

CHAPTER 3 DAY CARE

SECTION:

- 6-3-1: Purpose
- 6-3-2: Definitions
- 6-3-3: Child Care Facility License
- 6-3-4: Certification of Individual Child Care Workers Or On-Site Non-Providers
- 6-3-5: License and Certification Exclusions
- 6-3-6: Revocation of Child Care Facility License, Child Care Worker Certification or Non-Site Non-Providers Certification
- 6-3-7: Outdoor Space Per Child
- 6-3-8: Licenses/Certification, Denial, Suspension or Revocation
- 6-3-9: Staffing Requirements
- 6-3-10: Record Maintenance
- 6-3-11: Right of Entry for Governing Officials
- 6-3-12: Reporting of Abuse, Abandonment or Neglect
- 6-3-13: Liability
- 6-3-14: Penalty

6-3-1: **PURPOSE:** The purpose of this Chapter is to provide standards for the operation, inspection and licensing of Child Care Facilities within the City. Idaho Code Sections 39-1101 and 39-1108, and the Idaho Administrative Code, Section 16.06.02.100.01 authorize a local government to adopt ordinances to protect children in child care facilities to the extent such ordinances are at least as stringent as the minimum standards set forth in such State codes and regulations. The purpose of this Chapter is to increase the standards for the City of Idaho Falls above those minimally required under State law in order to promote a healthy and safe environment in which children receive child care. Despite the foregoing, the City recognizes that the primary responsibility for evaluation and selection of child care services should remain with the parents. (Ord. 2759, 06-24-08)

6-3-2: **DEFINITIONS:** For the purposes of this Chapter, certain words and phrases are defined as follows:

(A) **Applicant:** A person making an application for a Child Care Facility license or Child Care Worker Certification or the renewal of such certification, under the provisions of this Chapter.

(B) **Building Official:** The Building Official of the City as designated under the International Building Code adopted by the City.

(C) **Certified Child Care Worker:** A person having obtained a Child Care Worker Certificate from the City for working in a Child Care Facility.

(D) **Chief of Police:** The Chief of Police of the City, or his or her nominee.

(E) Child: An individual less than twelve (12) years of age who receives or is receiving Child Care at a Child Care Facility. Children seventeen (17) years or younger shall be considered a "Child" if they are mentally or developmentally disabled or delayed.

(F) Child Care Center: A Child Care Facility that provides child care for thirteen (13) or more children at any given time upon the Premises of a Child Care Facility.

(G) Child Care Facility: The generic term for any child care facility, whether it is a Child Care Center (for thirteen or more children), Group Child Care Facility (for six to twelve children), or Family Child Care Facility (for one to five children).

(H) Child Care: Care or supervision of a child for monetary compensation where such child is not related by blood or marriage within the second degree of consanguinity to the person or persons providing the care, in a place other than the child's own home.

(I) Child Care Facility License: Any child care facility license required by this Chapter.

(J) Child Care Worker: A person who provides child care at a Child Care Facility.

(K) Child Care Training: Preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a Child Care Worker or Volunteer and which is part of an educational/technical curriculum.

(L) City: The City of Idaho Falls, Idaho.

(M) City Council: The duly elected City Council of the City.

(N) Contact: Verbal communication with and in the presence of a child or the act of being in immediate physical proximity to a child.

(O) Criminal Background Investigation: A background investigation performed pursuant to Idaho Administrative Code, Section 16.05.06.

(P) Department: The Idaho Department of Health and Welfare.

(Q) (Q) Director of the Community Development Services Department: The Director of the Community Development Services Department of the City, or his or her nominee

(R) EIPHD: Eastern Idaho Public Health District. EIPHD will be responsible for health and safety inspections of Child Care Facilities.

(S) Facility: The generic term referring to a Child Care Center Facility, Group Child Care Facility or Family Child Care Facility.

(T) Family Child Care Facility: A home, place, or facility that provides child care for no more than five (5) children at any given time upon the Premises of a Child Care Facility.

(U) Fire Marshall: The Fire Marshall of the City of Idaho Falls, or his or her nominee.

(V) Group Child Care Facility: A home, place or facility that provides child care for at least six (6), but no more than twelve (12) children at any given time upon the Premises of a Child Care Facility.

(W) Immediate Family Member: A person related by blood or marriage within the second degree of consanguinity to an owner or operator of a Child Care Facility.

(X) Licensee: A person having a City Child Care license in full force and effect, issued hereunder for ownership or operation of a child care facility.

