

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 Family and Protective Services Regulations Adopted

- A. The provisions of the current rules or rules as amended, known as the “Minimum Standards for Child-Care Centers”, found in Title 40, Texas Administrative Code, Chapter 746, and “Minimum Standards for School-Age and Before or After School Programs” found in Title 40, Texas Administrative Code, Chapter 744, 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. The adopted State regulations are available online at the websites of the Texas Secretary of State and the Texas Department of Family and Protective Services. The Administrator may provide the current website addresses or adopted State regulations upon request.

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

- A. The Administrator 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.

Section 5.04 Permit Required

- A. 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.
- B. For purposes of this Article, the term “child care center” is hereby defined as a facility where child care occurs. The term “child care center” includes the following terms:
 - 1. “Child-care facility”, “Day-care center”, “Before-school or after-school program”, and “School-age program,” as defined by Texas Human Resources Code Section 42.002, as amended;
 - 2. “Child-care center” as defined by Title 40, Texas Administrative Code Section 746.123; and
 - 3. “Before or after-school program” and “School-age program,” as defined by Title 40, Texas Administrative Code Section 744.123.
- C. For purposes of this Article, the term “child care center” does not include a facility that is exempt from obtaining a child care facility license by the Department of Family and Protective Services under Texas Human Resources Code Section 42.041, as amended.
- D. For the purposes of this Article, child care centers located in public school facilities operated by a local independent school district, which are exempt from an annual sanitation inspection pursuant to Title 40, Texas Administrative Code Section 746.3401, as amended, are exempt from obtaining a child care center permit under this Chapter.

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 Administrator.
- B. The permit application shall state the owner's name, address and telephone number.
- 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 days and times of operation. The permit application shall include the operational policies required for:
 - 1. Child-Care Centers under Title 40, Texas Administrative Code Section 746.501, as amended; or
 - 2. School-Age and Before or After-School Programs under Title 40, Texas Administrative Code Section 744.501, as amended.
- D. A Child Care Center permit application fee shall be required for each child care center that requires plans to be submitted according to Section 5.06, as amended.
- 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 Administrator or the Administrator's designees shall inspect the Child Care Center prior to its beginning operation to determine compliance with the requirements of this Article. Failure to comply with the requirements of this Article may result in denial, suspension, or revocation.
- F. The owner shall affirm that a Certificate of Occupancy has been applied for with the City of Arlington, its issuance contingent in part on the successful application for a child care center permit.
- G. The owner shall affirm that a Child Care Center license has been applied for with the Texas Department of Family and Protective Services Child Care Licensing Division. Issuance of a City of Arlington Child Care Center Permit is contingent upon a successful application for a Child Care Center license issued by the Department of Family and Protective Services.
- H. The permit application shall include a certificate of liability insurance coverage that complies with Section 5.22, as amended.

- I. 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 Administrator 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 Administrator shall approve the plans and specifications if they meet the requirements of this Article.
- B. No Child Care Center shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the Administrator. The approved plans and specifications must be followed in construction, remodeling, or conversion.
- C. Whenever plans and specifications are required to be submitted, the Administrator or the Administrator's designee 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 Article.
- 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. Any changes to the days or hours of operation, to the ages of children to be cared for, or indoor or outdoor space used for the purpose of providing child care services must be submitted in writing to the Administrator within forty-eight (48) hours of the change taking effect. Incorrect information in records previously submitted to the Administrator for the child care center shall be corrected before the permit may be renewed. A Child Care Center Permit that

lapses for non-payment of the annual Child Care Center Permit fee will be reinstated upon payment of a reinstatement fee, except that permits lapsed for more than three (3) months may not be reinstated.

Section 5.08 Permit Renewal Denial, Suspension and Revocation

- A. The Administrator 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 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.
 3. Failure to keep continually in force the required liability insurance, according to Section 5.22, as amended.
 4. Failure to possess a valid Child Care Center License or Accreditation issued by Texas Department of Family and Protective Services according to Chapter 42 of the Texas Human Resources Code, as amended.
 5. Failure to meet the requirements of Chapter 42 of the Texas Human Resources Code, as amended, 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.
 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 City of Arlington". Signs posted by the Administrator shall not be altered or removed unless authorized by the Administrator.
- 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 Administrator.
- 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 Administrator.
- C. Child Care Workers Training Course. In order to receive a Child Care Workers Permit, every person shall be required to satisfactorily complete a Child Care Workers Training Course conducted by an instructor who has been approved by the Administrator pursuant to Section 5.11, as amended. This requirement must be met upon expiration of a permit and upon application for a new permit.

- D. 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.
- E. Child Care Workers Permit Suspension – Revocation. The Administrator shall have the right to suspend or revoke a valid Child Care Workers Permit at any time the holder of such permit violates any of the provisions of this Article.
- F. Display of Child Care Workers Permit. The original 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.

Section 5.11 Child Care Worker Training Course and Instructor Certification

- A. A currently State certified Child Care Director or a representative from an authorized training organization may apply to the Administrator for certification as an approved instructor of the Child Care Workers Training Course. Application for certification shall be submitted on the form specified by the Administrator. The application shall be submitted with the proposed class curriculum and, if applicable, a copy of the applicant's valid State certification as a Child Care Director.
- B. Approved class curriculum shall include instruction on the following health and sanitation topics:
 - 1. Handwashing;
 - 2. Handling of food;
 - 3. Diaper changing and toileting procedures;
 - 4. Cleaning and sanitizing methods;
 - 5. Reportable illnesses;
 - 6. Child illness regulations and policies;
 - 7. Employee illness regulations and policies; and
 - 8. Indoor and outdoor safety checks.

