

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

The Planning and Development Department hereby forwards to the Planning Commission, Land Use and Zoning Committee, and City Council its comments and recommendations on:

ORDINANCE 2017-667

AN ORDINANCE REGARDING SEXUAL PREDATOR RESIDENCY REQUIREMENTS; AMENDING SECTION 656.401(E) (CARE CENTERS/DAY CARE CENTERS), SUBPART A (PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA), PART 4 (SUPPLEMENTARY REGULATIONS), CHAPTER 656 (ZONING CODE), ORDINANCE CODE, TO CHANGE THE DISTANCE THAT A SEXUAL PREDATOR CAN RESIDE FROM 2,500 FEET TO 1,500 FEET; AMENDING SECTION 685.102 (SEXUAL PREDATORS RESIDENCY REQUIREMENTS), CHAPTER 685 (SEXUAL OFFENDER AND SEXUAL PREDATOR REGULATION), ORDINANCE CODE, TO CHANGE THE DISTANCE THAT A SEXUAL PREDATOR CAN RESIDE FROM 2,500 FEET TO 1,500 FEET; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

This bill amends Section 656.401(e) (Care Centers/Day Care Centers), Subpart A (Performance Standards and Development Criteria), Part 4 (Supplementary Regulations), Chapter 656 (Zoning Code), Ordinance Code, to change the distance between a new day care facility and an existing registered sexual predator residence from 2,500 feet to 1,500; and amends Section 685.102 (Sexual Predators Residency Requirements) Chapter 685 (Sexual Offender and Sexual Predator Regulation), Ordinance Code, to change the distance a sexual predator can reside from 2,500 feet to 1,500.

II. EVALUATION

A. *The need and justification for the change.* There are over 2,700 sexual offenders and predators living in Duval County. Florida Statutes stipulate that sexual predators are required to register their place of residence with the Florida Department of Law Enforcement. Florida law prevents convicted sexual predators from residing within 1,000 feet of a school, child care facility, park, or playground. Section 685.102 (Sexual Predator Residency Requirements) of the Jacksonville Ordinance Code expands this zone of protection and prohibits a sexual predator from residing within 2,500 feet of a school, public library, day care center, park playground or other place where children regularly congregate.

Pursuant to Ordinance 2014-552-E enacted on December 9, 2014, new day care centers established after January 1, 2015 shall not be located within 2,500 feet of a sexual predator residence. Ordinance 2017-6667 would reduce the distance from 2,500 feet to 1,500 feet.

B. *Summary of Bill.* The bill amends the Zoning Code to prevent new day care centers from locating within 1,500 feet of a registered sexual predator based on the Florida Department of Law Enforcement Sexual Offender and Predator Database. The Planning and Development Department will check the Database when reviewing any zoning application for a new child care center or child day care center.

C. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.

This bill is consistent with the spirit and intent of both the Comprehensive Plan and the Zoning Code in that it is the intent of the legislation to protect and preserve the public health, safety and welfare of the people of the City of Jacksonville by instituting and enforcing rules which reduce and minimize the unwanted creation of a transient population of sexual predators.

D. Consistency with the Comprehensive Plan.

The Comprehensive Plan is silent with regard to this topic.

III. RECOMMENDATIONS

Should Ordinance 2017-667 be approved, the Planning and Development Department offers the following comments and recommendations to the attached legislation:

The header language in Ordinance 2014-552-E specifically references child care facilities. However, as adopted in the Zoning Code, the distance requirements apply to all day care facilities including those for adults. We recommend that this be vetted and clarified.

The FDLE database does not provide an option to search at a range of 1,500 feet. However, it does provide the option to search at a range of ¼ mile, ½ mile, and one mile. Therefore, we recommend that references to "1,500 feet" be replaced with "one-quarter mile or one-half mile".

