

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE IV (DOWNTOWN MASTER PLAN), SECTION 94-106 (GENERAL USES WITH SPECIAL REQUIREMENTS); AMENDING ARTICLE IX (PERMITTED USES, USES PERMITTED WITH EXTRA REQUIREMENTS, AND SPECIAL USES) AT SECTION 94-272 (PERMITTED USE TABLE) AND SECTION 94-273 (EXTRA REQUIREMENTS FOR SPECIAL USES OR PERMITTED USES); AMENDING ARTICLE XIX (DEFINITIONS) AT SECTION 94-611 (DEFINITIONS); TO AMEND THE REGULATIONS REGARDING CHILD DAY CARE HOMES TO INCORPORATE PROVISIONS FROM THE SPECIAL ACTS OF LAWS OF FLORIDA; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, on May 26, 2010, House Bill 1045 (Chapter 2010-249, Laws of Florida) amended the Laws of Florida regulating daycare uses in Palm Beach County; and

WHEREAS, the Zoning and Land Development Regulations require amendment to comply with State law; and

WHEREAS, this City-initiated request will provide regulations for Large Family Child Care Homes, which will further supplement the current State requirements; and

WHEREAS, the Planning Board held a public hearing on November 15, 2011, and recommended approval (5-1) of this code amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The Code of Ordinances of the City of West Palm Beach at Chapter 94, Zoning and Land Development Regulations, Article IV, Downtown Master Plan Urban Regulations, Section 94-106, General uses with special requirements, is hereby amended at the indicated subsections, and all other subsections shall remain unchanged:

Section. 94-106. - General uses with special requirements.

- (a) *General uses with special requirements.* The uses listed in this section are uses permitted within the districts indicated, subject to special requirements or special use permit approval.

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(2) *Day care facilities for children.*

- a. Day care facilities as a primary use, or accessory use to places of worship or schools shall be permitted within the urban core planning area, special district planning area and residential enclave planning area except within R subdistricts, and shall comply with the additional requirements of subsections 94-273(a) and 94-273(d)(18).
- b. Day care facilities as an accessory use to places of worship or schools shall be permitted in the R subdistricts, and shall comply with the additional requirements of subsections 94-273(a) and 94-273(d)(17).
- c. Family day care homes for six children or fewer, as an accessory use to a residential use, shall be permitted by right in all planning areas.
- d. Large family child care homes for twelve or fewer children, as an accessory use to a residential use, shall be permitted in the zoning districts reflected in Table IX-1 subject to the extra requirements of Section 94-273 (d)(19.1)

SECTION 2: The Code of Ordinances of the City of West Palm Beach at Chapter 94, Zoning and Land Development Regulations, Article IX, Permitted Uses, Uses Permitted with Extra Requirements, and Special Uses, Section 94-272, Permitted Use Table (Table IX-1), is hereby amended at the indicated subsections, and all other subsections shall remain unchanged:

Section. 94-272. Permitted Use Table.

TABLE IX-1

	USES	SF3-SF11	SF14	MF14	MF20	MF32	OC	POR	AC	NC	GC	CM	CC2	IND	ROS	CS	UT	W	NMUD
29.	<u>FAMILY DAY CARE FACILITIES HOMES, ACCESSORY CHILDREN, FAMILY</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>					<u>PXR</u>						

Language underlined added, and language ~~stricken~~ deleted.

Asterisks **** indicate language not amended which has been omitted to save space.

	USES	SF3-SF11	SF14	MF14	MF20	MF32	OC	POR	AC	NC	GC	CM	CC2	IND	ROS	CS	UT	W	NMUD
29.1.	<u>LARGE FAMILY CHILD CARE HOMES ACCESSORY CHILDREN.</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>	<u>PXR</u>					<u>PXR</u>						

SECTION 3: The Code of Ordinances of the City of West Palm Beach at Chapter 94, Zoning and Land Development Regulations, Article IX, Permitted Uses, Uses Permitted with Extra Requirements, and Special Uses, Section 94-273, Extra requirements for special uses or permitted uses, is hereby amended at the indicated subsections, and all other subsections shall remain unchanged:

Section. 94-273. Extra requirements for special uses or permitted uses.

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(19.1) FAMILY DAY CARE HOMES, ACCESSORY CHILDREN (PXR: See Item 29., Table IX-1).

a. Additional application requirements.

