



COPY OF ARTICLE V – CHILD CARE CENTERS

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ARTICLE V

CHILD CARE CENTERS

Section 5.01 Purpose

The purpose of this Article is to provide minimum standards for the operation of child care centers in the City of Arlington to protect the health, safety and welfare of the occupants and patrons.

Section 5.02 Texas Department of Protective and Regulatory Services Regulations Adopted

A. The provisions of the current rules or rules as amended, known as the "Minimum Standards for Day Care Centers", found in 40 Texas Administrative Code, Chapter 715, Section 401 through 429 are herein adopted together with the additions, deletions, and amendments hereinafter contained, as part of Article V, Child Care Centers, of the "Health and Sanitation" Chapter of the Code of the City of Arlington.

B. An unabridged copy of the "Minimum Standards for Day Care Centers" shall be kept on file in the Office of the City Secretary. The provisions of the "Minimum Standards for Day Care Centers" shall apply, as though such regulations were copied at length herein, except where specific other provisions are expressed within this Article.

Section 5.03 Administration: Permit, Issue, Inspection, Compliance, Enforcement

A. The Administrator or his designee is hereby authorized to issue a child care center permit in the City of Arlington when he finds that the permit applicant has complied with the requirements of this Article and other applicable sections of the Code of the City of Arlington. The Administrator shall cause the child care center to be inspected annually to ensure that the facilities, grounds and equipment are maintained in compliance with this Article and in a safe and sanitary condition for the welfare of the occupants and patrons of the child care center, along with appropriate directives to resolve deficiencies observed in the inspections. The Administrator shall have the authority to enforce the provisions of this Article and to issue citations for violation of any of its provisions.

B. The permit holder and/or the person in charge of the child care center shall operate the facility in compliance with the provisions of this Article and other applicable sections of the Code of the City of Arlington and shall respond within the specified schedule of time when any deficiency or violation has been identified by the Administrator or his designee.

Section 5.04 Permit Required

No person, firm or corporation shall operate a child care center in the City of Arlington unless and until a permit for such purposes has been issued by the Administrator or his designee. For purposes of this Chapter, "child care center" is hereby defined as follows:

A. **Child Care Center.** A facility where child care occurs. The term "child care" shall be applied where:

1. Care, guidance or supervision is provided for thirteen (13) or more children under the age of fourteen (14), exclusive of persons who are related by blood, marriage or adoption to the owner or operator of the facility; and
2. Care, guidance or supervision is provided for a period of less than a twenty-four (24) hour day at least three (3) days a week, whether or not the facility is operated for profit or charges for the service it offers.

B. The term "child care" shall **not** apply to:

1. A State-operated facility;
2. An agency home as defined by the Texas Human Resources Code, Chapter 42, Section 42.002(11);
3. A facility that is operated in connection with a shopping center, business, religious organization or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;
4. A school or class for religious instruction that does not last longer than two (2) weeks and is conducted by a religious organization during the summer months;
5. A youth camp licensed by the Texas Department of Health;
6. A hospital licensed by the Texas Department of Health and Mental Retardation or the Texas Department of Health;
7. An educational facility accredited by the Texas Education Agency or the Texas Private School Accreditation Commission that operates primarily for educational purposes in grades Kindergarten and above;
8. An educational facility that operates solely for educational purposes in grades Kindergarten through at least Grade 2, that does not provide custodial care for more than one (1) hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes and requires compliance with health, safety, fire and sanitation standards equal to standards required by State, county and municipal codes;
9. Kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency or the Texas Private School Accreditation Commission, that offers educational programs through Grade 6, and that does not provide custodial care during the hours before or after the customary school day;
10. A family home as defined by the Texas Human Resources Code, Chapter 42, Section 42.002(9);
11. An educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility, both of which do not provide custodial care for more than two (2) hours maximum per day, and

that offers educational programs for children age five (5) and above in one (1) or more of the following: Kindergarten through at least Grade 3, elementary or secondary grades; provided, however, that a religious organization, such as that described in Subsection B(3), above, where children are cared for during short periods while parents or persons responsible for the children are attending religious services or engaged in other activities on or near the premises, may provide custodial care for more than two (2) hours per day; or

12. After-school care facilities in public schools that provide care before or after the usual school day, or full day care for the same children on school holidays or during summer vacation for more than twelve (12) children, ages five (5) through thirteen (13) years, for children enrolled in the public school provided that the facility is properly licensed by the Texas Department of Protective and Regulatory Services.

