

1 ORDINANCE NO. 2018-02

2 AN ORDINANCE OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 PERTAINING TO CHILD CARE FACILITIES AND FAMILY
5 CHILD CARE HOMES; AMENDING VARIOUS SECTIONS
6 OF CHAPTERS 7 AND 20 OF THE BROWARD COUNTY
7 CODE OF ORDINANCES ("CODE") RELATING TO
8 MINIMUM STANDARDS FOR CHILD CARE FACILITIES
9 AND FAMILY CHILD CARE HOMES; REQUIRING ALL
10 CHILD CARE PERSONNEL AND FAMILY CHILD CARE
11 HOME PERSONNEL WHO PROVIDE CARE TO INFANTS
12 TO OBTAIN TRAINING ON PROVIDING AN INFANT SAFE
13 SLEEP ENVIRONMENT; REQUIRING CHILD CARE
14 FACILITIES AND FAMILY CHILD CARE HOMES TO
15 IMPLEMENT, MAINTAIN, AND COMPLY WITH WRITTEN
16 POLICIES PROVIDING FOR AN INFANT SAFE SLEEP
17 ENVIRONMENT; UPDATING MINIMUM STANDARDS
18 RELATING TO STAFF-TO-CHILDREN RATIOS FOR
19 CHILDREN NAPPING AND SLEEPING IN CHILD CARE
20 FACILITIES; AND PROVIDING FOR SEVERABILITY,
21 INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

22 (Sponsored by Commissioner Nan H. Rich)

23 WHEREAS, child care licensing is regulated under Section 402.301, et seq.,
24 Florida Statutes; and

25 WHEREAS, pursuant to its authority under Chapter 402, Florida Statutes, and
26 Rules 65C-20 and 65C-22, Florida Administrative Code ("FAC"), the Broward County
27 Board of County Commissioners ("Board") previously enacted the "Broward County
28 Child Care Ordinance," and the "Family Child Care Home Ordinance," codified in
29 Chapter 7 and Chapter 20, Article XV, respectively, of the Broward County Code of
30 Ordinances ("Code"), to administer, enforce, and regulate the operation of child care
31 facilities and family child care homes in Broward County through a licensure or
32 registration process; and

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1 WHEREAS, the State of Florida, Department of Children and Families ("DCF")
2 adopted changes to Rules 65C-20 and 65C-22, FAC, effective October 25, 2017,
3 relating to minimum standards for family child care homes and child care facilities,
4 respectively, which impact various provisions under the Broward County Child Care
5 Ordinance and the Family Child Care Home Ordinance, in that certain minimum
6 standards are no longer specifically addressed in the above-referenced FAC rules and,
7 instead, such standards are set forth respectively in the DCF Child Care Facility
8 Handbook and the DCF Family Day Care Home/Large Family Child Care Home
9 Handbook, which are incorporated by reference into such FAC rules; and

10 WHEREAS, the Board desires to amend various sections of the Code to
11 establish additional minimum standards for child care facilities and family child care
12 homes relating to napping and sleeping of children; to require child care providers to
13 implement, maintain, and comply with written policies providing for an infant safe sleep
14 environment consistent with the requirements under this Ordinance; to require child
15 care personnel and family child care home personnel who provide care to infants to
16 obtain the most current training, approved by the local licensing agency on providing an
17 infant safe sleep environment; and to provide documentation evidencing the successful
18 completion of such training as provided herein; and

19 WHEREAS, the Board finds that amending the Code as provided herein will
20 establish an infant safe sleep environment and require all owners and operators of
21 licensed and registered child care facilities and family child care homes to develop a
22 written safe sleep policy to reduce the risk of sudden unexpected infant death (SUID),
23 which includes, but is not limited to, sudden infant death syndrome (SIDS), suffocation,
24 entrapment, or strangulation,

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

3
4 Section 1. Section 7-4.02 of the Broward County Code of Ordinances is
5 hereby amended to read as follows:

6 **Sec. 7-4.02. Personnel training.**

7 ...

