

**(See also Zoning Ordinance Amendment ZO-12-436
adopted simultaneously)**

*ADOPTION OF AN AMENDMENT TO CHAPTER 30
(MINIMUM PRIVATE SCHOOL & 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, November 20, 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 & 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:

- 1. That Chapter 30 (Minimum Private School and Child Care Facility Standards), Sections 30-1-1, 30-1-2, 30-3-2, 30-3-3, 30-3-4, 30-3-6, 30-3-7, 30-3-8, 30-3-9, and 30-3-10 are amended and readopted, and two new Sections numbered 30-3-4.1 and 30-3-6.1 are adopted, as follows:*

ARTICLE 1. - In General.

Section 30-1-1. - Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Adult means a person 18 years of age or older.

Barrier offense means offenses which bar an applicant from obtaining a home child care facility permit pursuant to this Chapter or mandate revocation of an outstanding permit. Barrier offenses are:

(1) If the ~~operator~~, a provider, or any person who resides in the home is convicted of (a) any of the following offenses set out in the Virginia Code: a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in § 18.2-47(A), or (B); abduction for immoral purposes as set out in § 18.2-48; assault assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; car-jacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; extortion by threat threats of death or bodily injury as set out in § 18.2-60; any felony stalking violation as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in § 18.2-300(A); pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; incest as set out in § 18.2-366; taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1; abuse and neglect of children as set out in § 18.2-371.1; failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1:1; electronic facilitation of pornography as set out in § 18.2-374.3; abuse and neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as

set out in § 18.2-477¹; felonies by prisoners as set out in § 53.1-203¹; or (b) an equivalent offense in another state; or (c) any other felony unless in the five years prior to have elapsed since the application date the conviction. Convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense which a crime that would have been at the time of conviction be a felony conviction if committed by an adult within or outside the Commonwealth.

(2) If the ~~operator~~, a provider, or a person who resides in the home is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; and

(3) If the ~~operator~~ provider makes a false statement regarding a material fact on an application for a home child care permit under this Chapter; this bar shall remain in effect for a period of one year from the time the permit is denied or revoked on this basis.

Director of Health means the Director of the Fairfax County Health Department or the authorized agent of the Director of the Fairfax County Health Department.

Director of the Office for Children means the Director of the Fairfax County Office for Children or the authorized agent of the Director of the Fairfax County Office for Children.

Home child care facility means any facility located in a dwelling or mobile home, as defined in Article 20 of Chapter 112 of the Fairfax County Code (the Zoning Ordinance), where a person, for compensation, regularly provides care, protection, supervision and guidance to one or more children who do not reside in the facility and who are not attended by a parent, guardian or legal custodian while they are in that facility, during a part of the day for at least four days of a calendar week. If, on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children in a structure other than a dwelling or mobile home, as defined in the Zoning Ordinance, that facility shall be deemed to be a child care center and included within those facilities defined in this Section. A home child care facility does not include: (i) any family day home licensed by the Commonwealth pursuant to Virginia Code § ~~63.1-196~~ 63.2-1701 or any facility exempted from licensure by Virginia Code § ~~63.1-196.3~~ 63.2-1715; (ii) any dwelling or mobile home where a person provides care solely for children who reside there; or (iii) any dwelling or mobile home where a person provides care solely for relatives of the resident owner or tenant. However, if on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children who do not reside in that dwelling or mobile home and who are not attended by a parent, guardian or legal custodian while they are in that dwelling or mobile home during a part of the day for at least four days of a calendar week, and a home child care facility is established thereby, then any children who are related to the

person who provides such care and are present in that dwelling or mobile home and any other children who reside in that dwelling or mobile home shall be counted and considered in determining whether the facility complies with the provisions of this Chapter.

Occasional child care means care provided on an hourly basis, for one or more children between the ages of six weeks and twelve years of age, for a period not to exceed four hours within any one day, which is contracted for by a parent, guardian, or legal custodian for the same child not more than ten days within a calendar month.

