

**ORDINANCE NO. 2023 - 09**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING § 4-216 OF THE VILLAGE LAND DEVELOPMENT CODE TO REVISE THE STANDARDS FOR DAY CARE CENTER; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the Village Council adopted the Village Land Development Code on January 27<sup>th</sup> 2021, which established the land development regulations; and

**WHEREAS**, § 4-216 of the Code provides additional standards applicable to Child Day Care Centers; and

**WHEREAS**, § 4-216.B.2.A provides standards for the outdoor play area of 75 square feet per child; and

**WHEREAS**, it was brought to staff's attention that the State requirements (i.e., Section 3.4.4.A of the Florida Department of Children and Families' "Child Care Facility Handbook," October 2021, incorporated by reference into Rule 65C-22.001, Florida Administrative Code) for outdoor play areas serving Child Day Care Centers requiring 45 square feet per child, one year of age and older, for at least one-half (½) of the licensed capacity of the program (the "State calculation"); and

**WHEREAS**, staff recommends that the State calculation be used in lieu of the 75 square feet per child as currently provided under the Village Land Development Code; and

**WHEREAS**, pursuant to § 2-302(B)(2)(B), the Planning, Zoning and Design Board, sitting as the Local Planning Agency, reviewed this Ordinance at a duly noticed public hearing and has made its recommendations; and

**WHEREAS**, the Village Council has considered the recommendations of staff and the Planning, Zoning and Design Board and finds that the provisions in this Ordinance are in the best interests of the Village's residents.

**NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero, Florida:

**Section 1.** Section 4-216.B.2.A (Child Day Care) of the Village Land Development Code is hereby amended as follows:

B. **Child day care.** A child day care shall comply with the following standards:

1. Comply with all relevant state and federal laws.

2. Have an outdoor play area that complies with the following:
  - A. Includes a minimum of ~~75 square feet per child~~ size per State law.
  - B. Has a fence that is at least three and one-half feet in height that completely encloses the play area.
  - C. Is designed so all persons entering the play area are within direct line of sight from the child day care classroom areas.
  - D. Does not locate play equipment within the required setback.
3. Have parking areas and vehicular circulation patterns that comply with the following:
  - A. Be designed to enhance the safety of children as they arrive and leave the facility.
  - B. Have a designated pickup and delivery area that is located adjacent to the child day care facility in such a way that children do not have to cross vehicular traffic to enter or exit the facility.
  - C. Have a minimum of one parking space for every 20 children cared for that is provided in addition to the requirements for all day cares in section 5-204, Off-Street Parking Standards.
4. Not conduct outdoor play activities after 7:00 p.m.

**Section 2.** For purposes of codification of any existing section of the Village of Estero Code herein amended, words underlined represent additions to original text, words ~~stricken~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

**Section 3.** If any section, subsection, sentence, clause, provision, or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Village Council would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

**Section 4.** The Codifier shall codify the substantive amendments to the Village of Estero Code contained in Section 1 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

**Section 5.** Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

**ADOPTED ON FIRST READING** by the Village Council of the Village of Estero, Florida on the 15<sup>th</sup> day of November, 2023.

**ADOPTED ON SECOND AND FINAL READING** by the Village Council of the Village of Estero, Florida on the 6<sup>th</sup> day of December, 2023.

**VILLAGE OF ESTERO, FLORIDA**

By: \_\_\_\_\_  
Jon McLain, Mayor

Attest:

By: \_\_\_\_\_  
Carol Sacco, Village Clerk