



## **IN-HOME DAYCARE POLICY**

### **INTRODUCTION**

The Texas Department of Family and Protective Services require in-home daycare Operators to comply local government requirements as part of the State minimum guidelines for licensing. The City of Lancaster Development Code (LDC) requires all in-home daycares to obtain Specific Use Permit (SUP) in all Residential zoning districts to operate within the City of Lancaster.

In considering and determining its recommendations to the City Council on any request for a SUP, the Planning and Zoning Commission may require from the applicant to submit plans, information, operating data and expert evaluation concerning the location and function and characteristics of any building or use proposed. The City Council may, in the interest of public welfare and to assure compliance of this Ordinance, establish conditions of operation including but not limited to the following Home Occupation Regulations. In authorizing the location of any of the uses listed as Specific Use Permits, the City Council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent properties from excessive noise, offensive view or other undesirable or hazardous conditions.

A SUP may be granted after application has been properly made and a public hearing before the Planning and Zoning Commission and the City Council has been conducted. The proposed use must comply with all regulations and restrictions as contained in the Zoning Ordinance, codes, regulations and conditions of the City of Lancaster, including, but not limited to the Building Code, the Fire Code and other applicable Ordinances and codes. In addition all requests for a Specific Use Permit must comply with all State and Federal laws and regulations applicable to such use. The Planning and Zoning Commission and/or City Council may enforce additional restrictions or stipulations as the facts and circumstances of each case may warrant.

## **PURPOSE**

- A. The purpose of this policy is to ensure that:
- (1) children in the in-home daycare are in a safe environment;
  - (2) the in-home daycare meets the City's applicable Ordinances and codes
  - (3) the City can identify and facilitate appropriate responses for children who may require special assistance during an emergence or at any other time.

## **DEFINITIONS**

For the purpose of this policy, the following terms shall apply:

### **Applicant**

- (a) person in whose name an in-home daycare SUP has been issued;
- (b) each individual listed as an owner or operator of the in-home daycare on the application for an in-home daycare SUP;
- (c) each individual who has an ownership interest in the corporation or other legal entity owning or operating the in-home daycare, regardless of whether the individual's name or signature appears on the in-home daycare SUP application; and
- (d) each officer of the corporation or other legal entity owning or operating an in-home daycare, regardless of whether the individual's name or signature appears on the in-home daycare SUP application.

**In-home daycare** - The use of a residential dwelling unit for custodial care for fewer than 24 hours per day by persons other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for.

**Operator.** Person in control of an in-home daycare.

**Owner.** Individual who has an ownership interest in the operation of an in-home daycare or the owner of the real property where an in-home daycare is located.

**Specific Use Permit** A permit issued by the governing body that authorizes the recipient to make use of property in accordance with the requirements set forth in the permit.

## **AUTHORITY OF DIRECTOR**

The Director of Development Services or her/his designee shall implement and enforce this policy and may establish such rules, regulations, or

procedures, not inconsistent with this article or other City Ordinances, rules, or regulations, or any county, state, or federal laws or regulations, as the director determines are necessary to discharge any duty under this policy.

## **DISTANCE SEPARATION**

To avoid concentration and clustering of in-home daycare uses in one area, a one (1) mile distance separation shall be required among in-home daycare operations.

## **REQUIRED LINCENSES AND PERMITS**

(a) A person commits an offense if he/she owns or operates an in-home daycare in the City without a valid State License and City of Lancaster permits; Specific Use Permit (SUP), Fire and Building Inspections permits issued under this policy.

(b) It is a violation under this policy if a person operates a new in-home daycare while an application is pending as of January 1, 2019.

(c) It is a violation under this policy if a person operates a daycare that does not qualify to be an in-home daycare under State law and does not have required City permits

## **AUTOMATIC FIRE SPRINKLER SYSTEM**

In-home daycare operators/owners are required to be aware of the following:

1. **No** automatic sprinkler system is required if **less than six (6)** under the age of two and half years old (2 1/2) are kept on the first floor with a level of exit discharge.
2. Automatic fire sprinkler system **is required** if **more than five (5)** children under the age of two and half years old (2 1/2) are kept on the premise.