Permit means authorization from the County to operate a private school, nursery school, child care center or home child care facility for the care, guidance, education, training or protection of children in compliance with this Chapter.

Private school, nursery school, or child care center means any place, home, facility, or institution, however designated, or any part thereof, that (1) is eligible for an exemption from state licensure pursuant to Virginia Code §§ ~~63.1-196.3 or 63.1-196.3:463.2-1716 and 63.2-1717~~; (2) is operated for the purposes of providing care, guidance, education or training; and (3) receives on a regular basis, for any period of more than one hour but less than twenty-four hours in any twenty-four-hour period, one or more children under the age eligible for enrollment in the Fairfax County Public Schools who are not attended by a parent, guardian or person with legal custody. A home child care facility, as defined in this Section, shall not be included within this definition.

Provider means the ~~operator~~ adult responsible for obtaining the permit and for the day-to-day operation of a the home child care facility. The provider is responsible for ~~and any other person who provides~~ providing care, protection, supervision, and guidance to children in a home child care facility ~~for compensation~~.

Substitute Care Provider means any person who provides care, protection, supervision, and guidance to children when the provider is away from the home child care facility.

Section 30-1-2. - Administration and enforcement of Chapter.

The Director of Health shall administer and enforce the provisions of Article 2 of this Chapter. The Director of the Office for Children and the Chief of the Fairfax County Fire and Rescue Department or the agent of the Chief ("the Fire Code Official") shall administer and enforce the provisions of Article 3 of this Chapter.

ARTICLE 3. - Home Child Care Facilities.

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 such 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 current 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~~ adult household residents are currently free from communicable tuberculosis. The screen must be performed every two years ~~not more than 24 months prior to the date on which the application is submitted; or more frequently as recommended by a physician or the local health department;~~

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

(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.~~ If the information the provider submits in accordance with subsections (iv), (v), (vi), and (xii) changes during the term of the permit, the provider must report the change to the Director of the Office for Children within 21 days and must promptly submit updated information and documents.

(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 Fire Code Official~~ 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 such~~ 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~~
provider 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 30-3-3. - Temporary permits.

(a) A person proposing to operate a home child care facility that is not in compliance with the requirements of this Article may apply to the Director of the Office for Children for a temporary permit to operate a home child care facility for a period of not more than six months. The Director of the Office for Children may grant such a temporary permit for a period of not more than six months if the applicant:

(i) Is an adult;

(ii) Certifies that all the requirements of this Article will be met within six months from the date of issuance of the temporary permit or within such lesser period as may be approved by the Director;

(iii) Agrees to apply for a regular permit as soon as the facility is able to comply with the requirements of this Article;

(iv) Certifies that neither the applicant, ~~any provider~~, nor any adult who resides in the proposed facility has committed any barrier offense; and

(v) The Director of the Office for Children has no information which is contrary to the applicant's certification.

(b) If the holder of a temporary home child care facility permit is unable to comply with the requirements of this Article within the period authorized by the temporary

permit period, the holder of the temporary permit may apply to the Director of the Office for Children for an extension of the temporary permit for an additional period of not more than six months. If in the judgment of the Director of the Office for Children the failure to comply with the provisions of this Article was the result of circumstances beyond the control of the holder of the temporary permit then the Director of the Office for Children may extend the temporary permit for an additional period of not more than six months.

Section 30-3-4. - Operator Provider Qualifications.

(a) ~~Each operator~~ The provider must be an adult.

(b) ~~Each operator~~ The provider 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; emergency preparedness; and business practices of family child care. ~~Any applicant who does not hold a permit under this Article at the time he or she submits a permit application~~ From February 1, 2013, through December 31, 2013, any applicant granted an initial or renewal permit 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. From January 1, 2014, through December 31, 2014, any person granted an initial or renewal permit must attend 14 hours of training by an approved trainer during the term of the permit. Any applicant granted an initial or renewal permit at any time on or after January 1, 2015, must attend 16 hours of training by an approved trainer during the term of the permit. 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~~ the provider, 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~~ The provider must be currently 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)~~ (o) and (p), ~~an operator~~ a provider 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 30-3-4.1. – Substitute Care Providers.