(Y) Mayor: The duly elected Mayor of the City.

(Z) Member of the Household: Any person who resides in, or on the property of, a facility providing Child Care.

(AA) Multi-Use Facility: A Child Care Facility which is owned by a person who conducts business or engages in commercial functions for pecuniary gain in addition to child care upon the Premises of a Child Care Facility.

(BB) Occasional Care: Care provided for compensation on an infrequent or intermittent basis by neighbors or family members that does not exceed forty (40) days in a calendar year.

(CC) On-Site Non-Provider: A person who is not a Child Care Worker or a Child Care Operator and who is either:

- (1) A Resident of a Child Care Facility including immediate family members of the operator/director, and who has or may have unsupervised contact with children, or
- (2) Janitorial or lunch room staff, a bookkeeper, office manager, secretary, receptionist or other person employed at a Child Care Facility and who may have regular unsupervised contact with children, exclusive of child care operators or child care workers.

(3) Any friend, significant other or neighbor who regularly visits the Child Care Facility.

(DD) Operator: A person who is physically present at a Child Care Facility and whose primary responsibility is the supervision and operation of the Child Care Facility during any time when Child Care is being provided upon the premises.

(EE) Owner: A person who owns any interest in, possesses or operates a Child Care Facility. Such interest may, without limitation, include an interest as a sole proprietorship, a partnership interest, shareholder of a corporation, a beneficiary or trustee of a trust or a member of a limited liability company.

(FF) Person: Any individual, partnership, association, corporation, limited liability company or private organization of any kind.

(GG) Premises: For commercial buildings, the part of the building owned or leased for daycare facility, including parking areas and outside play areas. For home daycares, "Premises" means, the entire home, including outside play areas.

(HH) Regular: A frequency of at least once each calendar week.

(II) Relative: Individuals related to a child by blood, marriage or adoption within the second degree of consanguinity.

(JJ) Resident: Any individual twelve (12) years of age or older who resides in a Child Care Facility.

(KK) Visitor: An individual who is a guest or invitee at a Child Care Facility on a random or infrequent basis.

(LL) Volunteer: A person who intermittently provides care for children or other personal services to a Child Care Facility without pay or remuneration of any kind. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-3: CHILD CARE FACILITY LICENSE: No person or entity shall own, operate or permit to be operated within the City any Child Care Facility without first having obtained an appropriate license under this Chapter.

(A) Type 1: Child Care Center. Any person or operator applying for a Type 1 license shall deliver the following documents to the City Clerk at the time the application is made.

(1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.

- (2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.
- (3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.
- (4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:
 - (a) All owners who will have regular contact with children;
 - (b) All residents twelve years of age and older of the facility;
 - (c) Any spouse or significant other of an Owner.
 - (d) All residents 12-17 years of age must have a Juvenile Justice Search.
- (5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section 39-1110.
- (6) A certificate issued by the Fire Marshall certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55. An applicant must have the following fire safety items:
 - (a) Working smoke detectors are required at all designated day care areas within the home;
 - (b) Fire extinguisher is required that meets the current Code requirements for accessibility, current service tag and mounted within a seventy-five foot (75') travel distance to day care areas; and
 - (c) An operating telephone or cell phone;
 - (d) That the distance from the Child Care area shall not exceed seventy-five feet to an exit door.

and

- (7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility has been inspected and that it meets the egress provisions of the International Building Code and other applicable health and safety codes of the City. Each In-Home Child Care Facility under this Section must have the following exiting components:
 - (a) One swinging type door with a clear width of not less than thirty-two inches (32") which provides an unobstructed path outside the building to a public way or safe area away from the building is required from a single level building;
 - (b) If the day care is located in the basement, two exits are required. One exit may pass through the dwelling and the other may be an emergency escape window or exterior door from the day care area. Day care areas above the main floor are prohibited; and
 - (c) Required exit doors shall not be locked when children are in the Day Care area and shall be designed and constructed so that they can open from the inside without the use of a key or any special knowledge.
- (8) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.
- (9) Proof of liability insurance for child care.

(B) Type 2: Group Child Care. Any person or operator applying for a Type 2 license shall possess the following qualifications before a license may be issued for that facility.

