

ORDINANCE TO AMEND CHAPTER 8, ARTICLE VI, OF THE CODE OF THE CITY OF FALLS CHURCH, "PRIVATE SCHOOLS, SPECIAL SCHOOLS AND HOME CHILD CARE FACILITIES"

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS that Chapter 8, Article VI, "Private Schools, Special Schools and Home Child Care Facilities," of Code of the City of Falls Church, Virginia, be amended, re-enacted and re-codified as follows:

ARTICLE VI. - PRIVATE SCHOOLS, SPECIAL SCHOOLS AND HOME CHILD CARE FACILITIES ^[30]

⁽³⁰⁾ State Law reference— Social services, Code of Virginia, § 63.2-100 et seq.

Sec. 8-678. - Definitions.

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Sec. 8-680. -.Zoning compliance required.

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Sec. 8-682. -.Reserved.

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Sec. 8-685. - Reserved.

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Sec. 8-700. - Appeals from permit denials, revocations and suspensions.

Sec. 8-678. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult means a person 18 years of age or older.

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

(1) If the provider or any person who resides in the home is convicted of any of the following offenses set out in the Virginia code:

a. A felony violation of §16.1-253 to §16.1-253.4 Violation of provisions of protective order;

b. Any violation of the following sections of Title 18.2, Chapter 4, Article 1.
Homicide:

- i. 18.2-31 Capital Murder;
- ii. 18.2-32 First and Second Degree Murder;
- iii. 18.2-32.1 Murder of a Pregnant woman;
- iv. 18.2-32.2 Killing a Fetus;
- v. 18.2-33 Felony Homicide;
- vi. 18.2-35 How Voluntary Manslaughter Punished;
- vii. 18.2-36 How Involuntary Manslaughter Punished;
- viii. 18.2-36.1 Certain Conduct Punishable as Involuntary Manslaughter;
- ix. 18.2-36.2 Involuntary Manslaughter; Operating a Watercraft While under the influence;

c. Any violation of the following sections of Title 18.2, Chapter 4 Article 2. Crimes by Mobs:

- i. 18.2-41 Shooting, Stabbing, etc., with Intent to Maim, kill, etc., by Mob;
- ii. 18.2-42 Assault or Battery by Mob;

d. Any felony violation of the following sections of Title 18.2, Chapter 4 Article 2.1.
Crimes by Gang:

- i. 18.2-46.2 Prohibited Criminal Street Gang Participation;
- ii. 18.2-46.3 Recruitment of Persons for Criminal Street Gang;
- iii. 18.2-46.3:1 Third or Subsequent Conviction of criminal Street Gang Crimes;
- iv. 18.2-46.3:3 Enhanced Punishment for Gang Activity Taking Place in a Gang-Free Zone;

e. Any violation of the following sections of Title 18.2. Chapter 2, Article 2.2.
Terrorism Offenses:

- i. 18.2-46.5 Committing, Conspiring and Aiding and abetting Acts of Terrorism;
- ii. 18.2-46.6 Possession, manufacture, distribution, etc. of weapon of terrorism or hoax device prohibited;