(a) When a provider must be away from the home child care facility, a substitute care provider may be used. Substitute care shall not exceed 240 hours per calendar year. Any substitute care provider must be an adult.

(b) The substitute care provider shall submit to the Director of the Office for Children the disclosure and statement required of providers by Section 30-3-2(a), subsections (v) and (vi), along with payment of the applicable fees. A provider shall not use a substitute care provider until the Director has notified the provider that the substitute care provider has not committed a barrier offense.

(c) The substitute care provider must be currently certified in first aid and cardiopulmonary resuscitation (CPR). The provider must maintain copies of the certifications.

(d) The substitute care provider must have a tuberculosis screening in accordance with Section 30-3-2(xii). The provider must maintain copies of the screenings.

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. The provider shall provide each child with adequate space to allow free movement and

active play indoors and out. Indoor and outdoor areas shall provide developmentally 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. Home child care facilities that provide meals or snacks to children in care shall follow the most recent, age-appropriate nutritional guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service.

(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) 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.

(j) Providers shall not use or allow any other person to use corporal punishment, physical, verbal, or emotional 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.

~~(y)(l)~~ 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 blood borne pathogens.

~~(z)(m)~~ The operator shall have appropriate sleeping arrangements for all children in care. During rest times the provider shall provide appropriate sleeping equipment that meets the current standards of the United States Consumer Product Safety Commission for children 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. If children are in care overnight on a regular or frequent basis, then the operator provider 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)(n)~~ All home child care facilities shall be maintained free from rodents and insect infestation ~~insects and rodents~~.

~~(bb)(o)~~ Except as set forth in subsection ~~(cc)~~ (p) 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)(p)~~ Notwithstanding subsection ~~(bb)~~ (o) 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 shall 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.

(g) The home child care facility shall annually obtain written permission from the parent of each child who participates in swimming or wading activities, and a written statement from the parent advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.

(i) The provider shall have a system for accounting for all children in the water.

(ii) Outdoor swimming activities shall occur only during daylight hours.

(iii) When one or more children are in water that is more than two feet deep in a pool, lake, or other swimming area on or off the premises of the home child care facility, the provider and another person 15 years or older shall be present at all times and either the provider or the other person must be currently certified in basic water rescue, community water safety, water safety instruction, or lifeguarding. The certification shall be obtained from a national organization such as the American Red Cross or the YMCA.

(r) (i) Access to the water in above-ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to children.

(ii) A non-climbable barrier at least four feet high such as, but not limited to, a fence or impenetrable hedge shall surround outdoor play areas located within 30 feet of drowning hazards such as, but not limited to, in-ground swimming or wading pools, ponds, or fountains not enclosed by safety fences. Facilities permitted prior to the effective date of this ordinance must comply fully with the

requirements of this subsection (r)(ii) by July 1, 2013.

(iii) Portable wading pools without integral filter systems shall be emptied, rinsed, and filled with clean water after use by each group of children or more frequently as necessary; and shall be emptied, sanitized, and stored in a position to keep them clean and dry when not in use during the home child care facility's hours of operation. Portable wading pools shall not be used by children who are not toilet trained. Bathtubs, buckets, and other containers of liquid accessible to children shall be emptied immediately after use.

(iv) Hot tubs, spas, and whirlpools shall not be used by children in care, and shall be covered with safety covers while children are in care.

Section 30-3-6.1. – Home child care facility fire safety requirements.

~~(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.~~

(a) Telephone service shall be available, operable and accessible during the home child care facility's hours of operation.

(b) All landline telephones shall be labeled with 911 stickers approved by the Office of the Fire Code Official.

(c) Address numbers or building numbers shall be placed in a position that is plainly legible and visible from the street or road fronting the property.