- (1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.
- (2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.
- (3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.
- (4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been

completed, or is being completed, within two (2) years previous to such application for the following persons:

and

- (a) All owners who will have regular contact with children;
 - (b) All residents twelve years of age and older of the facility;
 - (c) Any spouse or significant other of an Owner.
 - (d) All residents 12-17 years of age must have a Juvenile Justice Search.
- (5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section 39-1110.
- (6) A certificate issued by the Fire Marshall certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55. An applicant must have the following fire safety items:
- (a) Working smoke detectors are required at all designated day care areas within the home;
 - (b) Fire extinguisher is required that meets the current Code requirements for accessibility, current service tag and mounted within a seventy-five foot (75') travel distance to day care areas;
 - (c) An operating telephone or cell phone; and
 - (d) That the distance from the child care area shall not exceed seventy-five (75') feet to an exit door.
- (7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility has been inspected and that it meets the egress provisions of the International Building Code and other applicable health and safety codes of the City. Each In-home Child Care Facility under this Section must have the following exiting components:
- (a) One swinging type door with a clear width of not less than thirty-two inches (32") which provides an unobstructed

path outside the building to a public way or safe area away from the building is required from a single level building;

- (b) If the day care is located in the basement, two exits are required. One exit may pass through the dwelling and the other may be an emergency escape window or exterior door from the day care area. Day care areas above the main floor are prohibited; and
- (c) Required exit doors shall not be locked when children are in the Day Care area and shall be designed and constructed so that they can open from the inside without the use of a key or any special knowledge.

- (8) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.
- (9) Proof of liability insurance for child care.

(C) Type 3: Family Child Care. Any person or operator applying for a Type 3 license shall possess the following qualifications before a license will be issued for that facility.

- (1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.
- (2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.
- (3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.
- (4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:
 - (a) All owners who will have regular contact with children;
 - (b) All residents twelve years of age or older of the facility;
 - (c) Any spouse or significant other of an Owner.

and

- (d) All residents 12-17 years of age must have a Juvenile Justice Search.
- (5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section 39-1110.
- (6) A certificate issued by the Fire Marshall certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55.
- (7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.
- (8) Proof of liability insurance for child care.

(D) APPLICATIONS FOR LICENSE: The applicant shall obtain an application for a license from the City Clerk. Once an application for a license has been submitted, the City Clerk shall review the application and determine whether or not the application is complete. If the City Clerk deems that the application is complete, then the applicant and City will arrange for all necessary inspections to obtain the certificates required by such Section in subsection (A), (B) or (C) above. Once all certifications are obtained and all requirements of either subsection (A), (B) or (C) above are met, the City Clerk shall issue a license. If the application is incomplete in any respect, the City Clerk shall promptly notify the applicant that the application is incomplete and shall specify the items which the City Clerk has determined are not complete or which do not otherwise comply with the provisions of subsection (A) hereof. Applications shall be made to the City Clerk in the form and manner prescribed by the City Clerk.

(E) TERM OF LICENSE: A license is valid for a two (2) year period years and shall expire on the date endorsed on the license.

(F) LICENSE POSTED: All facility licenses shall be posted in a conspicuous place at the Child Care facility whenever the facility is providing Child Care.

(G) FORM OF LICENSE: All licenses issued under this Chapter shall contain the following information.

- (1) The name of the Applicant.
- (2) The street address of the licensed Child Care Facility.

- (3) The date of expiration.
- (4) The maximum number of children the facility is authorized to have present in the facility at one time. Type 1 permits shall state "13+" as the maximum number. Type 2 permits shall state up to 12". Type 3 permits shall state up to 5."
- (5) Whether or not the applicant maintains liability insurance for child care.

(H) LICENSE/RENEWAL FEES: Each application/renewal for a Child Care Facility shall be accompanied by a license fee in an amount set from time to time by Resolution of the Council for the following:

Family Child Care;

Group Child Care; and

Child Care Center

(I) RENEWALS: At least thirty (30) days before a License is to expire, the Applicant must apply for a renewal license. The fees for a renewal license are the same as set forth in subsection (H) above. Depending on the type of License, all information required under Sections 6-3-3(A), 6-3-3(B), and 6-3-3(C) shall be provided with the application in order to qualify for the License. The following items do not need to be shown on renewal licenses:

- (1) A certificate showing that the Facility has been inspected by Community Development Services Department;
- (2) A certificate showing the Facility is permitted within the zone the Facility is located; and
- (3) A site plan and floor plan, unless the site plan and floor plan has changed since the original license was issued.

