

*ADOPTION OF AN AMENDMENT TO  
CHAPTER 30 (MINIMUM PRIVATE SCHOOL AND  
CHILD CARE FACILITY STANDARDS)  
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA*

*At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, June 21, 2011, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 30 (Minimum Private School and Child Care Facility Standards) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:*

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA:*

*That Chapter 30 (Minimum Private School and Child Care Facility Standards), **Sections 30-3-2, 30-3-4, and 30-3-6**, relating to the administration of medication in home child care facilities and national criminal background checks of operators and others in home child care facilities, are amended and readopted, as follows:*

### **Section 30-3-2. - Annual permit application, issuance or denial.**

(a) A person proposing to operate a home child care facility shall submit an application on a form prepared by the Director of the Office for Children, which shall include:

- (i) The name and address of the home child care facility;
- (ii) The name of the applicant;
- (iii) A statement of whether the applicant currently holds or previously held a home child care facility permit in the County;
- (iv) The names of all providers and all persons who reside in the home;
- (v) Disclosures from the applicant, each provider, and each adult who resides in the proposed facility stating whether he or she has committed any barrier offense, consent forms signed by the applicant, each provider, and each adult who resides in the proposed facility allowing the Director of the Office for Children to request a search of the Central Criminal Records Exchange for files on each such person, and payment of an investigation fee in an amount equal to the fee established by the Virginia State Police for conducting a records search multiplied by the number of persons making disclosures and providing consent forms. When the Central Criminal Records Exchange records indicate that any such person has a criminal record in another state, or when the Director otherwise deems appropriate, the Director may also require that the applicant, the provider, or the adult who resides in the proposed facility consent to and pay for a national criminal background check;
- (vi) Statements from the applicant, each provider, and each adult who resides in the proposed facility, and statements from a parent, guardian or legal custodian on behalf of all minors age 14 and older who reside in the proposed facility, consenting to the release of information to the Director of the Office for Children from child protective services investigating agencies reflecting whether any such individual has been the subject of a founded complaint of abuse or neglect; the terms "child protective services" and "investigating agencies" shall have the meaning defined by Virginia law;
- (vii) Copies of the applicant's certifications in pediatric first aid and pediatric cardiopulmonary resuscitation (CPR);
- (viii) Proof of the applicant's compliance with the training requirements established in Section 30-3-4(b), which shall consist of records provided by the trainer or, if none are provided by the trainer, records maintained by the applicant;
- (ix) A description of the structure in which the home child care facility is proposed to be operated, including a description of all places and areas to

which the children shall have access;

(x) The proposed hours of operation;

(xi) A statement of whether the applicant is eighteen or more years old;

(xii) A certificate from a physician, physician's designee, or Health Department official stating that acceptable screening methods (tuberculin skin test and/or tuberculosis risk and symptom screen and/or chest X-ray), singly or in combination as determined appropriate by the signatory, indicate that the applicant and all providers are currently free from communicable tuberculosis. The screen must be performed not more than 24 months prior to the date on which the application is submitted;

(xiii) A written policy describing what the applicant will do with children in care who are sick;

(xiv) Such other information, including, but not limited to, information concerning applicant's child care training and special skills, as the Director of the Office for Children may deem appropriate;

(xv) The application fee of \$14, which is in addition to any business or occupation license tax imposed by the County, and any other taxes or fees that may be required to engage in the business.

During the term of the permit, the operator must report to the Director of the Office for Children any change in the information required by subsections (iv), (v), (vi), and (xii) within 21 days of learning of the change.

(b) Upon submission of an application to the Office for Children:

(i) The Director of the Office for Children shall inspect the proposed facility to determine whether it is in compliance with this Article and all applicable Virginia law that may affect the health and safety of the children who may attend or be present at the facility.

(ii) The Chief of the Fairfax County Fire and Rescue Department or the agent of the Chief shall conduct a fire safety inspection of the proposed facility and advise the Director of the Office for Children of any noncompliance with this Article or any applicable Virginia law that may affect the health and safety of the children who may attend or be present at the facility.

(iii) If the applicant does not hold a permit under this Article at the time of the application, the Director of the Office for Children shall request a search of the Central Criminal Records Exchange to determine whether the applicant, any provider or any persons who reside in the home have committed any crimes that constitute barrier offenses. When the Central Criminal Records Exchange records indicate that any such person has a

criminal record in another state, or when the Director otherwise deems appropriate, the Director may also require that the applicant, the provider, or the adult who resides in the proposed facility consent to and pay for a national criminal background check. Otherwise, the Director may request a criminal records search if five or more years have passed since the last records search on an individual, or upon receipt of new information submitted in accordance with this section, or as the Director deems appropriate in extenuating circumstances.

(iv) The Director of the Office for Children shall request information from child protective services investigating agencies as deemed necessary to determine whether the applicant, any provider or any person age 14 and older who resides in the proposed facility has been the subject of a founded complaint of abuse or neglect.