~~(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.~~

(d) Combustible waste material, lint, and dust creating a fire hazard shall not be allowed to accumulate in or on dryers, heating appliances, and furnaces.

~~(e) — 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.~~

(e) Kitchen ranges, ovens, and exhaust hoods, grease removal devices, fans, ducts, and other appurtenances shall be free of excessive grease.

~~(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.~~

(f) 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.

(g) All egress pathway and exit doors shall be unlocked in the direction of egress and free from obstructions that would prevent their use, including debris, storage, and accumulations of snow and ice.

(h) Closet and bathroom doors shall be unlocked in the direction of egress and designed to permit opening of the locked door from the outside with a readily accessible opening device.

~~(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.~~

(i) Electrical hazards identified by the Fire Code Official shall be abated in accordance with the Virginia Uniform Statewide Building Code.

(j) Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to

structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.

(k) A working space of not less than 30 inches in width, 36 inches in depth, and 78 inches in height shall be provided in front of the electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

~~(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.~~

(l) The use of portable unvented fuel-fired heating equipment is prohibited except in single-family dwellings classified R-5 by the Virginia Uniform Statewide Building Code. Where allowed, such equipment must be listed and approved by a nationally recognized testing laboratory.

(m) Where portable unvented fuel-fired heating equipment is allowed, the heating element or the combustion chamber shall be permanently guarded so as to prevent accidental contact by persons or combustible material.

~~(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.~~

(n) Fireplace screens, glass, or doors shall be in good condition and designed to guard against accidental contact with the combustion chamber contents. The fireplace screen, glass, or doors shall be affixed to prevent accidental release of embers or products of combustion.

~~(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.~~

(o) Wood stoves shall be listed and approved by a nationally recognized testing laboratory. Wood stoves shall be used and installed in accordance with the manufacturer's specifications. The provider shall have the manufacturer's specifications available on site for the Fire Code Official's review upon request.

(p) Fireplaces, wood stoves, and chimneys shall be inspected and cleaned annually or as often as necessary to remove the buildup of creosote and other flammable residues. The provider shall have proof of inspection available on site for the Fire Code Official's review upon request.

~~(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.~~

(q) Ashes from fireplaces and wood stoves shall be removed to the outside and stored in a container, with a tight fitting lid, which has been listed and approved by a nationally recognized testing laboratory.

~~(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.~~

(r) The furnace and other heating appliances shall maintain clearance from ignition sources as specified by the equipment manufacturer, unless the provider can establish cause for an exception.

(s) Storage of combustible materials in buildings shall be orderly. Storage shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.

(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.~~

(u) An operable smoke alarm shall be provided outside of each sleeping area, with at least one such device on each floor. Each smoke alarm shall be tested at least once a month and records of testing provided to the Fire Code Official upon request. Smoke alarms may be of the fixed-wired or battery type.

(v) An operable carbon monoxide alarm shall be installed in homes according to the manufacturer's specifications where appliances may produce carbon monoxide. Each carbon monoxide alarm shall be tested at least once a month and records of testing provided to the Fire Code Official upon request.

~~(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) Portable fire extinguishers having a minimum rating of 1A10BC shall be properly mounted and readily accessible (i) within 30 feet of cooking equipment; and (ii) in areas where flammable liquids are stored, used, or dispensed.

(x) Portable fire extinguishers shall be selected, installed, and maintained in accordance with the manufacturer's specifications. All fire extinguishers shall be replaced at least every six years.

~~(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.~~

(y) Storage of flammable or combustible liquids inside buildings in containers and

portable tanks shall be in accordance with the Virginia Statewide Fire Prevention Code and the manufacturer's recommendations. Areas of flammable and combustible liquid storage shall be secured to prevent access during the home child care facility's hours of operation.

(i) Combustible waste material creating a fire hazard shall not be allowed to accumulate in buildings, structures, or upon premises.

(ii) Areas of storage of machinery such as lawnmowers and power tools shall be inaccessible to the children in care.