1 Introduced by Council Member Gulliford:
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4 ORDINANCE 2017-667

5 AN ORDINANCE REGARDING SEXUAL PREDATOR
6 RESIDENCY REQUIREMENTS; AMENDING SECTION
7 656.401(E) (CARE CENTERS/DAY CARE CENTERS),
8 SUBPART A (PERFORMANCE STANDARDS AND
9 DEVELOPMENT CRITERIA), PART 4 (SUPPLEMENTARY
10 REGULATIONS), CHAPTER 656 (ZONING CODE),
11 ORDINANCE CODE, TO CHANGE THE DISTANCE THAT A
12 SEXUAL PREDATOR CAN RESIDE FROM 2,500 FEET TO
13 1,500 FEET; AMENDING SECTION 685.102 (SEXUAL
14 PREDATORS RESIDENCY REQUIREMENTS), CHAPTER 685
15 (SEXUAL OFFENDER AND SEXUAL PREDATOR
16 REGULATION), ORDINANCE CODE, TO CHANGE THE
17 DISTANCE THAT A SEXUAL PREDATOR CAN RESIDE
18 FROM 2,500 FEET TO 1,500 FEET; PROVIDING AN
19 EFFECTIVE DATE.
20

21 WHEREAS, pursuant to Section 775.21, Florida Statutes, (the
22 Florida Sexual Predators Act), sexual predators are required to
23 register certain information, including their place of residence
24 with the Florida Department of Law Enforcement (FDLE); and

25 WHEREAS, Florida law prohibits a sexual predator from
26 residing within 1,000 feet of a school, child care facility, park
27 or playground; and

28 WHEREAS, pursuant to Section 685.102, Ordinance Code,
29 Jacksonville currently has an expanded zone of protection and
30 prohibits a sexual predator from residing within 1,500 feet of a
31 school, public library, day care center, park, playground, or

1 other place where children regularly congregate; and

2 WHEREAS, creating a situation where there are no places for
3 sexual predators to lawfully reside in Jacksonville does not
4 protect the community but rather results in a transient population
5 that poses a significant danger and menace to public health and to
6 children if the predators go unregistered and become less
7 traceable through the FDLE registration process; and

8 WHEREAS, ensuring that registered sexual predators remain
9 traceable, and to discourage this dangerous population from
10 becoming transient, a requirement is established that all new day
11 care centers must be at least 1,500 feet from the established
12 residence of a lawfully registered sexual predator; now therefore

13 BE IT ORDAINED by the Council of the City of Jacksonville:

14 Section 1. Amending Section 656.401 (e) (Performance
15 standards and development criteria), Ordinance Code. Section
16 656.401(e) (Care centers/day care centers), Subpart A (Performance
17 Standards and Development Criteria), Part 4 (Supplementary
18 Regulations), Chapter 656 (Zoning Code), Ordinance Code, is hereby
19 amended to read as follows:

20 CHAPTER 656. ZONING CODE

21 * * *

22 PART 4. SUPPLEMENTARY REGULATIONS

23 * * *

24 Sec. 656.401 -Performance standards and development criteria.

25 * * *

26 (e) Care centers/day care centers:

27 * * *

28 (10) After January 1, ~~2015~~ 2018, new day care centers shall not
29 be located within ~~2,500~~ 1,500 feet of a sexual predator
30 residence. The change of name, or continuation of a day
31 care center within the same location that has been in

1 operation within the last six (6) months by another party,
2 shall not be considered "new" in this context. The Planning
3 and Development Department shall produce a neighborhood
4 search map using the Florida Department of Law Enforcement
5 database of registered sexual predators to determine if
6 such residence exists within a radius of ~~2,500~~ 1,500 feet
7 of the proposed day care center. The day care center shall
8 be considered to be established on the date the state
9 license to operate said facility is issued.