- iii. 18.2-46.7 Act of bioterrorism against agricultural crops or animals;
- f. Any violation of the following sections of Title 18.2, Chapter 4, Article 3. Kidnapping and Related Offenses:
 - i. 18.2-47 Abduction and Kidnapping, any violation of subsection A or B;
 - ii. 18.2-48 Abduction with intent to extort money or for immoral purpose;
 - iii. 18.2-49 Threatening, attempting or assisting in such abduction ;
 - iv. 18.2-50 Enticing, etc., another into a dwelling house with intent to commit certain felonies 3;
- g. Any violation of the following sections of Title 18.2, Chapter 4, Article 4. Assaults and Bodily Wounding:
 - i. 18.2-51 Shooting, stabbing, etc., with intent to maim, kill, etc. ;
 - ii. 18.2-51.1 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical services personnel;
 - iii. 18.2-51.2 Aggravated malicious wounding;
 - iv. 18.2-51.3 Prohibition against reckless endangerment of others by throwing objects from places higher than one story;
 - v. 18.2-51.4 Maiming, etc., of another resulting from driving while intoxicated;
 - vi. 18.2-51.5 Maiming, etc., of another resulting from operating a watercraft while intoxicated;
 - vii. 18.2-51.6 Strangulation of another;
 - viii. 18.2-52 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire;
 - ix. 18.2-52.1 Possession of infectious biological substances or radiological agents;
 - x. 18.2-53 Shooting, etc., in committing or attempting a felony;
 - xi. 18.2-54.1 Attempts to poison,
 - xii. 18.2-54.2 Adulteration of food, drink, drugs, cosmetics, etc.;
 - xiii. 18.2-55 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers or adult parolees;
 - xiv. 18.2-55.1 Hazing of youth gang members unlawful;
 - xv. 18.2-56 Hazing unlawful; civil and criminal liability; duty of school, etc., officials;
 - xvi. 18.2-56.1 Reckless handling of firearms; reckless handling while hunting;
 - xvii. 18.2-56.2 Allowing access to firearms by children;
 - xviii. 18.2-57 Assault and battery;
 - xix. 18.2-57.01 Pointing laser at law-enforcement officer unlawful;
 - xx. 18.2-57.02 Disarming a law-enforcement or correctional officer;
 - xxi. 18.2-57.2 Assault and battery against a family or household member;
- h. Any violation of the following sections of Title 18.2, Chapter 4, Article 5. Robbery:
 - i. 18.2-58 How punished;
 - ii. 18.2-58.1 Carjacking;
- i. Any violation of the following sections of Title 18.2, Chapter 4, Article 6. Extortion

and Other Threats:

- i. 18.2-59 Extortion of money, property or pecuniary benefit;
 - ii. 18.2-60 Threats of death or bodily injury to a person or member of his family; threats to commit serious bodily harm to persons on school property
 - iii. 18.2-60.1 Threatening the Governor or his immediate family;
 - iv. any felony violation of § 18.2-60.3 Stalking;
 - v. any felony violation of 18.2-60.4 Violation of protective orders;
- j. Any violation of the following sections of Title 18.2, Chapter 4, Article 7. Criminal Sexual Assault:
- i. 18.2-61 Rape;
 - ii. 18.2-63 Carnal knowledge of child between thirteen and fifteen years of age;
 - iii. 18.2-64.1 Carnal knowledge of certain minors;
 - iv. 18.2-64.2 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender;
 - v. 18.2-67.1 Forcible sodomy;
 - vi. 18.2-67.2 Object sexual penetration;
 - vii. 18.2-67.3 Aggravated sexual battery;
 - viii. 18.2-67.4 Sexual battery;
 - ix. 18.2-67.4:1 Infected sexual battery;
 - x. 18.2-67.4:2 Sexual abuse of a child under 15 years of age;
 - xi. 18.2-67.5 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery;
 - xii. 18.2-67.5:1 Punishment upon conviction of third misdemeanor offense;
 - xiii. 18.2-67.5:2 Punishment upon conviction of certain subsequent felony sexual assault;
 - xiv. 18.2-67.5:3 Punishment upon conviction of certain subsequent violent felony sexual assault;
- k. Any violation of the following of sections of Title 18.2, Chapter 5, Article 1. Arson and Related Crimes:
- i. 18.2-77 Burning or destroying dwelling house, etc.;
 - ii. 18.2-79 Burning or destroying meeting house, etc.;
 - iii. 18.2-80 Burning or destroying any other building or structure;
 - iv. 18.2-81 Burning or destroying personal property, standing grain, etc.;
 - v. 18.2-82 Burning building or structure while in such building or structure with intent to commit felony ;
 - vi. 18.2-83 Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc.;
 - vii. 18.2-84 Causing, inciting, etc., commission of act proscribed by §18.2-83;
 - viii. 18.2-85 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices;
 - ix. 18.2-86 Setting fire to woods, fences, grass, etc.;
 - x. 18.2-87 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized;