8 (j) All child care personnel who provide care to infants at child care facilities
9 shall, prior to caring for such infants, successfully complete the most current
10 training course(s) approved by the local licensing agency relating to providing an infant
11 safe sleep environment, as identified on the local licensing agency's website. The
12 owner of a child care facility must ensure that all such child care personnel are in
13 compliance with the training requirements of this section, and that such training is
14 renewed every two (2) years, in the same manner as provided for the initial training.
15 Successful completion of the required training must be evidenced by a certificate, or any
16 equivalent documentation, issued by the applicable training organization in the name of
17 the individual who completed the course and indicating the date the course was
18 completed. Documentation evidencing compliance with the training requirements under
19 this section shall be included in the individual's personnel file maintained at the child
20 care facility.

21
22 Section 2. The title of Section 7-4.06 and the text of Section 7-4.06(a) of the
23 Broward County Code of Ordinances are hereby deleted in their entirety and a new title
24 of Section 7-4.06 and text of Section 7-4.06(a) are created to read as follows:

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1 [Underlining omitted]

2 **Sec. 7-4.06. Ratios of staff-to-children and supervision.**

3 (a) *General.*

4 (1) This section establishes the minimum standards for staff-to-children ratios
5 and supervision in child care facilities. The owner of a child care facility
6 must ensure compliance with the minimum standards set forth in
7 Section 402.305(4), Florida Statutes, and Section 2 of the State of Florida,
8 Department of Children and Families' Child Care Facility Handbook ("DCF
9 Facility Licensing Handbook"), incorporated by reference into
10 Rule 65C-22.001, Florida Administrative Code, relating to staff-to-children
11 ratios and supervision, in addition to the more stringent requirements set
12 forth in this section.

13 (2) *Napping and sleeping.* When children are napping and sleeping,
14 supervision must be maintained in accordance with the staff-to-children
15 ratios set forth below.

<i>Napping and Sleeping Children</i>	<i>Staff-to-Children Ratio</i>
Under 1 year of age	No more than 4 children in this age range for each staff member
1 year of age but under 2 years of age	No more than 6 children in this age range for each staff member
2 years of age but under 3 years	No more than 22 children in

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of age	this age range for each staff member
3 years of age and older	No more than 30 children in this age range for each staff member

- a. In groups of mixed age ranges, where children under one year of age are included, one staff member must be responsible for no more than four children of any age group.
- b. In groups of mixed age ranges, where there are no children under one year of age, and children one year of age but under two years of age are included, one staff member must be responsible for no more than six children of any age group.
- c. In groups of mixed age ranges, where no child is younger than two years of age, the staff-to-children ratio shall be based on the age group with the largest number of children within the group.

(3) All child care personnel must remain awake at all times when children are in care.

Section 3. Section 7-5.04 of the Broward County Code of Ordinances is hereby deleted in its entirety and a new Section 7-5.04 is created to read as follows:
 [Underlining omitted]

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1 **Sec. 7-5.04. Napping and sleeping space; safe sleep environment.**

2 (a) This section establishes the minimum standards for napping and sleeping
3 space, and for providing a safe sleep environment in child care facilities. The owner of
4 a child care facility must ensure compliance with the minimum standards set forth in
5 Sections 2.4 and 3.6 of the State of Florida, Department of Children and Families' Child
6 Care Facility Handbook ("DCF Facility Licensing Handbook"), incorporated by reference
7 into Rule 65C-22.001, Florida Administrative Code, relating to supervision, and
8 napping and sleeping requirements, respectively, in addition to the more stringent
9 requirements set forth in this section.

10 (b) All owners of child care facilities shall obtain approval from the local
11 licensing agency prior to caring for infants.

12 (c) All cribs and play yards utilized in child care facilities for napping and
13 sleeping must be in compliance with the crib requirements set forth in Section 3.6.3 of
14 the DCF Facility Licensing Handbook, in addition to the more stringent requirements set
15 forth below.