(J) BACKGROUND CHECKS:

- (1) In addition to the foregoing fees, the applicant shall also pay a fee in an amount set from time to time by Resolution of the Council for each criminal background investigation required under the provisions of Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1) hereof. Such fee shall be non-refundable, notwithstanding any failure or refusal of the City to issue the

requested certificate. A full background check needs to be completed on the initial application and every other year thereafter. If a person required to receive a background check already has a valid background check done within the last two years, then that person will not be required to pay the background check fee. On the years which a full background check is not required, the persons required to have a background check will still be required to submit to a local and state-wide background check. If the person needing a background check is a minor, then the parent of such minor shall sign a release allowing a juvenile justice check to be performed.

- (2) To determine the suitability of prospective applicants under Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1), the City shall require an applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Section 67-3008, Idaho Code, and congressional enactment Public Law Section 92-544, the City shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police, Bureau of Criminal Identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The City is authorized to receive criminal history information from the Idaho State Police and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of the applicants child care licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited.

(K) **TIME BY WHICH LICENSE MUST BE OBTAINED:** If a child care facility or provider is not already licensed through the State of Idaho, then they must apply for a City license by October 1, 2008. Any child care facility or provider who is already licensed through the State of Idaho must file their initial application for a City license thirty (30) days before their State license expires. By October 1, 2008, a child care facility or provider, who is licensed through the State, must provide a copy of their State license to the City Clerk. The State licensed facility or provider must provide verification that a criminal background check for all persons required under Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1) hereof has been completed, or is being completed, within the last two years. All child care facilities and providers, even if licensed by the state, shall be subject to Sections 6-3-6 through 6-3-12 of this ordinance. (Ord. 2759, 6-24-08); (Ord. 2777, 8-28-08; Ord. 2816, 6-11-09; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11; Ord. 2964; 8-14-14; Ord. 3003, 04-23-15)

6-3-4: **CERTIFICATION OF INDIVIDUAL CHILD CARE WORKERS OR ON-SITE NON-PROVIDERS:**

(A) No owner or operator of a Child Care Facility shall permit or allow any Child Care Worker or On-Site Non-Provider to provide Child Care or to be in contact with a child at a Child Care Facility unless such Child Care Worker or On-Site Non-Provider possesses a certification issued under the provisions of this Chapter.

(B) Child Care Worker Certification (CCWC). No Child Care Worker or Operator shall provide child care or supervise the rendering of child care at any Child Care Facility unless he or she is at least eighteen (18) years of age and possesses a Child Care Worker's certificate issued under the provisions of this Chapter. Anyone sixteen (16) years or seventeen (17) years old may obtain a CCWC. However, these sixteen and seventeen year old workers must always be supervised by another CCWC who is over eighteen (18) years old. In order to obtain such certification, and for each renewal, applicants shall submit a completed application form to the City Clerk, accompanied by the following certificates and information:

- (1) A current certificate issued by the Red Cross, the Fire Marshall or any certified CPR and First Aid trainer, certifying that the applicant has completed an instructional class for child CPR and First Aid.
- (2) Verification from the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, for the applicant within two (2) years previous.
- (3) A birth certificate and picture identification evidencing the applicant's age.
- (4) A signed release to obtain the applicant's records from the Child Abuse Registry, if any.
- (5) For renewal certification only, a certificate issued by an educational/technical facility, certifying that the applicant has completed at least eight (8) hours of child care training which addresses the following areas: child development, health and safety, and child guidance.
- (6) The City Clerk shall provide a temporary CCWC, valid for ninety (90) days, once the application materials have been received in full, so that the Child Care Worker may work while the application is processing. Employees with a temporary CCWC, must be supervised at all times when working with children.

(C) On-Site Non-Provider Documentation. No On-Site Non-Provider shall be in unsupervised contact with any child at a Child Care Facility. The following documentation and information for each On-Site Non-provider must be in the facility file:

- (1) Verification issued by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or being completed, for the On-Site Non-Provider within two (2) years previous. If the On-Site Non-Provider is a minor, then the parents of the minor must sign a release so that the juvenile justice review may be completed.
- (2) A signed release to obtain the applicant's records from the Child Abuse Registry, if any.
- (3) The name and address of the Child Care Facility where the On-Site Non-Provider is employed or will be present at the Facility.

(D) Location of Certification and Documentation. The certification and documentation shall be kept upon the premises of any Child Care Facility where Child Care Worker or an On-Site Non-Provider works, resides, or regularly visits. The certificate or documentation shall be promptly made available upon request by any member of the public or by the Fire Marshall, Building Official or law enforcement officer.