## **SPECIFIC USE PERMIT**

(a) To obtain a SUP to operate an in-home daycare, a person must submit an application to the Planning Division on an SUP application form provided for that purpose. The applicant must be the owner or operator of the in-home daycare. If the owner or operator is not an individual, an authorized officer or agent of the owner or operator must file the application form. The Application must contain the following information before it is considered to be complete:

- (1) The name, street address, mailing address, e-mail address and telephone number of the applicant
- (2) The name, street address, mailing address, e-mail address, telephone number of the in-home daycare.
- (3) The name, street address, mailing address, e-mail address, and telephone number of a person/s to contact
- (4) The maximum number of children at the in-home daycare.
- (5) The in-home daycare hours of operation.
- (6) Such additional information as the applicant desires to include or that the Director deems necessary to aid in the determination of whether the requested permit should be granted.

## APPLICATION REQUIREMENTS

1. Letter of intent:
  - a. specifying the number and ages of children
  - b. specifying the hours of operation
  - c. how the operations meets/will meet the following Home Occupation Requirements:
    - i. **Incidental to Primary use.** The use must clearly be incidental and secondary to the primary use of the property as a residence.
    - ii. **Employees.** No more than two (2) people outside the family may be employed in the home occupation.
    - iii. **Exterior Indication.** There shall be no exterior display, exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
    - iv. **Traffic.** No more traffic shall be generated by such home occupation than would normally be expected in the neighborhood.
    - v. **Parking.** In addition to the off-street parking required for the residence, adequate additional off-street parking shall be provided for the vehicles of each employee and the maximum number of users the home occupation may attract, one (1) additional parking space at the rest of the house shall be provided.
    - vi. **Nuisance.** No nuisance (trash) and/or offensive noise disturbances shall be generated.
    - vii. **Excluded Uses.** A home occupation may not be interpreted to include the following: facilities for repair of motor vehicles, small motors, daycare center, or uses which utilize flammable

or hazardous materials.

d. Any additional information that can enhance the SUP request.

## **FEES**

SUP application fees for an in-home daycare is \$500 +\$10/acre.

## **NOTIFICATION OF CHANGE OF OWNERSHIP**

The permit holder shall notify the Development Services Director or her/his designee within 10 days after any material or information contained in the permit application is changed. This includes any change in ownership or operation of the property.

## **NON-TRANSFERABILITY**

A SUP for in-home daycare is not transferable to another owner, operator, or location.

## **SUP REVIEW PROCESS.**

SUP applications can be obtained in person at City Hall or the City of Lancaster website at <http://lancaster-tx.com/290/Applications-Checklists>. Applications can be submitted on submittal dates as stated on the City of Lancaster Development Process calendar, which can also be acquired in person or at the above noted website link.

The SUP will go before the Planning & Zoning Commission (P&Z) and P&Z will either recommend for approval or denial to City Council. City Council makes the final decision on all SUPs.

SUP is reviewed in light of the above stated application requirements in addition to consistency with the Comprehensive Plan, Zoning, Building, Fire and all other applicable Ordinances and codes.

## **REVOCAION OF CITY PERMITS**

The City of Lancaster reserves the right to revoke any City issued permits in case of continued violation of City Ordinances and codes related to the issuance of the SUP.

## **EXPIRATION AND RENEWAL OF PERMIT**

- a) Fire and Building Inspection permit to operate an in-home daycare expires one (1) year after the date of issuance.
- b) A permit holder shall apply for renewal at least 30 days before the

expiration of the permit. The permit holder shall update the information contained in the original permit application if any of the information has changed. The owner/operator shall sign a statement affirming that there is either no change in the information contained on the original permit application and any subsequent renewal applications or that any information that has been updated is accurate and complete.