16 (1) All cribs and play yards shall contain mattresses or mats that fit the
17 dimensions of such cribs or play yards without any gaps and that are in
18 compliance with the manufacturer's specifications for mattresses or mats
19 to be utilized in such cribs and play yards;

20 (2) All crib and play yard mattresses must be covered with a tightly-fitted
21 sheet and be capable of maintaining their shape when covered with such
22 fitted sheet; and
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1 (3) Cribs and play yards shall not be positioned near any potential safety
2 hazard including, but not limited to, any window blinds, draperies, or
3 electrical cords.

4 (d) *Infant safe sleep environment.* This section establishes the minimum
5 standards for providing an infant safe sleep environment in child care facilities and shall
6 be in addition to the safe sleep requirements set forth in Section 3.6.4 of the
7 DCF Facility Licensing Handbook.

8 (1) Unless authorized in writing by a physician, infants who are napping or
9 sleeping must be positioned on their backs and on a firm surface to
10 reduce the risk of sudden unexpected infant death (SUID), including
11 sudden infant death syndrome (SIDS), and without the use of any devices
12 or equipment, including, but not limited to, infant wedges or sleep
13 positioners. Any physician authorization pursuant to this section shall
14 include the child's name, date of birth, a description of the alternate
15 napping or sleeping position, any approved devices or equipment, and the
16 length of time such authorization is valid. Such authorization shall be
17 maintained in the infant's enrollment file at the child care facility. The
18 owner of a child care facility shall ensure that all substitute providers of
19 care at the facility are informed of any written authorization provided by a
20 physician pursuant to this section. Except where authorized in
21 accordance with the provisions of this section, all infants who are
22 observed sleeping on their stomachs shall be repositioned onto their
23 backs.

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1 (2) At all times when infants are napping or sleeping, mobiles hanging above
2 cribs or play yards shall be prohibited, and no items shall be contained
3 inside, attached to, or hung on any crib or play yard, including, but not
4 limited to, pillows, toys, stuffed animals, bumper pads, bibs, blankets,
5 quilts, or comforters. Infants may use pacifiers while napping or sleeping,
6 as long as such pacifiers are not tied or fastened to the infants' clothing or
7 to the crib or play yard.

8 (3) Swaddling of infants is prohibited at all times, unless authorized in writing
9 by a physician and such documentation is provided and maintained in a
10 manner consistent with the requirements of (d)(1) above. The owner of a
11 child care facility shall ensure that all substitute providers of care at the
12 facility are informed of any written authorization provided by a physician
13 pursuant to this section. Infants may be placed in one-piece sleepers or
14 sleep sacks that are not capable of being kicked off by the children.
15 Infants shall not be placed for napping or sleeping wearing any bibs,
16 necklaces, or garments with tie strings or hoods. Infants shall be
17 observed to ensure they are comfortably clothed in accordance with the
18 room temperature and demonstrate no visible signs of being cold,
19 overheated, or sweating.

20 (4) Infants shall not be placed for napping or sleeping in any car safety seat,
21 bean bag chair, bouncy seat, infant seat, swing, jumping chair, highchair,
22 chair, futon, sofa, or any other type of furniture or equipment that does not
23 meet the crib and play yard requirements under (c) above.
24

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1 (5) Infants who arrive at the facility asleep in a car safety seat must be
2 immediately removed from the seat by the parent or the child care
3 personnel and placed on their back in a safe sleep environment.

4 (6) Only one infant at a time shall be placed in any crib or play yard for
5 napping or sleeping.

6 (e) All owners of child care facilities shall implement, maintain, and comply
7 with a written policy on providing an infant safe sleep environment, which policy, at
8 minimum, shall include the requirements under this section.