(c) The Director of the Office for Children shall issue a permit to an applicant if the Director determines from the information contained in the permit application, the facility inspections and the records searches that (i) the applicant is an adult; (ii) neither the applicant, nor any provider or any person who resides in the facility has committed any barrier offense; and (iii) both the applicant and the proposed facility are in compliance with this Article and all applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the proposed facility. The permit shall be displayed in the home child care facility by the operator of that facility.

(d) The Director of the Office for Children shall deny a permit to any applicant if the Director determines from the information contained in the permit application, the facility inspections and the records searches that (i) the applicant is not an adult; (ii) the applicant, any provider, or any person who resides in the facility has committed any barrier offense; or (iii) either the applicant or the proposed facility is not in compliance with this Article and all applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the proposed facility. If the denial is based on the results of the searches of the records of the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the Director shall provide the applicant a copy of the information upon which the denial was based.

#### **Section 30-3-4. - Operator Qualifications.**

(a) Each operator must be an adult.

(b) Each operator must be trained in areas such as physical, intellectual, social, and emotional child development, behavior management and discipline techniques, health and safety in the home child care environment, art and music activities for children, nutrition, child abuse detection and prevention, or recognition and prevention of the spread of communicable diseases. Any

applicant who does not hold a permit under this Article at the time he or she submits a permit application must attend 12 hours of training by an approved trainer during the term of the permit. After January 1, 2002, any applicant who holds a permit under this Article at the time he or she submits an application for a new permit must attend six hours of training by an approved trainer within twelve months immediately preceding the date of the application. The Director of the Office for Children shall maintain a list of entities that are approved as trainers. Upon request from an applicant or operator, accompanied by information about the entity and/or the course, the Director of the Office for Children may approve additional trainers or a specific course.

(c) Each operator must be certified in pediatric first aid and pediatric cardiopulmonary resuscitation (CPR).

(d) In addition to the training required in subsection (b) above, and except as set forth in Section 30-3-6 (bb) and (cc), an operator who administers prescription medications or non-prescription medications to children in care must satisfactorily complete a training program for this purpose developed or approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist. Providers required to complete the training program shall be retrained at three-year intervals

### **Section 30-3-6. - Physical facilities, equipment and operation.**

(a) Providers shall supervise children in a manner which ensures that the provider is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary. In deciding how closely to supervise children, providers shall consider the ages of the children, individual differences and abilities, layout of the house and play area, neighborhood circumstances or hazards and risk activities in which children are engaged.

(b) All rooms used for child care shall be dry, well-lighted and have adequate ventilation and shall be smoke free when any child in care is present. Windows that can be opened shall be screened from April 1 through November 1 of each year.

(c) An outdoor recreation area shall be provided for use by the children. Indoor and outdoor areas shall provide appropriate activities, supplies, and materials that are safe and accessible. All areas shall be free of dangerous and hazardous conditions.

(d) Covered, washable waste receptacles shall be provided for all waste materials, diapers, garbage, and refuse. Trash and other waste materials shall be removed as often as necessary to prevent excessive accumulations and shall be deposited in approved trash or waste disposal containers.

(e) Toxic or dangerous materials shall be stored in areas that are inaccessible

to children and separate from food supplies and areas in which food is prepared.

(f) Dogs and cats four months old or older that regularly are present at the facility shall be immunized for rabies, and records of such immunizations shall be kept available at the facility for inspection by the Director of the Office for Children.

(g) A refrigerator shall be used for perishable food and that refrigerator shall maintain a constant temperature of 41 degrees Fahrenheit or less. Food brought into any home child care facility for consumption by nonresident children shall be clearly marked for consumption by the children for whom the food is intended. Meals or snacks shall be offered to the children at least once every three hours.

(h) Each home child care facility that is not served by a public water supply shall have a private water supply approved by the Department of Health. Each home child care facility that is not served by a public sewage disposal system shall have a private sewage disposal system approved by the Department of Health. Drinking water from a public water supply, well permitted by the Department of Health, or other source acceptable to the Department of Health shall be available for all children.

(i) An operational telephone shall be available and easily accessible within the home child care facility, and emergency telephone numbers for fire, police and medical assistance shall be posted near the telephone. Each such facility shall have the address of the building posted in a manner so as to be visible and distinguishable from the street or parking lot.

(j) Providers shall not use corporal punishment or any humiliating or frightening methods of discipline.

(k) Firearms of every type and purpose shall be stored unloaded in a locked container, compartment, or cabinet, and apart from ammunition. Ammunition shall be stored in a locked container, compartment, or cabinet during the home child care facility's hours of operation. If a key is used to lock the container, compartment, or cabinet, the key shall be inaccessible to children.

(l) Each home child care facility shall be structurally sound and in a good state of repair. The operator shall not allow oil, grease, dust, lint, and other combustible materials to accumulate on cooking surfaces; heating, ventilation, and air conditioning equipment; clothes dryers; and other mechanical equipment.

(m) All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code. No exit door that has a double deadbolt lock shall be locked with the key removed from the interior side of the exit door during the hours of child care.