~~(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.~~

(z) The provider shall prepare an emergency evacuation plan, which shall include the preferred method to notify employees, children, and other occupants of an emergency situation; emergency egress routes from each room where child care is permitted; procedures for accounting for employees, children, and other occupants; and the preferred and alternate plans to notify emergency response organizations.

(aa) Fire evacuation drills shall be conducted monthly in all home child care facilities. Records shall be maintained on site and provided to the Fire Code Official upon request. Each record shall include the identity of the person conducting each drill; the date and time of each drill; the notification/initiating method used; the number of occupants evacuated; special conditions simulated; problems encountered; weather conditions when occupants were evacuated; and the time required to accomplish a complete evacuation.

(bb) Rooms used for sleeping must provide two means of exit, one which leads directly to the outside, as required by the Virginia Uniform Statewide Building Code.

Section 30-3-7. - Immunizations.

The ~~operator~~ provider shall not accept into care any child who has not been immunized, or exempted from mandatory immunization, in accordance with Virginia Code § 32.1-46. The ~~operator-provider~~ shall maintain for each child a copy of the child's immunization records; or a statement from the parents certifying that they object on religious grounds but that, to the best of the parent's knowledge, the child is in good health; or a statement from a physician indicating that immunization is not

currently advisable for specific health reasons and an estimated date when immunizations can be safely administered.

Section 30-3-8. - Inspection of facilities.

In addition to the inspections required by Section 30-3-2, with the consent of the owner, ~~operator~~ provider, or agent in charge of the facility, or pursuant to a duly issued inspection warrant, the Director of the Office for Children shall have the right at all reasonable times to inspect all areas of any home child care facility that are accessible to children for compliance with this Article. Warrants to inspect any such facility shall be based upon a demonstration of probable cause and supported by affidavit.

Section 30-3-9. - Enforcement.

(a) Any person operating a home child care facility without the permit required by this Article shall be guilty of a Class 2 misdemeanor as provided in Section 1-1-12 of this Code.

(b) Any person subject to this Article who fails to comply with any other requirement of this Article or the permit shall be subject to such administrative action as prescribed in this Section. However, administrative action by the Director of the Office for Children shall not preclude any other administrative, civil or criminal proceedings authorized by law as a result of the same conduct.

(c) The Director of the Office for Children may revoke any permit granted under this Article if during the term of the permit the home child care facility is found by the Director to be in violation of the permit or this Article or if any circumstances exist which, if existing at the time of the permit application, would have warranted denial of the application. The Director of the Office for Children may suspend any permit granted under this Article if during the term of the permit the Director reasonably suspects a violation of the permit, this Article, or any applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the facility. Prior to suspending or revoking any permit, unless in the judgment of the Director of the Office for Children there are exigent health and safety conditions which justify immediate suspension of a permit, the Director of the Office for Children shall give the ~~operator~~ provider at least ten calendar days written notice of the proposed suspension or revocation. In the case of exigent health and safety conditions which in the judgment of the Director of the Office for Children justify the immediate suspension of the permit, the Director of the Office for Children shall suspend the permit immediately and notify the ~~operator~~ provider as soon as is practicable.

(d) If a permit to operate a home child care facility is revoked or suspended by the Director of the Office for Children, the ~~operator~~ provider shall notify all clients. Evidence of such notification shall be submitted to the Director of the Office for Children.

Section 30-3-10. - Appeals from permit denials, revocations and suspensions.

Any applicant for a home child care facility permit whose application is denied and any ~~operator~~ provider whose permit is suspended or revoked may submit a written request to the Director of the Office for Children for a hearing on the matter. Any request for hearing must be submitted to the Director of the Office for Children within 10 ~~calendar~~ business days of the time the ~~operator~~ provider receives notice of the action regarding which the ~~operator~~ provider seeks a hearing, and must specify the grounds for appeal.

2. *That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.*
3. *That the provisions of this ordinance shall take effect on February 1, 2013.*

GIVEN under my hand this 20th day of November, 2012.

Catherine A. Chianese
Clerk to the Board of Supervisors