- xi. 18.2-87.1 Setting off chemical bombs capable of producing smoke in certain public buildings;
 - xii. 18.2-88 Carelessly damaging property by fire;
- l. Any violation of the following sections of Title 18.2, Chapter 5, Article 2. Burglary and Related Offenses:
- i. 18.2-89 Burglary;
 - ii. 18.2-90 Entering dwelling house, etc., with intent to commit murder, rape, robbery or arson;
 - iii. 18.2-91 Entering dwelling house, etc., with intent to commit larceny, assault and battery or other felony;
 - iv. 18.2-92 Breaking and entering dwelling house with intent to commit other misdemeanor;
 - v. 18.2-93 Entering bank, armed, with intent to commit larceny;
 - vi. 18.2-94 Possession of burglarious tools, etc.;
- m. Any felony violation of the following sections of Title 18.2, Chapter 7, Crimes Involving Health and Safety Article 1 Drugs:
- i. 18.2-248 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;
 - ii. 18.2-248.01 Transporting controlled substances into the Commonwealth;
 - iii. 18.2-248.02 Allowing a minor or incapacitated person to be present during manufacture or attempted manufacture of methamphetamine prohibited;
 - iv. 18.2-248.1 Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana;
 - v. 18.2-248.5 Illegal stimulants and steroids;
 - vi. 18.2-250 Possession of controlled substances unlawful;
 - vii. 18.2-251.2 Possession and distribution of flunitrazepam;
 - viii. 18.2-251.3 Possession and distribution of gamma-butyrolactone; 1, 4-butanediol;
 - ix. 18.2-255 Distribution of certain drugs to persons under 18 prohibited;
 - x. 18.2-255.2 Prohibiting the sale or manufacture of drugs on or near certain properties;
 - xi. 18.2-258 Certain premises deemed common nuisance;
 - xii. 18.2-258.02 Maintaining a fortified drug house;
 - xiii. 18.2-258.1 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery;
 - xiv. 18.2-258.2 Assisting individuals in unlawfully procuring prescription drugs;
- n. Any violation of the following of sections of Title 18.2, Chapter 7, Article 4. Dangerous Use of Firearms or Other Weapons:
- i. 18.2-279 Discharging firearms or missiles within or at building or dwelling house;
 - ii. 18.2-280 Willfully discharging firearms in public places;
 - iii. 18.2-281 Setting spring gun or other deadly weapon;

- iv. 18.2-282 Pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance;
 - v. 18.2-282.1 Brandishing a machete or other bladed weapon with intent to intimidate ;
 - vi. 18.2-286.1 Shooting from vehicles so as to endanger persons;
 - vii. 18.2-287.2 Wearing of body armor while committing a crime;
- o. Any violation of the following sections of Title Chapter 7, Article 5 Uniform Machine Gun Act:
- i. 18.2-289 Use of machine gun for crime of violence;
 - ii. 18.2-290 Use of machine gun for aggressive purpose;
- p. Any violation of the following sections of Title 18.2, Chapter 7, Article 6. "Sawed-Off" Shotgun and "Sawed-Off" Rifle Act:
- i. 18.2-300 Possession or use of "sawed-off" shotgun or rifle.
- q. Any violation of the following sections of Title 18.2, Chapter 7, Article 8. Miscellaneous Dangerous Conduct:
- i. 18.2-314 Failing to secure medical attention for injured child;
- r. Any violation of the following of sections of Title 18.2, Chapter 8, Article 3. Commercial Sex Trafficking, Prostitution, Etc.:
- i. any felony violation of § 18.2-346 Prostitution; commercial sexual conduct; commercial exploitation of a minor;
 - ii. any violation of 18.2-355 Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human trafficking;
 - iii. any violation of 18.2-356 Receiving money for procuring person;
 - iv. any violation of 18.2-357 Receiving money from earnings of male or female prostitute; penalties;
 - v. any violation of 18.2-357.1 Commercial sex trafficking;
 - vi. any violation of subsection B of § 18.2-361 Crimes against nature;
- s. Any violation of the following of sections of Title 18.2, Chapter 8, Article 4. Family Offenses; Crimes Against Children etc. codes:
- i. 18.2-366 Adultery and fornication by persons forbidden to marry; incest;
 - ii. 18.2-369 Abuse and neglect of incapacitated adults;
 - iii. 18.2-370 Taking indecent liberties with children;
 - iv. 18.2-370.1 Taking indecent liberties with child by person in custodial or supervisory relationship;
 - v. 18.2-370.2 Sex offenses prohibiting proximity to children;
 - vi. 18.2-370.3 Sex offenses prohibiting residing in proximity to children;
 - vii. 18.2-370.4 Sex offenses prohibiting working on school property;
 - viii. 18.2-370.5 Sex offenses prohibiting entry onto school or other property;
 - ix. 18.2-370.6 Penetration of mouth of child with lascivious intent;
 - x. 18.2-371 Causing or encouraging acts rendering children delinquent, abused, etc.; abandoned infant;