(n) Electric panels and equipment shall be in good working order and free of loose connections. Protective sheathing on all wiring shall be intact with no

frayed ends or exposed wiring and shall be anchored or supported. Fuses or circuit breakers shall be of the proper size and type. Electric panels shall be readily accessible and a minimum clear space measuring three feet out from the panel and 30 inches wide must be maintained. The use of multi-plug adapters or extension cords to provide permanent power to electrical equipment is prohibited. However, the use of power strips with a built-in fuse or circuit breaker is approved if such power strips are of the type approved and listed by a recognized testing authority, such as Underwriter's Laboratories or Factory Mutual Research Corporation.

(o) Kitchen ranges, other cooking equipment and other appliances shall be kept in good working order and free from grease, dust, lint, and other combustible materials. Small appliances, including but not limited to hair dryers, toaster ovens, toasters, mixers, blenders, and food processors, shall remain unplugged except when in use.

(p) Electric portable space heaters shall be of the type approved and listed by a recognized testing authority, such as Underwriter's Laboratories or Factory Mutual Research Corporation. Portable heaters shall be provided with suitable guards to prevent contact with the heating element and shall be located a minimum of three feet from combustible materials. The use of unvented, fuel fired space-heating appliances designed for portable use is prohibited during the hours of child care.

(q) Fireplaces and chimneys shall be in good condition and free of cracks or voids in the firebox and flue liner. Fireplaces and chimneys shall be inspected and cleaned as often as necessary to remove the buildup of creosote and other flammable residues. A fireplace screen or other protective guard shall be required for all fireplaces.

(r) Wood stoves shall be tested by a recognized testing authority, such as Underwriter's Laboratories or Factory Mutual Research Corporation, and shall be installed and inspected as required by the Virginia Uniform Statewide Building Code. Wood stoves shall be inspected and cleaned as often as necessary to remove the buildup of creosote and other flammable residues. Providers shall take all precautions necessary to minimize potential injury from contact with hot surfaces by any child at the facility.

(s) Ashes from fireplaces and wood stoves shall be removed to the outside and stored in a noncombustible container, with a tight fitting lid, that has been approved by the Fire Marshal.

(t) Heating systems and associated ductwork shall be clean and in good working order. Adequate combustion air must be provided as required by the Virginia Uniform Statewide Building Code. Flues for the exhaust of carbon monoxide and other by-products of combustion shall be free of leaks and in good repair. Except for those rooms used by children while sleeping under covers, all rooms used for child care shall be maintained at a temperature of not less than

68 degrees Fahrenheit.

(u) An operable smoke detector shall be provided on each floor level and shall be tested at least once a month. Smoke detectors may be of the fixed-wired or battery type.

(v) At least one portable fire extinguisher, having a minimum rating of 1A10BC shall be provided. The extinguisher shall be properly mounted, readily accessible and be located near the kitchen.

(w) The storage of flammable or combustible liquids or gases, hazardous chemicals, and other highly flammable or toxic materials shall not be permitted inside the facility unless approved by the Fairfax County Fire Marshal. Storage of other materials shall be neat and orderly with required clearances provided for furnaces, hot water heaters, portable heaters, electric panels, fireplaces, and wood stoves. The exterior of the property shall be kept free from trash or other materials which in the opinion of the Fairfax County Fire Marshal pose a fire or safety hazard.

(x) A fire drill shall be conducted at least once every month in accordance with instructions provided by the Fire Marshal at the annual inspection of the facility. A written record of each fire drill shall be kept available for inspection by any authorized code enforcement official.

(y) Providers shall handle blood, bodily fluids, and other potentially infectious materials as if known to be infectious for human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens.

(z) The operator shall have appropriate sleeping arrangements for all children in care. If children are in care overnight on a regular or frequent basis, then the operator shall provide cribs that meet the current standards of the United States Consumer Product Safety Commission for full-size baby cribs for children from birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or bed.

(aa) All home child care facilities shall be maintained free from insects and rodents.

(bb) Except as set forth in subsection (cc) below, whenever the home child care facility has agreed to administer prescription medications or non-prescription medications, the medication shall be administered in compliance with the Virginia Drug Control Act by a provider who has satisfactorily completed the training required by Section 30-3-4(d).

(cc) Notwithstanding subsection (bb) above, a provider may administer nonprescription topical skin products such as sunscreen, diaper ointment and lotion, oral teething medicine, and insect repellent, provided the following requirements are met:



- i. The provider has obtained written authorization, at least annually, from a parent or guardian noting any known adverse reactions;
- ii. The product is in the original container and, if the product is provided by the parent, labeled with the child's name;
- iii. The product is applied in accordance with the manufacturer's instructions;
- iv. Parents are informed immediately of any adverse reaction;
- v. The product is not be used beyond the expiration date of the product;
- vi. Sunscreen must have a minimum sunburn protection factor (SPF) of 15; and
- vii. The product does not need to be kept locked, but shall be inaccessible to children.

*This amendment shall become effective on July 1, 2011.*

*GIVEN under my hand this 21<sup>st</sup> day of June, 2011.*

  
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NANCY VEHRS

Clerk to the Board of Supervisors