

**PROPOSED**

## ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO CHILD CARE FACILITIES AND FAMILY CHILD CARE HOMES; AMENDING VARIOUS SECTIONS OF CHAPTERS 7 AND 20 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") RELATING TO MINIMUM STANDARDS FOR CHILD CARE FACILITIES AND FAMILY CHILD CARE HOMES; REQUIRING ALL CHILD CARE PERSONNEL AND FAMILY CHILD CARE HOME PERSONNEL WHO PROVIDE CARE TO INFANTS TO OBTAIN TRAINING ON PROVIDING AN INFANT SAFE SLEEP ENVIRONMENT; REQUIRING CHILD CARE FACILITIES AND FAMILY CHILD CARE HOMES TO IMPLEMENT, MAINTAIN, AND COMPLY WITH WRITTEN POLICIES PROVIDING FOR AN INFANT SAFE SLEEP ENVIRONMENT; UPDATING MINIMUM STANDARDS RELATING TO STAFF-TO-CHILDREN RATIOS FOR CHILDREN NAPPING AND SLEEPING IN CHILD CARE FACILITIES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Nan H. Rich)

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

WHEREAS, pursuant to its authority under Chapter 402, Florida Statutes, and Rules 65C-20 and 65C-22, Florida Administrative Code ("FAC"), the Broward County Board of County Commissioners ("Board") previously enacted the "Broward County Child Care Ordinance," and the "Family Child Care Home Ordinance," codified in Chapter 7 and Chapter 20, Article XV, respectively, of the Broward County Code of Ordinances ("Code"), to administer, enforce, and regulate the operation of child care facilities and family child care homes in Broward County through a licensure or 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, relating  
3 to minimum standards for family child care homes and child care facilities, respectively,  
4 which impact various provisions under the Broward County Child Care Ordinance and the  
5 Family Child Care Home Ordinance, in that certain minimum standards are no longer  
6 specifically addressed in the above-referenced FAC rules and, instead, such standards  
7 are set forth respectively in the DCF Child Care Facility Handbook and the DCF Family  
8 Day Care Home/Large Family Child Care Home Handbook, which are incorporated by  
9 reference into such FAC rules; and

10           WHEREAS, the Board desires to amend various sections of the Code to establish  
11 additional minimum standards for child care facilities and family child care homes relating  
12 to napping and sleeping of children; to require child care providers to implement, maintain,  
13 and comply with written policies providing for an infant safe sleep environment consistent  
14 with the requirements under this Ordinance; to require child care personnel and family  
15 child care home personnel who provide care to infants to obtain the most current training,  
16 approved by the local licensing agency on providing an infant safe sleep environment;  
17 and to provide documentation evidencing the successful completion of such training as  
18 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 hereby  
5 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 owner  
12 of a child care facility must ensure that all such child care personnel are in compliance  
13 with the training requirements of this section, and that such training is renewed every two  
14 (2) years, in the same manner as provided for the initial training. Successful completion  
15 of the required training must be evidenced by a certificate, or any equivalent  
16 documentation, issued by the applicable training organization in the name of the individual  
17 who completed the course and indicating the date the course was completed.  
18 Documentation evidencing compliance with the training requirements under this section  
19 shall be included in the individual's personnel file maintained at the child care facility.

20  
21 Section 2. The title of Section 7-4.06 and the text of Section 7-4.06(a) of the  
22 Broward County Code of Ordinances are hereby deleted in their entirety and a new title  
23 of Section 7-4.06 and text of Section 7-4.06(a) are created to read as follows:

24 [Underlining omitted]

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

2 (a) *General.*

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

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

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2 years of age but under 3 years of age	No more than 22 children in 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 a  
4 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 the  
14 DCF Facility Licensing Handbook, in addition to the more stringent requirements set forth  
15 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 to  
19 be utilized in such cribs and play yards;

20           (2) All crib and play yard mattresses must be covered with a tightly-fitted sheet  
21 and be capable of maintaining their shape when covered with such fitted  
22 sheet; and  
23  
24

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

23 (2) At all times when infants are napping or sleeping, mobiles hanging above  
24 cribs or play yards shall be prohibited, and no items shall be contained

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1 inside, attached to, or hung on any crib or play yard, including, but not  
2 limited to, pillows, toys, stuffed animals, bumper pads, bibs, blankets, quilts,  
3 or comforters. Infants may use pacifiers while napping or sleeping, as long  
4 as such pacifiers are not tied or fastened to the infants' clothing or to the  
5 crib or play yard.

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

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

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

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

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

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

11  
12 Section 4. Section 7-22.04 of the Broward County Code of Ordinances is  
13 hereby amended to read as follows:

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

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

19  
20 Section 5. Section 7-38.06 of the Broward County Code of Ordinances is  
21 hereby amended to read as follows:

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

23 For the purposes of this section, the ~~general requirements~~ minimum standards set  
24 forth in Article I, Section 7-5.04, relating to napping and sleeping space ~~set forth in Sec.~~

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1 ~~7-5.04 of this Ordinance and for providing a safe sleep environment,~~ shall be applicable  
2 to ~~Article III, except for the requirements of Sec. 7-5.04(d) relating to the minimum~~  
3 ~~distance maintained around individual napping spaces.~~

4  
5 Section 6. Section 7-38.07 of the Broward County Code of Ordinances is  
6 hereby amended to read as follows:

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

8 ...