C. For purposes of this Article, "religious organization" shall be defined as a church, synagogue or other religious institution which purpose is to support and serve the propagation of truly held religious beliefs.

Section 5.05 Permit Application

A. Application for a permit to operate a child care center shall be submitted by the owner on a form specified by the Arlington Health Department.

B. The permit application shall state the owner's name, address and telephone number and the name and social security account numbers of all employees and staff members of the child care center.

C. The permit application shall indicate the name, street and mailing addresses of the child care center, status of food service provided for children, and times of operation.

D. Child Care Center permit application fee shall be due for each child care center that requires plans to be submitted according to Section 5.06 of this chapter.

E. Upon change of ownership, a change of ownership fee is due and a new application shall be made for a permit as required in this Section. The regulatory authority shall inspect the Child Care Center prior to its beginning operation to determine compliance with the requirements of this ordinance. Failure to comply with the requirements of this ordinance may result in denial, suspension, or revocation.

F. The owner shall affirm that a Certificate of Occupancy has been applied for with the Arlington Building Inspection Department, its issuance contingent in part on the successful application for a child care center permit.

G. The permit application shall include a certificate of liability insurance coverage that complies with Section 5.25.

H. Failure to provide all required information, or falsifying information required on the application may result in denial, suspension, or revocation of the permit.

Section 5.06 Review of Plans

A. Whenever a Child Care Center is constructed or extensively remodeled and whenever an existing structure is converted to use as a Child Care Center, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the layout and arrangement of any proposed food service areas, indoor and outdoor areas to be used for the child care center including mechanical plans; construction materials; plumbing fixtures; the type of fixed equipment; and playground and fall zone specifications. The regulatory authority shall approve the plans and specifications if they meet the requirements of this ordinance.

B. No Child Care Center shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the regulatory authority. The approved plans and specifications must be followed in construction, remodeling, or conversion.

C. Whenever plans and specifications are required to be submitted, the regulatory authority shall inspect the Child Care Center prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this ordinance.

D. Failure to follow the approved plans and specifications may result in permit denial, suspension, or revocation.

Section 5.07 Permit Duration and Renewal

A Child Care Center Permit shall be valid for one (1) year from the date of issuance, unless suspended or revoked as hereinafter provided. Application for renewal of a permit shall be made on a form specified by the Arlington Health Department. The permit holder shall contact the Arlington Health Department for renewal purposes not later than

four (4) weeks prior to impending expiration of the permit. The procedure of renewal shall require that the operator of the child care center confirm the accuracy of the records of the Arlington Health Department regarding facilities, equipment, manner of operation and employees, stated in Section 5.05. Any incorrect information in the records of the Arlington Health Department for the child care center shall be corrected before the permit may be renewed.

Section 5.08 Permit Renewal Denial, Suspension and Revocation

A. The Administrator or his designee is hereby authorized to deny, suspend, or revoke a Child Care Center Permit for a violation of any provision of this Article. Denial, suspension or revocation of a permit shall be effected by notice, in writing, setting forth the reasons therefore and specifying any requirements or schedules of time for further action related to the suspension or revocation.

B. The following actions shall constitute cause for denial or suspension:

1. Failure to respond within specified limits of time regarding violations observed during an Arlington Health Department inspection of the premises and operation;
2. Any violation of this Article which poses a safety or public health hazard to any child entrusted to the care of the child care center; and
3. Failure to keep continually in force the required liability insurance, according to Section 5.25.
4. Failure to possess a valid Child Care Center License or Accreditation issued by Texas Department of Protective and Regulatory Services according to Chapter 42 of the Human Resources Code.
5. Failure to meet the requirements of Chapter 42 of the Texas Department of Protective and Regulatory Services, Human Resources Code, related to the requirements for criminal history check and background search of central registry of reported cases of child abuse for all persons who are present while children are in care.

