

BCC Mtg. Date: May 24, 2016

EFFECTIVE DATE

June 1, 2016

**ORDINANCE NO. 2016-09**

**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.**

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.

(g) No one design, device, requirement or standard is appropriate for all child care centers and all conditions. Therefore, property owners, architects, 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.

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

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

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

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

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

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

*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

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

(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:

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

(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; or

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

(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.

(c) A child care center existing prior to June 1, 2016, with an exposed area may be eligible to apply for a

County grant program to assist with voluntarily complying with the requirements and standards in section 9-662.

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

(a) *Child care centers where vehicle impact protection devices required.* Vehicle impact protection devices and features, as described in subsection (b) of this section, shall be required to be installed between the edge of the right-of-way of the adjacent roadway and the perimeter of any exposed area that is parallel or roughly 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.

(b) *Installation required.* The vehicle impact 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.

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

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

(A) The barriers shall be a minimum of thirty-six (36) inches in height and designed to achieve an impact resistance level of 5,000 pounds 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.

(B) When barriers are spaced apart, the spacing shall be not less than forty-eight (48) 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.

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

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

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

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

(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.

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

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

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

(3) *Features.* Manmade features (for example, billboard support poles, culverts, ditches, or retention ponds) and natural features (for example, large

trees or water bodies), may be used to satisfy the 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.

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

(e) *Replacement or repair.* Within ninety (90) days after a device or feature that serves to protect an 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. Before the device or feature is replaced, plain concrete barriers, such as "K Rails" or "Jersey" barriers, may be temporarily allowed.

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

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

In the event any of the terms of this Article or its application to a particular child care center would cause a 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 County Code, the County shall attempt to apply this Article in a manner that reconciles the provisions of federal law or regulation, state law or regulation, or other provision of the County Code and the provisions of this Article. When an

irreconcilable conflict exists between the provisions of this 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.

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

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

(a) A violation of any provision of this Article 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;

(b) Orange County may bring a lawsuit in a court of competent jurisdiction to pursue temporary or 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

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

**Secs. 9-665 – 9-670. Reserved.**

*[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]*



*Section 2. Effective date.* This Ordinance shall become effective on June 1, 2016.

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

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

By: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

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

By: *Jessica Vaupel*  
for Deputy Clerk