- t. Any violation of the following of sections of Title 18.2, Chapter 8, Article 5.
Obscenity and Related Offenses:
 - i. 18.2-374 Production, publication, sale, possession, etc., of obscene items;
 - ii. 18.2-374.1:1 Possession, reproduction, distribution, solicitation, and facilitation of child pornography;
 - iii. 18.2-374.3 Use of communications systems to facilitate certain offenses involving children;
 - iv. 18.2-374.4 Display of child pornography or grooming video or materials to a child unlawful;
 - v. 18.2-379 Employing or permitting minor to assist in offense under article;
 - vi. 18.2-386.1 Unlawful creation of image of another;
 - vii. 18.2-386.2 Unlawful dissemination or sale of images of another;

- u. Any violation of the following of sections of Title 18.2, Chapter 9, Crimes Against Peace and Order Article 1 Riot and Unlawful Assembly:
 - i. any felony violation of 18.2-405 What constitutes a riot;
 - ii. any felony violation of 18.2-406 What constitutes an unlawful assembly;
 - iii. any violation of 18.2-408 Conspiracy; incitement, etc., to riot ;
 - iv. any violation of 18.2-413 Commission of certain offenses in county, city or town declared by Governor to be in state of riot or insurrection;
 - v. any violation of 18.2-414 Injury to property or persons by persons unlawfully or riotously assembled;

- v. Any violation of the following of sections of Title 18.2, Chapter 9, Article 5.
Activities Tending to Cause Violence:
 - i. 18.2-423 Burning cross on property of another or public place with intent to intimidate ;
 - ii. 18.2-423.01 Burning object on property of another or a highway or other public place with intent to intimidate ;
 - iii. 18.2-423.1 Placing swastika on certain property with intent to intimidate;
 - iv. 18.2-423.2 Displaying noose on property of another or a highway or other public place with intent to intimidate;

- w. Any violation of the following of sections of Title 18.2, Chapter 9, Article 8.
Unlawful Paramilitary Activity:
 - i. 18.2-433.2 Paramilitary activity prohibited;

- x. Any violation of the following of sections of Title 18.2, Chapter 10, Article 6.
Interference with Administration of Justice:
 - i. 18.2-472.1 Providing false information or failing to provide registration information;
 - ii. 18.2-474.1 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons ;
 - iii. 18.2-477 Prisoner escaping from jail;
 - iv. 18.2-477.1 Escapes from juvenile facility;

- v. 18.2-477.2 Punishment for certain offenses committed within a secure juvenile facility or detention home;
 - vi. 18.2-478 Escape from jail or custody by force or violence without setting fire to jail;
 - vii. 18.2-479 Escape without force or violence or setting fire to jail ;
 - viii. 18.2-480 Escape, etc., by setting fire to jail;
- y. Any violation of the following of sections of Title 18.2, Chapter 11, Article 1. Treason and Related Offenses:
- i. 18.2-481 Treason defined; how proved and punished;
 - ii. 18.2-484 Advocacy of change in government by force, violence or other unlawful means;
 - iii. 18.2-485 Conspiring to incite one race to insurrection against another race;
- z. Any violation of the following of sections of Title 37.2, Chapter 9;
- i. 37.2-917 Escape of persons committed;
- aa. Any violation of the following of sections of Title 53.1, Chapter 7:
- i. 53.1-203 Felonies by prisoners;
- bb. Any substantially similar offense to those listed above under the laws of another jurisdiction;
- cc. Any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, or any substantially similar offense under the laws of another jurisdiction, or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; (iv) any other felony not included in clause (i), (ii), or (iii), unless five years have elapsed from the date of the conviction; or (v) any offense listed as a "Barrier crime" in Va. Code § 19.2-392.02, including all subsequent amendments or modifications thereto.

Convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the commonwealth;

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

Director of health means the director of the county department of health or the authorized agent of the director of the Fairfax County Department of Health.

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 county office for children.

Home child care permit means authorization from the city, issued through the county office for children, to operate a home child care facility for the care, guidance, education, training or protection of children in compliance with this article.

Home child care facility means any facility located in a dwelling where a person, for compensation, regularly provides care, protection, supervision and guidance during a part of the day for at least four days of a calendar week 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. 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, 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:

- (1) Any family day home licensed by the commonwealth pursuant to Code of Virginia, § 63.2-1701 or any facility exempted from licensure by Code of Virginia, § 63.2-1715;
- (2) Any dwelling where a person provides care solely for children who reside there; or
- (3) Any dwelling 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 and who are not attended by a parent, guardian or legal custodian while they are in that dwelling during a part of the day for at least four days of a calendar week, and a home child care facility is established, then any children who are related to the person who provides such care and are present in that dwelling 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 article.

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 Code of Virginia, §§ 63.2-1716 or 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 24 hours in any 24-hour period, one or more children under the age eligible for enrollment in the city 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.

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 nor more than ten days within a calendar month.

Provider means the adult responsible for obtaining the permit and for the day-to-day operation of the home child care facility. The provider is responsible for providing care, protection, supervision, and guidance to children in a home child care facility.

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.

Special use permit means permits referenced herein and issued pursuant to chapter 48, pertaining to zoning, for private schools, special schools and day care facilities licensed by the commonwealth or exempted from licensure from the commonwealth.

Sec. 8-692. - Requirements for annual permit application, issuance or denial of home child care facility.

(a) *Application contents.* A person proposing to operate a home child care facility, and each adult who resides in the proposed facility, shall submit to fingerprinting and shall provide personal descriptive information to be forwarded along with each individual's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding each such person. The applicant shall also submit -an application on a form prepared by the director of the office for children, which shall include:

- (1) The name and address of the home child care facility;
- (2) The name of the applicant;
- (3) A statement of whether the applicant currently holds or previously held a home child care facility permit in the county; or a family day care home voluntary registration in the city;
- (4) The names of all persons who reside in the home;
- (5) A sworn statement from the applicant, and each adult who resides in the proposed facility stating whether each has ever been convicted of or is the subject of any pending charges for any offense within or outside the Commonwealth; and consent forms signed by the applicant, and each adult who resides in the proposed facility allowing the director of the office for children to obtain the results of the criminal history record search conducted in accordance with Section 30.4.2(b)(iii). The applicant must pay any fee required in connection with such criminal history investigation for each person making disclosures and providing consent forms.
- (6) A sworn statement from the applicant, and each adult who resides in the proposed facility stating the names of all states in which he or she has lived in the years prior to the date of the application and stating whether he or she has been the subject of a founded

complaint of child abuse or neglect within or outside the Commonwealth of Virginia and consent forms signed by the applicant and each adult who resides in the proposed facility giving consent to the director of the office for children to obtain a copy of the results of a search of the central registry maintained pursuant to Va. Code § 63.2-1515, and any child abuse and neglect registry or equivalent registry maintained by any other state in which the applicant or any adult who resides in the proposed facility has resided in the previous five years for any founded complaint of child abuse or neglect; the applicant shall also provide sworn statements from a parent, guardian or legal custodian on behalf of all minors age 14 and older, who reside in the proposed facility stating whether the minor has been the subject of a founded complaint or child abuse or neglect and consent forms signed parent, guardian or legal custodian of all minors age 14 and older who reside in the proposed facility, giving consent to the director of the office for children to obtain a copy of the results of a search of the central registry maintained pursuant to Va. Code § 63.2-1515 for any founded complaint of child abuse or neglect.