C. The following actions shall constitute cause for revocation:

1. Failure to correct a violation following suspension of the permit; and
2. Knowingly submitting false information, or allowing false information to be submitted, in the application for a permit.

D. Whenever a permit is denied, suspended or revoked, the permit holder or person in charge shall cease operations. Parents must be immediately notified of the denial, suspension, or revocation so that alternative child care arrangements can be made. Operations shall not resume until such time as a reinspection determines that conditions no longer exist causing denial or suspension. The permit holder shall notify the Administrator when the conditions causing the denial or suspension have been corrected. The center may not resume operations until the Administrator verifies that the conditions have been corrected and written authorization given. A sign shall be posted by the Administrator at the entrance of the building clearly visible to a reasonably observant person which states "Closed By The Arlington Health Department". Signs posted by the Administrator or his designee shall not be altered or removed unless authorized by the Administrator or his designee.

E. A permit that has been revoked shall not be reissued.

Section 5.09 Display of Permit

The Child Care Center Permit shall be conspicuously posted on an inside wall of the main facility and shall be continuously displayed in public view.

Section 5.10 Child Care Workers Permit

A. Every person owning, employed by or otherwise connected with a child care center whose work involves caring for children shall within thirty (30) days of the date of employment, be the holder of a current Child Care Workers Permit, issued by the City of Arlington Health Department.

B. No person who owns, operates, or otherwise controls any child care center shall permit any person to be employed therein whose work involves caring for children who does not after thirty 30 days of employment possess a current valid Child Care Workers Permit issued by the City of Arlington Health Department.

Section 5.11 Child Care Workers Class Required

In order to receive a Child Care Workers Permit, every person shall be required to attend a Child Care Workers Class held by the City of Arlington Health Department before a Child Care Workers Permit will be issued. This requirement must be met upon expiration of the permit and upon application for a new permit.

Section 5.12 Child Care Workers Permit Duration and Renewal

A Child Care Workers Permit shall be valid for three (3) years from the date of its issue, unless revoked as herein provided.

Section 5.13 Child Care Workers Permit Suspension - Revocation

The Administrator or his designee shall have the right to suspend or revoke a valid Child Care Workers Permit at any time the holder of such card becomes affected with any disease in a communicable form, becomes a carrier of any such disease or is suspected of being affected with or being a carrier of any such disease. Such suspension or revocation shall remain in effect until a licensed physician certifies that such person is free of communicable disease according to Texas Health and Safety Code, Chapter 438.033.

Section 5.14 Display of Child Care Workers Permit

A copy of the current Child Care Workers Permit shall be maintained at the child care center for each of its employees or staff members and shall be available for review upon the request of the Administrator or his designee.

Section 5.15 Appeal of Permit Denial, Suspension or Revocation

A. Upon finding that the Child Care Center Permit may not be issued, or that the permit should be suspended or revoked, the Administrator or his designee shall, within ten (10) days of the finding, notify the owner or person in charge in writing, specifying the result of the finding and the reasons therefor. The applicant may request a hearing before the Administrator.

B. Notice of appeal shall be filed within twenty (20) days of the date of the written notice of denial or revocation.

C. The appeal shall be conducted within twenty (20) days of the date on which the notice of appeal was filed with the Administrator.

D. After such hearing, the owner or the person in charge that has had a permit denied, suspended or revoked by the Administrator may appeal to the City Appeal Officer designated by the City Manager to hear such appeals.

E. An appeal shall not stay the denial, suspension or revocation of a license or permit unless otherwise directed by the Administrator.

Section 5.16 Permits - Non-transferable

No permit issued under this Article shall be used for any purpose other than the intent for which it was issued, nor be transferred or assigned to, or in any manner used by, any person, firm or corporation other than the one to whom issued by the Administrator.

