operators of child  
care centers of providing appropriate protective designs and  
108 devices; and (3) the goal of encouraging innovation, variety  
and aesthetic variation so as to give owners and operators  
110 flexibility depending on the conditions specific to each  
location.

112 **Sec. 9-660. Definitions.**

114 The following words and terms, when used in this  
116 Article, shall have the meanings ascribed to them in this  
section:

118 *Child care center* shall mean a "child care facility,"  
120 as defined at Section 402.302(2), Florida Statutes, and an  
"evening child care," as defined at Section 402.302(7).  
122 However, a child care center shall not include a "drop-in  
child care," a "family day care home," an "indoor  
124 recreational facility," or a "large family day care home," as  
respectively defined at Sections 402.302(6), (8), (10), and  
126 (11).

128 *Exposed area* shall mean an area at a child care  
center within the impact risk setback where there is a  
130 structure or building used by children or an outdoor play  
area, but excluding a parking lot.

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*Impact risk setback* shall mean the distance from a roadway adjacent to a child care center where there is a higher risk of a vehicle-into-exposed area accident, measured perpendicularly from the edge of the travel lane closest to the child care center. Setbacks are based on the applicable posted speed limit as set forth below:

<i>Speed limit</i>	<i>Setback</i>
35 mph	125 feet
40 mph	153 feet
45 mph	180 feet
50 mph	213 feet
>50 mph	285 feet

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**Sec. 9-661. Applicability; exemptions; grant.**

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(a) Subject to subsection (b) of this section, the vehicle impact protection requirements and standards in section 9-662 shall be met in any of the following circumstances:

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(1) When an application for a new child care center is submitted on or after June 1, 2016;

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(2) When an exposed area is created at a child care center that was approved on or after June 1, 2016 without an exposed area;

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(3) When an exposed area is created or enlarged at a child care center existing prior to June 1, 2016; or

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(4) When a change in ownership of a child care center occurs at a child care center existing prior to June 1, 2016.

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(b) The owner or operator of a child care center that appears to be subject to the requirements and standards in section 9-662 may request an exemption from those requirements and standards upon production of a signed and sealed letter from a professional engineer licensed with the State of Florida attesting that the child care center does not have an exposed area. Upon confirmation by the County that the child care center does not have an exposed area, the requirements and standards in section 9-662 shall not apply to the child care center.

172 (c) A child care center existing prior to June 1,  
174 2016, with an exposed area may be eligible to apply for a  
176 County grant program to assist with voluntarily complying  
with the requirements and standards in section 9-662.

178 **Sec. 9-662. Vehicle impact protection requirements  
and standards.**

180 (a) *Child care centers where vehicle impact*  
182 *protection devices required.* Vehicle impact protection  
184 devices and features, as described in subsection (b) of this  
186 section, shall be required to be installed between the edge  
188 of the right-of-way of the adjacent roadway and the  
190 perimeter of any exposed area that is parallel or roughly  
192 parallel to the edge of the roadway and wrapping  
perpendicular to such exposed area for a distance of at least  
forty-eight (48) inches. Such devices and features shall be  
installed as close to the edge of the exposed area (as far  
away from the edge of the right-of-way) as reasonably  
practicable.

194 (b) *Installation required.* The vehicle impact  
196 protection devices and features required by this Article  
shall be installed before a certificate of occupancy is issued  
for the new facility or renovation, as applicable.

198 (c) *Elements of vehicle impact protection*  
200 *devices or features.* Vehicle impact protection devices and  
202 features shall take the form of barriers, bollards, posts,  
features, or a combination of barriers, bollards, posts, and  
features, as described below:

204 (1) *Barriers.* Physical barriers, such as  
206 reinforced walls, building perimeter walls, planters, and  
208 street furniture, may be used to satisfy the requirements and  
standards of this section, provided they comply with the  
following requirements:

210 (A) The barriers shall be a  
212 minimum of thirty-six (36) inches in height and designed to  
214 achieve an impact resistance level of 5,000 pounds  
216 traveling at thirty (30) miles per hour. Plain concrete  
barriers, such as "K Rails" or "Jersey" barriers, shall be  
prohibited, except as temporarily allowed under subsection  
(e) of this section.

218 (B) When barriers are spaced  
apart, the spacing shall be not less than forty-eight (48)  
220 inches and not more than fifty-six (56) inches between the  
outer edge of the barrier and the nearest outer edge of the  
adjacent barrier.

222 (C) The color and design of the  
224 barriers shall be consistent throughout the child care center.