1. A written statement that the proposed family child care home will comply with all applicable county and state laws and regulations.
2. Proof that the proposed Family child care home has obtained a permit or license from the Palm Beach County Child Care Facilities Board, or the State of Florida.

b. Additional standards.

1. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback. The play area shall be surrounded by a six-foot high opaque fence or wall.
2. There shall be no display or sign that will indicate from the exterior that the building is being utilized in part for a child day care facility.
3. One (1) of the full-time child care personnel shall be the owner or occupant of the residence.

Language underlined added, and language stricken deleted.

Asterisks **** indicate language not amended which has been omitted to save space.

(19.2) LARGE FAMILY CHILD CARE HOMES, CHILDREN, AS ACCESSORY USES (PXR: See Item 29.1, Table IX-1).

a. Additional application requirements.

1. A written statement that the proposed large family child care home will comply with all applicable county and state laws and regulations.
2. Proof that the proposed Large Family Day Care Home has obtained a permit or license from the Palm Beach County Child Care Facilities Board, or the State of Florida.

b. Additional standards.

1. Facilities shall contain a minimum floor area of 35 square feet per child, exclusive of space devoted to bathrooms, halls, kitchen, offices and storage space.
2. The play area shall be located on the same lot as the principal use and shall not be located in the front yard setback. The play area shall be surrounded by a six-foot high opaque fence or wall.
3. Measured from parcel to parcel at the nearest parcel boundaries, there shall be a minimum of 250 feet between large family child care homes.
4. There shall be no display or sign that will indicate from the exterior that the building is being utilized in part for a child day care facility.
5. A minimum of two (2) parking spaces shall be provided. Tandem parking is permitted on-site, and all parking spaces shall have immediate access either to a street or an alleyway. All parking shall comply with section 94-482, parking requirements for less than four residential units, and subsection 94-485(j), configuration of parking and loading ingress and egress.
6. One (1) of the full-time child care personnel shall be the owner or occupant of the residence.

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Language underlined added, and language ~~stricken~~ deleted.

Asterisks **** indicate language not amended which has been omitted to save space.

(31) HOME OCCUPATIONS, ACCESSORY TO RESIDENTIAL USES (PXR:
See Item 57, Table IX-1).

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b. *Additional standards.*

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12. Permissible home occupations shall include but not limited to the following:

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iii. Family day care homes and large family child care home facilities ~~services~~ as regulated by item 29 and 29.1 in Table IX-1 in section 94-272;

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SECTION 4: The Code of Ordinances of the City of West Palm Beach at Chapter 94, Zoning and Land Development Regulations; Article XIX, Definitions; Section 94-611 Definitions, is hereby amended at the indicated subsections, and all other subsections shall remain unchanged:

Section 94-611 Definitions

~~*Child day care facility, family, accessory,* means a facility licensed and operated in accordance with county standards where general supervisory care is provided for five or fewer children at any one time, including children of the supervisor.~~

Family child care home means an accessory use conducted in an occupied residence in which custodial care is rendered to one to six children, inclusive, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit. Baby-sitting services provided by an individual at the home of the parents or legal guardians is not deemed to be a family day care home. .

* * * * *

Large family child care home means an occupied residence in which custodial care is regularly provided for up to twelve children, and for which the owner or operator receives a payment, fee or grant for any of the children receiving care, whether or not operated for profit, and which has a least two full-time child care personnel on the premises during the hour of operation. One of the full-time child care personnel shall be the owner or occupant of the residence.

Language underlined added, and language ~~stricken~~ deleted.

Asterisks ***** indicate language not amended which has been omitted to save space.

SECTION 5: The City Commission of the City of West Palm Beach hereby finds and determines that the text amendments described in this Ordinance are consistent with the Comprehensive Plan of the City adopted pursuant to Sections 163.3161, et seq., Florida Statutes.

SECTION 6: The City Commission of the City of West Palm Beach hereby finds and determines that the amendments described in this Ordinance are consistent with the standards set forth in Section 94-32 of the Zoning and Land Development Regulations.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: Should any section or provision of this Ordinance, or any portion thereof, or any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 9: Authority is hereby granted to codify the amendments to the Code of Ordinances ordained by this Ordinance.

SECTION 10: This Ordinance shall become effective in accordance with law.

FIRST READING THIS _____ DAY OF _____, 2012.

SECOND READING AND FINAL APPROVAL THIS _____ DAY OF _____, 2012.

(CORPORATE SEAL)

**CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION**

ATTEST:

PRESIDING OFFICER

CITY CLERK

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By: _____