Section 5.17 Fees

A. The various requirements for permits, and such administrative function of this Article shall require the payment of fees, submitted to the Arlington Health Department, in an amount approved by resolution of the Arlington City Council. Fees shall not be refundable.

B. For the purpose of fees, centers with a Food Establishment, as defined in Article IV of this Chapter, must permit as a "Center with Food Service."

Section 5.18 Food Service in Child Care Centers

A child care center in which food is prepared or served for human consumption shall comply with the pertinent food service regulations contained in Article IV of this Chapter. The fees set forth in Article IV for Food Establishments shall not be required for the food service portion of a child care center. For the purpose of Food Handler's Permit, as defined in Article IV of this chapter, a worker who has been issued a Child Care Workers Permit need not also obtain a Food Handler's Permit.

Section 5.19 Plumbing and Toilet Facilities

A. Plumbing and toilet fixtures shall be provided in accordance with the Plumbing Code of the City of Arlington.

B. The temperature of any water available to the occupants or patrons of a child care center shall not exceed 120° Fahrenheit.

C. Except where intended only for use by the children, each lavatory shall be provided with both hot and cold water, tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing or metering faucet shall provide a flow of water for at least twenty (20) seconds without the need to reactivate the faucet.

D. Toilet tissue, paper towels or clean cloths and soap shall be available at all times for the use of occupants and patrons. The use of common towels is prohibited.

E. Toilet facilities must be maintained clean and sanitary.

F. Toilet facilities including diaper changing areas must be constructed with smooth, easily cleanable walls, floors and work surfaces.

Section 5.20 Diaper Changing Provisions

A. When diapering a child, a separate diaper changing station such as a changing table, counter-top, or other elevated structure must be used. The use of the floor or crib for diaper changing is prohibited.

B. The diapering surface must be smooth, easily cleanable, and in good repair, free of cracks and tears. The diapering surface must be cleaned by removing all visible debris and waste, then sanitized using a solution of ¼ cup of household bleach per gallon of water after changing each child.

C. Diaper changing areas must be provided with a properly designed and maintained hand washing lavatory equipped with both hot and cold water, tempered by means of a mixing valve or combination faucet, soap and sanitary single use towels.

D. Diaper pails or trash cans equipped with tight-fitting lids shall be provided for disposal of soiled diapers.

E. Diaper changing procedures shall be posted at all diaper changing stations.

F. Diapering and food preparation areas shall be physically separate from one another, and their surfaces shall be kept clean, uncluttered, and dry. The diapering surface shall only be used for diapering a child. Whenever possible, the same staff member should not prepare food and change diapers.

Section 5.21 Playground Provisions

A. An outdoor playground shall be provided and shall be supervised by adults in an adult-child ratio not less than that maintained in indoor activities.

B. A playground shall provide not less than 100 square feet of area for each child occupying the area at one time.

C. The indoor and outdoor playground area, including all play equipment, shall be maintained in a safe condition. No sharp edges, dangerous protrusions or other obvious hazards shall be allowed in the play area. All equipment

must be designed to protect against entrapment. Fall zones under equipment should be of wood chips, small gravel, sand, or other material designed to effectively absorb shock and prevent injury. All play areas and playground equipment installed, modified, or repaired after October 1, 1999, must meet Consumer Product Safety Commission Handbook for Public Playgrounds Safety Guidelines Publication No. 325.

D. A playground shall be surrounded by a chain-link fence not less than six feet (6') in height. When screening is required by the "Zoning" Chapter of the Code of the City of Arlington, screening devices of at least six feet (6') may substitute for the chain-link fence, as long as at least one (1) side of the play area remains constructed of chain-link. Fences at child care centers in existence prior to October, 1985, may be continued and maintained if they are a minimum of four feet (4') in height. Administrator or his designee may exempt this requirement if the playground is used in association with seasonal or special activities for children five (5) years old and older. Exemptions must be approved in writing for the specific activity and for a limited period of time.