- (7) Copies of the applicant's current certifications in-first aid and cardiopulmonary resuscitation (CPR).
- (8) Proof of the applicant's compliance with the training requirements established in section 8-694, which shall consist of records provided by the trainer or, if none are provided by the trainer, records maintained by the applicant;
- (9) 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;
- (10) The proposed hours of operation;
- (11) A statement of whether the applicant is 18 years of age or older;
- (12) A certificate from a physician, physician's designee or a department of health 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 adult household members are currently free from communicable tuberculosis. The screen must be performed every two years or more frequently as recommended by a physician or the local health department;
- (13) A written policy describing what the applicant will do with children in the applicant's care who are sick and a written emergency preparedness plan;
- (14) Such other information, including, but not limited to, information concerning the applicant's child care training and special skills, as the director of the office for children may deem appropriate;
- (15) The application fee of \$14.00, which is in addition to any business or occupation license tax imposed by the city and any other taxes or fees that may be required to engage in the business.

If the information the provider submits in accordance in with subsections (5), (6), (7), and (12)

changes during the term of the permit, the provider must report the change to the director of the office for children and must promptly submit updated information and documents.

(b) *Submission procedures.* Upon submission of an application to the office for children:

(1) 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 state law that may affect the health and safety of the children who may attend or be present at the facility.

(2) The fire code official or designee 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 state law that may affect the health and safety of the children who may attend or be present at the facility. An inspection fee shall be paid directly to the office of the fire marshal in accordance with Chapter 15 of the City Code.

(3) 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 require that the fingerprints and personal descriptive information for the applicant and each adult who resides in the proposed facility be forwarded to the Central Criminal Records Exchange and request a search of the central criminal records exchange and a national criminal history search by the Federal Bureau of Investigation to determine whether the applicant, or any persons who reside in the home have committed any crimes that constitute barrier offenses. Otherwise, the director may request a criminal records search if three 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.

(4) 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 copy of the results of a search of the central registry maintained pursuant to Va. Code § 63.2-1515 for the applicant and all individuals age 14 and older that reside in the proposed facility, and a copy of the results of a search of any child abuse and neglect registry or equivalent registry maintained by any other state in which the applicant or any adult who resides in the proposed facility has resided in the preceding five years for the applicant and all adults who reside in the proposed facility, for any founded complaint of child abuse or neglect. Otherwise, the director may request a copy of the central registry maintained pursuant to Va. Code § 63.2-1515 if three 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.

(c) *Factors for consideration.* 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:

(1) The applicant is an adult;

(2) Neither the applicant, nor or any person who resides in the facility has committed any barrier offense; and

(3) Both the applicant and the proposed facility is 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 provider.

(d) *Denial.* 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:

- (1) The applicant is not an adult;
- (2) The applicant, or any person who resides in the facility has committed any barrier offense; or
- (3) Either the applicant or the proposed facility is not in compliance with this article and all applicable state 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 or the department of social services, the director shall provide the applicant a copy of the information upon which the denial was based.

Sec. 8-694. –Provider qualifications.

(a) The provider must be an adult.

(b) 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, recognition and prevention of the spread of communicable diseases, emergency preparedness, and business practices of family child care. All providers 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 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) The provider must be currently certified in first aid and cardiopulmonary resuscitation (CPR).

(d) In addition to the training required in subsection (b) above, and except as set forth in Section 8.696 (o) and (p) 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.

AND BE IT FURTHER ORDAINED that the provisions of this ordinance shall take effect

upon adoption. All providers that are permitted under Article VI of Chapter 8 of the City of Falls Church City Code on the effective date of this ordinance, and all adults who reside in the provider's facility, must submit to fingerprinting and provide the personal descriptive information required in City of Falls Church Code Section 8-692 (a) and the sworn statements and consent forms required in City of Falls Church Code Section 8-692 (a) (5), as well as any applicable fee required thereunder, to the Fairfax County Office for Children by September 30, 2018. The failure to comply with this requirement will result in a suspension of the provider's permit. Upon receipt of the sworn statements and forms, the Director, Office For Children Fairfax County will request the criminal history search set forth in Section 8-692 (b)(3); and

BE IT FURTHER ORDAINED 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.

1st Reading: 06-25-18
2nd Reading: 07-23-18
Adoption:07-23-18
(TO18-07)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on July 23, 2018 as Ordinance 1988.



Celeste Heath

Celeste Heath
City Clerk