226 (2) *Bollards, posts, and guard posts.*  
Bollards, posts, and guard posts may be used to satisfy the  
228 requirements of this section, provided they comply with the  
following requirements:

230 (A) The bollards or posts shall be  
232 constructed of steel or other material not less than four (4)  
inches in diameter that shall achieve a minimum impact  
234 resistance level of 5,000 pounds traveling at thirty (30)  
miles per hour, as provided by ASTM International  
236 (formerly known as American Society of Testing and  
Materials or "ASTM") in its document number ASTM  
238 F3016.

240 (B) The bollards or posts shall be  
spaced not less than forty-eight (48) inches and not more  
242 than fifty-six (56) inches between the outer edge of the post  
or bollard and the nearest outer edge of the adjacent post or  
244 bollard.

246 (C) The top of the bollards or  
posts shall be set not less than three (3) feet and not more  
than four (4) feet above finished grade.

248 (D) The bollards or posts shall be  
250 black, gray, bronze, stainless steel, concrete finish, or a  
color that is similar to the color of the principal structure,  
252 with night reflector decals or paint where appropriate.

254 (E) The color and design of the  
bollards or posts shall be consistent throughout each child  
256 care center.

258 (F) The bollards or posts shall be  
properly maintained, including no visible rust or corrosion,  
260 and be kept in uniform alignment. Use of protective and/or  
decorative sleeves shall be permitted.

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264 (3) *Features.* Manmade features (for  
example, billboard support poles, culverts, ditches, or  
266 retention ponds) and natural features (for example, large  
trees or water bodies), may be used to satisfy the  
268 requirements of this section, provided they are able to  
achieve an impact resistance level of 5,000 pounds  
traveling at thirty (30) miles per hour.

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272 (d) *Attestations from licensed professional  
engineer.* Every permit application for vehicle impact  
274 protection devices at a child care center shall be  
accompanied by construction documents, signed and sealed  
276 by a professional engineer licensed with the State of  
Florida, with a statement thereon attesting that the design  
278 and/or location of the vehicle impact protection devices  
and/or features comply with the requirements and standards  
of this Article. Furthermore, prior to the issuance of a  
280 certificate of occupancy, the licensed professional engineer  
shall attest that the vehicle impact protection devices and/or  
282 features have been installed or exist in compliance with the  
requirements and standards of this Article.

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286 (e) *Replacement or repair.* Within ninety (90)  
days after a device or feature that serves to protect an  
288 exposed area of a child care center is destroyed, damaged,  
or removed, the device or feature shall be replaced with one  
that satisfies the requirements and standards of this section.  
290 Before the device or feature is replaced, plain concrete  
barriers, such as "K Rails" or "Jersey" barriers, may be  
292 temporarily allowed.

294 (f) *Additional protections encouraged.* Owners  
and operators of child care centers are encouraged, but not  
296 required, to install additional vehicle impact protection  
devices or features in locations, such as pedestrian drop-off  
298 areas, doorways, outdoor seating areas, and along the  
perimeter of parking lots adjacent to exposed areas.

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302 **Sec. 9-663. Conflict with other laws.**

304 In the event any of the terms of this Article or its  
application to a particular child care center would cause a  
306 child care center to not comply with a provision of federal  
law or regulation, including the Americans with Disabilities  
Act, state law or regulation, or another provision of the  
308 County Code, the County shall attempt to apply this Article

310 in a manner that reconciles the provisions of federal law or  
312 regulation, state law or regulation, or other provision of the  
314 County Code and the provisions of this Article. When an  
316 irreconcilable conflict exists between the provisions of this  
318 Article and the provision of a federal law or regulation,  
state law or regulation, or other provision of the County  
Code, the provision of the federal law or regulation, state  
law or regulation, or other provision of the County Code  
shall prevail over this Article, but only to the extent  
necessary to avoid such irreconcilable conflict.

320 **Sec. 9-664. Penalties.**

322 Any person who violates any provision of this  
324 Article shall be subject to any one or more of the following  
penalties and/or remedies:

326 (a) A violation of any provision of this Article  
328 may be enforced through the code enforcement process as  
described in Chapter 11 of the Orange County Code and  
Chapter 162 of the Florida Statutes;

330 (b) Orange County may bring a lawsuit in a  
332 court of competent jurisdiction to pursue temporary or  
334 permanent injunctive relief or any other legal or equitable  
remedy authorized by law to cure, remove, prevent, or end  
a violation of any provision of this Article; and

336 (c) A violation of any provision of this Article  
338 may be punished as provided in Section 1-9 of the Orange  
County Code.

340 **Secs. 9-665 – 9-670. Reserved.**

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346 *[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]*  
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**Section 2. Effective date.** This Ordinance shall become effective on June 1,

354 2016.

ADOPTED THIS 24<sup>th</sup> DAY OF MAY, 2016.

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**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

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By: \_\_\_\_\_  
Teresa Jacobs, County Mayor

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364 ATTEST: Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

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By: \_\_\_\_\_  
Deputy Clerk

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