E. Any pool, pond or other body of water greater than two feet (2') in depth shall be separated from a playground by a fence not less than six feet (6') in height, constructed so that children cannot easily climb over it, with self-closing, self-latching gate(s). Gates to the pool enclosure must be kept locked at all times that the pool is not in use. In all other ways, the pool must comply with the "Construction" Chapter of the Code of the City of Arlington and State law relative to pool construction and safety. All pools used by the children must comply with the pertinent regulations contained in Article VII of this Chapter for public and semi-public swimming pools. Permits are required, as set forth in Article VII of this Chapter, and all fees must be paid.

F. Outdoor activities and field trips where children may encounter a pool, a pond or other body of water shall be attended by an adult competent in water-safety procedures, as certified by the American Red Cross, and trained in life-saving techniques stated in Section 5.23(F).

G. Tires must be provided with adequate drainage to prevent breeding of mosquitoes.

Section 5.22 Release of Child

A. The child care center shall maintain a register for the signature of persons to whom children are released. Daily signatures shall not be required by this Article for authorized persons to whom children are regularly released. However, the child care center may require such signature of any persons at its discretion.

B. An enrollment agreement required upon admission of any child to the child care center shall include a statement that the child will be released only to a parent or person named by the parent, and a statement that persons bringing the child or picking up the child will ensure that a staff member is aware of the child's arrival or departure. School-age children who leave the facility to go to classes or other approved activities shall have written permission from their parents; parents shall specify the activity, time and method of transportation. The child care center shall maintain a record of parents and other persons to whom the child is authorized for release. Each parent shall provide the child care center with the final four (4) digits of their social security number for purposes of security in emergency conditions, as identified in Subsection C below. In the case of a divorce after a child has been enrolled, it shall be the responsibility of the one who is granted custody of the child (being the one with whom the child lives) to provide the child care center with a copy of the custody decree or agreement, and request that the authorization records for release of the child be changed.

C. When emergency conditions require that a child be released to a person not identified in the release authorization records, the child care center shall require the parent's prior approval, which may be submitted by telephone. The parent, identified for security by the four (4) digit social security number, shall designate the person to whom the child is to be released. The person to whom the child is to be released must in turn provide the parent's four (4) digit number as identification, and shall be photographed by the child care center and provide a signature and date on the photograph, which shall be retained by the child care center for at least three (3) months.

Section 5.23 Safety and Sanitation

A. A fire evacuation and relocation diagram shall be conspicuously posted in assembly rooms and classrooms in a child care center. All employees and staff members shall be instructed in fire emergency procedures. Fire evacuation drills shall be conducted at sufficient intervals to assure familiarity with emergency procedures among employees and staff members.

B. Electrical outlets accessible to children shall be protected with child-proof covers or safety outlets when not being used.

C. A child care center shall not be located in a mobile home or in any part of a building other than the ground level unless approved by the Arlington Fire Department.

D. A child care center shall maintain an adequate amount of first-aid supplies including, but not limited to soap, antiseptic solutions, absorbent cotton, cotton-tip applicators, sterile gauze, adhesive tape and adhesive bandages. One (1) medium-sized package or container of each of these first-aid supplies shall be maintained in unopened reserve at all times. A magnifying glass, thermometer and tweezers shall also be available. First-aid procedures and supplies shall be applied, including cleaning and bandaging, for any cut or bleeding abrasion of the skin.

E. Smoke detectors or other approved fire alarm equipment shall be installed to provide an effective warning to the building occupants of fire in any kitchen area, sleeping area or any area containing mechanical equipment. Centers with fifty (50) or more occupancy must install a fire alarm system that complies with the "Fire Prevention" Chapter of the Code of the City of Arlington for child care centers. Smoke detectors may be used in place of fire alarm systems in centers with less than fifty (50) occupants.

F. One (1) staff per group of children must have current certification within the last two (2) years in first aid with rescue breathing and choking. One (1) staff per facility (as well as one (1) staff per group of children away from the facility) having current training within the last two (2) years in cardiopulmonary resuscitation (CPR) for infants and children must be present at all times the center is in operation. Certificates evidencing such training shall be available upon request from any City official.