9 (f) The owner of a child care facility shall ensure that all parents of infants are
10 provided a copy of the child care facility's written policy on providing an infant safe sleep
11 environment upon enrollment of their child(ren). A copy of the signed statement from
12 the parent acknowledging receipt of the policy must be included in the child's enrollment
13 file maintained at the child care facility.

14
15 Section 4. Section 7-22.04 of the Broward County Code of Ordinances is
16 hereby amended to read as follows:

17 **Sec. 7-22.04. Napping and sleeping space; safe sleep environment.**

18 For the purposes of this section, the ~~general requirements~~ minimum standards
19 set forth in Article I, Section 7-5.04, relating to napping and sleeping space set forth in
20 Sec. 7-5.04 of this Ordinance and for providing a safe sleep environment, shall be
21 applicable to ~~Article II.~~

22
23 Section 5. Section 7-38.06 of the Broward County Code of Ordinances is
24 hereby amended to read as follows:

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underscored type are additions.

1 **Sec. 7-38.06. Napping and sleeping space; safe sleep environment.**

2 For the purposes of this section, the ~~general requirements~~ minimum standards
3 set forth in Article I, Section 7-5.04, relating to napping and sleeping space ~~set forth in~~
4 ~~Sec. 7-5.04 of this Ordinance~~ and for providing a safe sleep environment, shall be
5 applicable to Article III, ~~except for the requirements of Sec. 7-5.04(d) relating to the~~
6 ~~minimum distance maintained around individual napping spaces.~~

7
8 Section 6. Section 7-38.07 of the Broward County Code of Ordinances is
9 hereby amended to read as follows:

10 **Sec. 7-38.07. Additional requirements.**

11 ...

12 (b) Linens, if provided by the facility, must be sanitized daily, ~~pursuant to~~ in
13 accordance with ~~Sec.~~ Section 7-3(34) of this Ordinance, and more often if soiled or
14 dirty. ~~Linens and blankets must be provided when children are napping or sleeping.~~
15 ~~Pillows must be available except for infants under twenty-four (24) months of age.~~

16 (c) ~~For the purpose of this section, sleeping refers to the normal overnight~~
17 ~~sleep cycle while napping refers to a brief period of rest during daylight or early evening~~
18 ~~hours. Playpens may not be used for care when children are sleeping. Bedding must~~
19 ~~be appropriate for the child's size.~~

20
21 Section 7. Section 7-46 of the Broward County Code of Ordinances is hereby
22 amended to read as follows:

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

24
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underscored type are additions.

1 F.S. ~~ch.~~ Chapter 402, Florida Statutes, Rule 65C-22, Florida Administrative
2 Code, including any standards set forth in the current version of any State of Florida,
3 Department of Children and Families' Child Care Facility Handbook and School-Age
4 Child Care Licensing Handbook incorporated by reference into Rule 65C-22, Florida
5 Administrative Code, and any other applicable state or local law, rule, or regulation,
6 relating to the minimum standards for licensure of child care facilities are hereby
7 adopted and incorporated into this Ordinance by reference. In the ~~case of a direct~~
8 ~~conflict between any provision of~~ event the minimum standards for licensure of child
9 care facilities under this Ordinance and a provision differ from the minimum standards of
10 any other applicable federal, state, or local law, rule, or regulation, or standard, the more
11 restrictive stringent provision shall apply.

12
13 Section 8. Section 20-294 of the Broward County Code of Ordinances is
14 hereby amended to read as follows:

15 **Sec. 20-294. Minimum standards for family child care home personnel.**

16 ...

17 III. *Personnel Training.*

18 ...

19 (h) All family child care home personnel who provide care to infants at any
20 family child care home shall, prior to caring for such infants, successfully complete the
21 most current training course approved by the local licensing agency relating to providing
22 an infant safe sleep environment, as identified on the local licensing agency's website.
23 The operator of a family child care home must ensure that all such family child care
24 home personnel are in compliance with the training requirements of this section, and

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1 that such training is renewed every two (2) years, in the same manner as provided for
2 the initial training. Successful completion of the required training must be evidenced by
3 a certificate, or any equivalent documentation, issued by the applicable training
4 organization in the name of the individual who completed the course and indicating the
5 date the course was completed. Documentation evidencing compliance with the
6 training requirements of this section shall be included in the individual's personnel file
7 maintained at the family child care home.