- C. Upon approval of the proposed curriculum and verification of the information on the application, the Administrator shall certify the applicant as an approved instructor. Failure to provide all required information including material required for the approval of the curriculum or falsifying information required on the application may result in denial, suspension or revocation of the certification pursuant to the provisions provided in this Chapter. A City of Arlington Child Care Workers Training Course Instructor Certification shall be valid for five (5) years from the date of issuance unless suspended or revoked for violation of any of the provisions of this Article. Suspension or revocation shall occur pursuant to the provisions in this Chapter.

Section 5.12 Appeal of Permit or Certification - Denial, Suspension or Revocation

- A. Upon finding that the Child Care Center Permit, Child Care Workers Permit, or Child Care Workers Training Course Instructor Certification should be denied, suspended or revoked, the Administrator 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 therefore. 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, suspension 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 or certification 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, permit or certification unless otherwise directed by the Administrator.

Section 5.13 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 5.14 Fees

- A. The various requirements for review of plans, permits, licenses, certificates, inspections, reinspections, and such administrative function of this Article shall require the payment of fees, submitted to the Administrator, in an amount approved by resolution of the Arlington City Council. Fees shall not be refundable or transferable.
- B. For the purposes of fees, child care centers with a Food Establishment, as defined in the Texas Food Establishment Rules as adopted by Article IV of this Chapter, must obtain a permit for a “Child Care Center with Food Service.”

Section 5.15 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. A child care center worker who has been issued a Child Care Workers Permit need not also obtain a Food Handler’s Permit, except as required by Article IV of this Chapter and the Texas Food Establishment Rules. The director of a child care center or the staff person primarily responsible for food preparation in the child care center kitchen is required to hold a Certified Food Protection Manager Certificate from a provider accredited by the Texas Department of State Health Services.

Section 5.16 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. 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.

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- D. Handwashing sinks may not be used for purposes other than handwashing, including but not limited to rinsing items that may be placed in a child's mouth (such as pacifiers or teething rings) and obtaining water for consumption or food preparation.
- E. 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. Handwashing soap may not be diluted with water.
- F. Toilet facilities must be maintained clean and sanitary.
- G. Toilet facilities including diaper changing areas must be constructed with smooth, easily cleanable walls, floors and work surfaces.

Section 5.17 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, and then sanitized using a disinfectant registered with the Environmental Protection Agency ("EPA"), such as Quaternary Ammonia or a chlorine bleach solution, after changing each child. Disinfecting solutions shall be prepared and used as provided by Title 40, Texas Administrative Code, Chapter 744, Subchapter K, Health Practices, as amended, and Chapter 746, Subchapter R, Health Practices, as amended. Bleach measurement shall be adjusted to equal 200PPM when tested on chlorine bleach paper testing strips. EPA-registered disinfectants shall be used in accordance with the manufacturer's instructions printed on the product label.
- 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. Diaper pail liners or trash can liners shall be changed as regularly as needed to reduce offensive odors.

- 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.

Section 5.18 Playgrounds and Outdoor Activity Spaces

- A. A playground or other outdoor activity space shall provide not less than 100 square feet of area for each child occupying the area at one time.
- B. A playground or other outdoor activity space shall be surrounded by a fence not less than four feet (4') in height, unless the child care center is exempt from the minimum fencing requirements of Title 40, Texas Administrative Code Section 744.2953, as amended. Construction of fences at child care centers must comply with all applicable provisions of this Code of Ordinances, including the Unified Development Code standards related to the minimum and maximum height of fences as well as materials used to construct fences. Openings in fences shall not present an entrapment hazard. An opening in a fence presents an entrapment hazard if the opening is greater than three and one-half (3.5) inches and less than nine (9) inches.
- C. Any pool, pond or other body of water greater than two feet (2') in depth shall be separated from a playground or other outdoor activity space 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 all applicable State laws relative to pool construction and safety, including the Texas Department of State Health Services Standards for Public Swimming Pools and Spas. All pools used by the children must comply with the pertinent regulations contained in Article VII of this Chapter for public swimming pools, spas, and public interactive water features and fountains. Permits are required, as set forth in Article VII of this Chapter, and all fees must be paid.
- D. 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 5.20(C), as amended.

- E. Tires and other outdoor equipment must be provided with adequate drainage to prevent breeding of mosquitoes.

Section 5.19 Release of Child

Child care centers shall comply with all required standards of Title 40, Texas Administrative Code, Chapters 744 and 746, as amended, related to the release of children from a Child Care Center.

Section 5.20 Safety and Sanitation

- A. 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.
- B. 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.
- C. 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.
- D. The child care center shall take all necessary 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 Administrator.

Section 5.21 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 cannot 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. Persons whose behavior and/or health status poses an immediate threat or danger to the health or safety of the children must not be present when children are in care at a child care center, in accordance with Title 40, Texas Administrative Code Sections 744.2603 and 746.3703, as amended.
- G. Children who are ill may not attend a Child Care Center as provided by Title 40, Texas Administrative Code Sections 744.2571-744.2575 and 746.3601-746.3605, as amended.

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H. In accordance with Title 40, Texas Administrative Code Sections 744.2576 and 746.3606, as amended, a child who was ill may return to a Child Care Center when:

1. The child is free of symptoms of illness for 24 hours; or
2. The child's parent or guardian provides a health-care professional's statement that the child no longer has an excludable disease or condition.

Section 5.22 Liability Insurance

The child care center applicant must have liability insurance coverage according to Chapter 42 of the Texas Human Resources Code, as amended. Proof of the required insurance coverage must be presented to the Administrator upon request and upon application for or renewal of a Child Care Center Permit. (Amend Ord 17-038, 6/27/17)