G. The child care center shall take effective measures to maintain the structure and grounds free of insect and rodent infestation. Pest control services shall be provided by an individual or business that is properly licensed by and in compliance with the Texas Structural Pest Control Board requirements. Pest control records must be maintained by the child care center for a period of two (2) years and must be available for review by the Arlington Health Department.

H. All equipment and furnishings such as high chairs, chairs, tables, cribs, swings, or playpens shall be in good repair and shall be free of entrapment and entanglement hazards

I. The interior of the building shall be maintained free of debris and filth. Walls and floors shall be maintained in good repair, structurally sound and free of holes, dangerous protrusions or other obvious hazards. The floors including carpeting, tile or other coverings shall be kept clean and free of accumulation of debris and filth.

J. Grounds around the child care facility must be maintained free of debris, unnecessary items or any harborage for rodents or mosquitoes.

K. All fences, bridges, railings, and other ornaments or equipment on the grounds that are accessible to the children must not pose an entrapment or entanglement hazard.

Section 5.24 Provisions for the Control of Communicable Disease

A. All Staff shall clean their hands and exposed portions of their arms with a cleaning compound by vigorously rubbing together the surfaces of their lathered hands and arms for at least twenty (20) seconds and thoroughly rinsing with clean water and shall pay particular attention to the areas underneath the fingernails and between the fingers. Staff shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

B. Staff must wash before preparing or serving food, before feeding a child or handling food, after caring for a sick child, after diapering, after assisting a child with toileting, after coughing and sneezing, after cleaning soiled surfaces, and after engaging in other activity that contaminates the hands.

C. Staff must assist children to ensure that their hands are thoroughly washed before eating, after using the toilet, after a diaper change, after playing outdoors, after playing with pets, after coughing or sneezing, or after any activity that contaminates the hands.

D. Permanent signs shall be conspicuously posted by all handsinks including those in the restrooms, food service areas, and classrooms, so as to be noticed by normally observant individuals, reminding all persons to wash hands. Permanent signs, including pictorial messages, shall be posted for communication with children unable to read.

E. Employees and staff members shall have received a Mantoux tuberculosis skin test, with negative results, within the last 2 years. In the case of a positive result or when a Mantoux tuberculosis skin test can not be administered, a tuberculosis examination shall be conducted by a physician and the person found not to be a risk for the communication of tuberculosis. Subsequent testing may be required by the health authority if the person is exposed to tuberculosis.

F. Employees and staff members shall not present themselves for work when ill with a contagious virus or other disease that may affect the health of other persons. Persons shall not be permitted in the child care center whose health status or behavior suggests a hazard to the health, safety and welfare of others, including symptoms of a contagious illness, a dangerous mental or physical condition or symptoms of drug or alcohol intoxication.

G. Any child with symptoms of a communicable disease such as oral fever 100.4, uncontrolled diarrhea (2 or more loose, watery stools in 24 hours) or vomiting (2 or more episodes in 24 hours) shall be isolated from other children at the child care center. Extra attention must be given to handwashing and sanitation until the child can be picked up by a parent or other person(s) authorized by the parent according to Section 5.22 of this Chapter.

Section 5.25 Liability Insurance

A. The child care center applicant must have liability insurance coverage in the minimum amount of \$300,000 for each occurrence of negligence according to Chapter 42 of the Texas Human Resources Code. The policy must cover injury or death that occurs while a child is in the care of the facility and must remain in effect at all times that the center is operating.

B. A licensee who does not have coverage for any of the reasons stated in Chapter 42 of the Texas Human Resources Code must provide proof to the Arlington Health Department that each child's parent(s), caretaker(s) or conservator has been properly notified. This proof must be presented to the City of Arlington Environmental Health Department within three (3) working days from the time coverage is discontinued, exhausted or denied.

C. The child care center applicant must have liability insurance coverage in the minimum amount of \$300,000 combined single limit for each occurrence of bodily injury or death and property damage that occurs due to motor vehicle accident during transportation of a child. Coverage shall be provided for all owned/leased nonowned and hired vehicles. Such insurance is to include coverage for uninsured/underinsured motorist.

(Amend Ord 99-90, 07/27/99)