10 * * *

11 Section 2. Amending Section 685.102 (Sexual Predators
12 residency requirements), Ordinance Code. Section 685.102 (Sexual
13 Predators residency requirements), Chapter 685 (Sexual Offender and
14 Sexual Predator Regulation), Ordinance Code, is hereby amended to
15 read as follows:

16 CHAPTER 685. SEXUAL OFFENDER AND SEXUAL PREDATOR REGULATION

17 * * *

18 Sec. 685.102 - Sexual predators residency requirements.

- 19 (a) It is unlawful for any person who is required by Florida law
20 to register as a sexual predator to reside within ~~2,500~~ 1,500
21 feet of any school, public library, day care center, park,
22 playground, or other place where children regularly
23 congregate.
- 24 (b) A person residing within ~~2,500~~ 1,500 feet of any school,
25 public library, day care center, park, playground, or other
26 place where children regularly congregate does not commit a
27 violation of this Section, provided that the sexual predator
28 is in full compliance with probation, parole, or conditional
29 release and does not commit another sexual offense, and was in
30 compliance with the residency restrictions prior to July 1,
31 2005, if any of the following apply:

1 (1) The person established the permanent residence prior to
2 July 1, 2005.

3 (2) The person was a minor when he/she committed the offense
4 and was not convicted as an adult.

5 (3) The person is a minor.

6 (4) The school, public library or day care center within ~~2500~~
7 1,500 feet of the persons permanent residence was opened
8 after the person established the permanent residence.

9 (c) A person who violates subsection (a) shall be guilty of a
10 class D offence.

11 Section 3. Effective Date. This ordinance shall become
12 effective upon signature by the Mayor or upon becoming effective
13 without the Mayor's signature.

14
15 Form Approved:

16
17 *Margaret M. Sidman*

18 Office of General Counsel

19 Legislation prepared by: Margaret M. Sidman

20 GC-#1156317-v1-Gulliford_Sexual_Predators_Distance_Requirement.1

**CITY COUNCIL RESEARCH DIVISION
LEGISLATIVE SUMMARY**

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Bill Type and Number: Ordinance 2017-667

Sponsor: Council Member Gulliford

Date of Introduction: September 27, 2017

Committee(s) of Reference: NCSPHS, R. LUZ

Date of Analysis: September 28, 2017

Type of Action: *Ordinance* Amendment

Bill Summary: This bill amends Section 656.401(e) (Care Centers/Day Care Centers), Subpart A (Performance Standards and Development Criteria), Part 4 (Supplementary Regulations), Chapter 656 (Zoning Code), *Ordinance Code*, to change the distance a sexual predator can reside from 2,500 feet to 1,500; and amends Section 685.102 (Sexual Predators Residency Requirements) Chapter 685 (Sexual Offender and Sexual Predator Regulation), *Ordinance Code*, to change the distance a sexual predator can reside from 2,500 feet to 1,500.

Background Information: According to the Florida Department of Law Enforcement (FDLE), there are 2173 sexual offenders and predators living in Duval County, as of the summary date. These perpetrators are required to register their residence with FDLE; and are prohibited from living within 1,000 feet of a school, child care facility, park or playground. The City of Jacksonville is reducing the area of protection from the current 2,500 feet to 1,500 feet; and expands the list of facilities to include schools, public libraries, day care centers, parks, playgrounds, or other locations where children regularly congregate, pursuant to Section 685.102.

In an effort to discourage the increase of predators as transients which poses a public health concern; and maintain traceable information on registered predators, after January 1, 2018, all new day care centers are required to be a minimum of 1,500 feet from a lawfully registered sexual predator's residence. The Planning and Development Department (PDD) will provide the center applicant a neighborhood search map, utilizing the FDLE database, to determine if any residences are within the radius of the proposed location site.