8
9 Section 9. Section 20-295(V) of the Broward County Code of Ordinances is
10 hereby deleted in its entirety and a new Section 20-295(V) is created to read as follows:

11 **Sec. 20-295. Physical facilities.**

12 [Underlining omitted]

13 V. *Napping and Sleeping Space; Safe Sleep Environment.*

14 (a) This section establishes the minimum standards for napping and sleeping
15 space and for providing a safe sleep environment in family child care
16 homes. The operator of a family child care home must ensure compliance
17 with the minimum standards set forth in Sections 6 and 7.8 of the State of
18 Florida, Department of Children and Families' Family Day Care
19 Home/Large Family Child Care Home Handbook ("DCF Family Child Care
20 Home Licensing Handbook"), incorporated by reference into Rule 65C-
21 20.008, Florida Administrative Code, relating to supervision and
22 appropriate, safe and sanitary bedding, respectively, in addition to the
23 more stringent requirements set forth in this section.

24 (b) All operators of family child care homes shall obtain approval of the local

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1 licensing agency prior to caring for infants.

2 (c) All cribs and play yards utilized in family child care homes for napping and
3 sleeping must be in compliance with the crib requirements set forth in
4 Section 7.8 of the DCF Family Child Care Home Licensing Handbook, in
5 addition to the more stringent requirements set forth below.

6 (1) All cribs and play yards shall contain mattresses or mats that fit the
7 dimensions of such cribs or play yards without any gaps and that are in
8 compliance with the manufacturer's specifications for mattresses or mats
9 to be utilized in such cribs and play yards;

10 (2) All crib and play yard mattresses must be covered with a tightly-fitted
11 sheet and be capable of maintaining their shape when covered with such
12 fitted sheet; and

13 (3) Cribs and play yards shall not be positioned near any potential safety
14 hazard including, but not limited to, any window blinds, draperies, or
15 electrical cords.

16 (d) In addition to the requirements of Section 6 of the DCF Family Child Care
17 Home Licensing Handbook relating to supervision of children, children
18 from birth to twenty-four (24) months of age who are napping or sleeping
19 shall be observed by sight and sound. Use of electronic audio and video
20 monitoring equipment is permissible, except in large family child care
21 homes, as defined in Section 402.302(11), Florida Statutes, where direct
22 supervision of such children is required at all times.

23 (e) *Infant safe sleep environment.* This section establishes the minimum
24 standards for providing an infant safe sleep environment in family child

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1 care homes. All operators of family child care homes shall ensure
2 compliance with the requirements under this section, in addition to any
3 other minimum standards set forth under this chapter, relating to napping
4 and sleeping of children.

5 (1) Unless authorized in writing by a physician, infants who are napping or
6 sleeping must be positioned on their backs and on a firm surface to
7 reduce the risk of sudden unexpected infant death (SUID), including
8 sudden infant death syndrome (SIDS), and without the use of any devices
9 or equipment, including, but not limited to, infant wedges or sleep
10 positioners. Any physician authorization pursuant to this section shall
11 include the child's name, date of birth, a description of the alternate
12 napping or sleeping position, any approved devices or equipment, and the
13 length of time such authorization is valid. Such authorization shall be
14 maintained in the infant's enrollment file at the family child care home.
15 The operator of a family child care home shall ensure that all substitute
16 providers of care at the home are informed of any written authorization
17 provided by a physician pursuant to this section. Except where authorized
18 in accordance with the provisions of this section, all infants who are
19 observed sleeping on their stomachs shall be repositioned onto their
20 backs.