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

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

17  
18 Section 7. Section 7-46 of the Broward County Code of Ordinances is hereby  
19 amended to read as follows:

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

21 F.S. ch. Chapter 402, Florida Statutes, Rule 65C-22, Florida Administrative Code,  
22 including any standards set forth in the current version of any State of Florida, Department  
23 of Children and Families' Child Care Facility Handbook and School-Age Child Care  
24 Licensing Handbook incorporated by reference into Rule 65C-22, Florida Administrative

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1 Code, and any other applicable state or local law, rule, or regulation, relating to the  
2 minimum standards for licensure of child care facilities are hereby adopted and  
3 incorporated into this Ordinance by reference. In the ~~case of a direct conflict between~~  
4 ~~any provision of~~ event the minimum standards for licensure of child care facilities under  
5 ~~this Ordinance and a provision~~ differ from the minimum standards of any other applicable  
6 ~~federal, state, or local law, rule, or regulation, or standard,~~ the more restrictive stringent  
7 provision shall apply.

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

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

12 ...

13 III. *Personnel Training.*

14 ...

15 (h) All family child care home personnel who provide care to infants at any  
16 family child care home shall, prior to caring for such infants, successfully complete the  
17 most current training course approved by the local licensing agency relating to providing  
18 an infant safe sleep environment, as identified on the local licensing agency's website.  
19 The operator of a family child care home must ensure that all such family child care home  
20 personnel are in compliance with the training requirements of this section, and that such  
21 training is renewed every two (2) years, in the same manner as provided for the initial  
22 training. Successful completion of the required training must be evidenced by a  
23 certificate, or any equivalent documentation, issued by the applicable training  
24 organization in the name of the individual who completed the course and indicating the

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1 date the course was completed. Documentation evidencing compliance with the training  
2 requirements of this section shall be included in the individual's personnel file maintained  
3 at the family child care home.

4  
5 Section 9. Section 20-295(V) of the Broward County Code of Ordinances is  
6 hereby deleted in its entirety and a new Section 20-295(V) is created to read as follows:

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

8 [Underlining omitted]

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

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

20 (b) All operators of family child care homes shall obtain approval of the local  
21 licensing agency prior to caring for infants.

22 (c) All cribs and play yards utilized in family child care homes for napping and  
23 sleeping must be in compliance with the crib requirements set forth in  
24

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1 Section 7.8 of the DCF Family Child Care Home Licensing Handbook, in  
2 addition to the more stringent requirements set forth below.

- 3 (1) All cribs and play yards shall contain mattresses or mats that fit the  
4 dimensions of such cribs or play yards without any gaps and that are in  
5 compliance with the manufacturer's specifications for mattresses or mats to  
6 be utilized in such cribs and play yards;
- 7 (2) All crib and play yard mattresses must be covered with a tightly-fitted sheet  
8 and be capable of maintaining their shape when covered with such fitted  
9 sheet; and
- 10 (3) Cribs and play yards shall not be positioned near any potential safety  
11 hazard including, but not limited to, any window blinds, draperies, or  
12 electrical cords.
- 13 (d) In addition to the requirements of Section 6 of the DCF Family Child Care  
14 Home Licensing Handbook relating to supervision of children, children from  
15 birth to twenty-four (24) months of age who are napping or sleeping shall  
16 be observed by sight and sound. Use of electronic audio and video  
17 monitoring equipment is permissible, except in large family child care  
18 homes, as defined in Section 402.302(11), Florida Statutes, where direct  
19 supervision of such children is required at all times.
- 20 (e) *Infant safe sleep environment.* This section establishes the minimum  
21 standards for providing an infant safe sleep environment in family child care  
22 homes. All operators of family child care homes shall ensure compliance  
23 with the requirements under this section, in addition to any other minimum  
24

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1 standards set forth under this chapter, relating to napping and sleeping of  
2 children.

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

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

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

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

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

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

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

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

6  
7 Section 10. Section 20-309 of the Broward County Code of Ordinances is hereby  
8 amended to read as follows:

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

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

21  
22 Section 11. SEVERABILITY.

23 If any portion of this Ordinance is determined by any Court to be invalid, the invalid  
24 portion shall be stricken, and such striking shall not affect the validity of the remainder of

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1 this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot  
2 be legally applied to any individual(s), group(s), entity(ies), property(ies), or  
3 circumstance(s), such determination shall not affect the applicability hereof to any other  
4 individual, group, entity, property, or circumstance.

5

6 Section 12. INCLUSION IN CODE.

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

12

13 Section 13. EFFECTIVE DATE.

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

15

16 ENACTED

17 FILED WITH THE DEPARTMENT OF STATE

18 EFFECTIVE

19

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

21

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

23

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

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