Policy Impact: Day Care Centers, Public Safety, Sexual Predators Residency Requirements

Fiscal Impact: Undetermined

Analyst: Mitchell

1 Introduced by Council Member Crescimbeni, amended by the Land Use
2 and Zoning Committee and amended on the Floor by Council:

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4
5 ORDINANCE 2014-552-E

6 AN ORDINANCE AMENDING SECTION 656.401(e) (CARE
7 CENTERS/DAY CARE CENTERS), SUBPART A
8 (PERFORMANCE STANDARDS AND DEVELOPMENT
9 CRITERIA), PART 4 (SUPPLEMENTARY REGULATIONS),
10 CHAPTER 656 (ZONING CODE), ORDINANCE CODE TO
11 PROHIBIT CHILD CARE FACILITIES ESTABLISHED
12 AFTER JANUARY 1, 2015 FROM LOCATING WITHIN
13 2,500 FEET OF A REGISTERED SEXUAL PREDATOR
14 RESIDENCE; PROVIDING AN EFFECTIVE DATE.

15
16 WHEREAS, the City of Jacksonville supports doing anything
17 within its power to protect its citizenry, particularly children,
18 from becoming victimized by sexual predators; and

19 WHEREAS, there are over 2,100 sexual offenders and predators
20 living in Duval County, and sexual predators are defined as
21 individuals who have used physical violence in committing their
22 crime, or have preyed on very young children; and

23 WHEREAS, pursuant to Section 775.21, Florida Statutes, (the
24 Florida Sexual Predators Act) sexual predators are required to
25 register certain information, including their place of residence
26 with the Florida Department of Law Enforcement (FDLE) ; and

27 WHEREAS, Florida law prohibits a sexual predator from
28 residing within 1,000 feet of a school, child care facility, park
29 or playground; and

30 WHEREAS, pursuant to Section 685.102, Ordinance Code,

1 Jacksonville currently has an expanded zone of protection and
2 prohibits a sexual predator from residing within 2,500 feet of a
3 school, public library, day care center, park, playground, or
4 other place where children regularly congregate;

5 WHEREAS, creating a situation where there are no places for
6 sexual predators to lawfully reside in Jacksonville does not
7 protect the community but rather results in a transient population
8 that poses a significant danger and menace to public health and to
9 children if the predators go unregistered and become less
10 traceable through the FDLE registration process; and

11 WHEREAS, ensuring that registered sexual predators remain
12 traceable, and to discourage this dangerous population from
13 becoming transient, a requirement is established that all new day
14 care centers must be at least 2,500 feet from the established
15 residence of a lawfully registered sexual predator; now therefore,

16 BE IT ORDAINED by the Council of the City of Jacksonville:

17 Section 1. Section 656.401(E) (Care centers/day care
18 centers), Subpart A (Performance Standards and Development
19 Criteria), Part 4 (Supplementary Regulations), Chapter 656 (Zoning
20 Code), Ordinance Code is hereby amended as follows:

21 CHAPTER 656

22 ZONING CODE

23 * * *

24 PART 4. SUPPLEMENTARY REGULATIONS

25 * * *

26 Sec. 656.401 -Performance standards and development criteria.

27 * * *

28 (e) Care centers/day care centers:

29 * * *

30 (10) After January 1, 2015, new day care centers shall not be

1 located within 2,500 feet of a sexual predator residence. The
2 change of name, or continuation of a day care center within the
3 same location that has been in operation within the last six (6)
4 months by another party, shall not be considered "new" in this
5 context. The Planning and Development Department shall produce a
6 neighborhood search map using the Florida Department of Law
7 Enforcement database of registered sexual predators to determine if
8 such residence exists within a radius of 2,500 feet of the proposed
9 day care center. The day care center shall be considered to be
10 established on the date the state license to operate said facility
11 is issued.

12 * * *

13 Section 2. Effective Date. This ordinance shall become
14 effective upon signature by the Mayor or upon becoming effective
15 without the Mayor's signature.

16
17 Form Approved:

18
19 /s/ Susan C. Grandin

20 Office of General Counsel

21 Legislation prepared by: Susan C. Grandin

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