21 (2) At all times when infants are napping or sleeping, mobiles hanging above
22 cribs or play yards shall be prohibited, and no items shall be contained
23 inside, attached to, or hung on any crib or play yard, including, but not
24 limited to, pillows, toys, stuffed animals, bumper pads, bibs, blankets,

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1 quilts, or comforters. Infants may use pacifiers while napping or sleeping,
2 as long as such pacifiers are not tied or fastened to the infants' clothing or
3 to the crib or play yard.

4 (3) Swaddling of infants is prohibited at all times, unless authorized in writing
5 by a physician and such documentation provided and maintained in a
6 manner consistent with the requirements of (e)(1) above. The operator of
7 a family child care home shall ensure that all substitute providers of care
8 at the home are informed of any written authorization provided by a
9 physician pursuant to this section. Infants may be placed in one-piece
10 sleepers or sleep sacks that are not capable of being kicked off by the
11 children. Infants shall not be placed for napping or sleeping wearing any
12 bibs, necklaces, or garments with tie strings or hoods. Infants shall be
13 observed to ensure they are comfortably clothed in accordance with the
14 room temperature and demonstrate no visible signs of being cold,
15 overheated, or sweating.

16 (4) Infants shall not be placed for napping or sleeping in any car safety seat,
17 bean bag chair, bouncy seat, infant seat, swing, jumping chair, highchair,
18 chair, futon, sofa, or any other type of furniture or equipment that does not
19 meet the crib and play yard requirements under (c) above.

20 (5) Infants who arrive at the family child care home asleep in a car safety seat
21 must be immediately removed from the seat by the parent or the family
22 child care home personnel and placed on their back in a safe sleep
23 environment.
24

1 (6) Only one infant at a time shall be placed in any crib or play yard for
2 napping or sleeping.

3 (f) All operators of family child care homes shall implement, maintain, and
4 comply with a written policy on providing an infant safe sleep environment, which policy,
5 at minimum, shall include the requirements of this section.

6 (g) The operator of a family child care home shall ensure that all parents of
7 infants are provided a copy of the family child care home's written policy on providing an
8 infant safe sleep environment upon enrollment of their child(ren). A copy of the signed
9 statement from the parent acknowledging receipt of the policy must be included in the
10 child's enrollment file maintained at the child care facility.

11
12 Section 10. Section 20-309 of the Broward County Code of Ordinances is
13 hereby amended to read as follows:

14 **Sec. 20-309. Adoption of Florida Statutes and Florida Administrative Code.**

15 Chapter 402, Florida Statutes, Rule 65C-20, Florida Administrative Code,
16 including any standards set forth in the current version of any State of Florida,
17 Department of Children and Families' Family Day Care Home/Large Family Child Care
18 Home Handbook, incorporated by reference into Rule 65C-20, Florida Administrative
19 Code, and any other applicable federal, state, or local law, rule, or regulation, or
20 standard relating to the minimum standards for licensure of family child care homes are
21 hereby adopted and incorporated into this Ordinance by reference. In the ~~case of a~~
22 ~~direct conflict between any provision of~~ event the minimum standards for licensure of
23 family child care homes under this Ordinance and a provision differ from the minimum
24

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1 standards of any other applicable federal, state, or local law, rule, or regulation, or
2 standard, the more ~~restrictive~~ stringent provision shall apply.

3
4 Section 11. SEVERABILITY.

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

11
12 Section 12. INCLUSION IN CODE.

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

19
20 Section 13. EFFECTIVE DATE.

21 This Ordinance shall become effective on April 1, 2018.

22
23 ENACTED January 9, 2018

24 FILED WITH THE DEPARTMENT OF STATE January 9, 2018

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EFFECTIVE April 1, 2018

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/Patrice M. Eichen 11/30/17
Patrice M. Eichen (Date)
Assistant County Attorney

PME/dp
11/30/17
Infant Safe Sleep Ordinance
#17-403

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