(E) The term of the certificate is for two (2) years. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-5: LICENSE AND CERTIFICATION EXCLUSIONS: Nothing in this Chapter shall be construed to apply to:

(A) The occasional care of a child by his or her neighbors, relatives or friends, as long as such care is not provided in a Child Care Facility of any type.

(B) Public, Private or parochial educational facilities in which children of five years of age or older are taught a curriculum approved by the Idaho State Board of Education.

(C) Facilities providing temporary care for children whose parents remain on the premises at all times.

(D) Summer day camps, programs, religious schools and other summer activities operating less than a total of fourteen (14) days during a calendar year.

(E) Child Care of Relatives.

(F) State licensed foster care facilities and homes.

(G) Persons employed to care for children in the home where such children reside, provided the home is not otherwise classified as a Child Care Facility.

(H) Hospitals, clinics or rehabilitative facilities whose primary purpose is to provide medical care, rehabilitation services or therapy.

(I) Volunteers who provide educational or training services for children at a Child Care Facility for no more than two (2) hours in any day while under the supervision of a Certified Child Care Worker.

(J) Students who are participating in a publicly sponsored or funded educational program providing work experience in child care, child development, nutrition, or other child related subjects, provided such students are supervised by a Certified Child Care Worker at all times while the student is in contact with children on the Premises. (Ord. 2759, 06-24-08)

6-3-6: REVOCATION OF CHILD CARE FACILITY LICENSE, CHILD CARE WORKER CERTIFICATION OR NON-SITE NON-PROVIDERS CERTIFICATION:

(A) The following shall constitute grounds for revocation of a Child Care Facility license, Child Care Worker certification or On-Site Non-Providers documentation, or shall constitute grounds for a misdemeanor citation:

- (1) Use of any tobacco product, alcoholic beverage, or illegal controlled substance by any Owner, Operator, Child Care Worker or On-Site Non-Provider on the premises of any Child Care Facility while Child Care is being provided.
- (2) Knowingly keeping or storing firearms at a Child Care Facility while Child Care is being provided, unless such firearms are placed in a securely locked cabinet or storage area.
- (3) Knowingly allow pets or animals to have contact with the children when the children are eating meals or snacks.
- (4) Failure to keep and maintain immunization records for each child receiving Child Care at a Child Care Facility, as required by Section 39-1118, Idaho Code.
- (5) The employment or use of any employee if such employee does not have a Certificate as required under this Chapter.
- (6) The failure by the Owner of a Child Care Facility to notify the City Clerk of any change of ownership of the Child Care Facility within three (3) business days after such change of ownership becomes effective. For the purposes hereof a "change of ownership" shall be defined as a transfer of a controlling interest in any sole proprietorship, partnership, corporation, limited liability company, or other lawful form of business organization.

- (7) Any knowing violation by an Owner, Operator, Child Care Worker or On-Site Non-Provider of any of the provisions of this Chapter.

(B) In the event there is good cause to believe that a Child Care Facility, Child Care Worker or On-Site Non-Provider has knowingly violated the provisions of subsection (A) hereof, the City Clerk shall notify the licensee or certificate holder of the nature of the alleged violation and shall notify the licensee of the time and place of a hearing before the City Council to consider whether or not the licensee's license or certification should be revoked. At such hearing, the licensee shall be afforded an opportunity to produce witnesses, submit documentary evidence and to otherwise submit testimony and evidence in opposition to the proposed revocation or suspension. At the conclusion of the hearing, the City Council may suspend or revoke the license or certification for such period of time as it deems appropriate. In the event any license or certification is revoked, the licensee or certificate holder shall not apply for or receive a new license or certification within one (1) year after the date of such revocation. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-7: OUTDOOR SPACE PER CHILD:

(A) As a condition for continued operation and licensure of any Child Care Facility, the outdoor space shall be as follows:

- (1) For Child Care Centers and Group Child Care Facilities only, outdoor play areas should allow for at least 60 square feet of outdoor play area for each child that is playing outside at a time. A determination should be made by the provider of the total outdoor play area, to determine the maximum amount of children that can play outside at a time.
- (2) Outdoor play areas shall adjoin, or be safely accessible to, the indoor area.
- (3) Outdoor play areas on the premises shall be enclosed by a fence or wall at least four (4) feet in height. Fences or walls shall be free from sharp protruding edges. Gates shall be secured, so that children cannot leave without an adult. The fence shall be designed so that a young child cannot climb or squeeze under or through the fence. This provision shall only apply to Child Care Facilities who come into existence after this section becomes law.
- (4) Pools, hot tubs, ponds and other bodies of water that are on the daycare facility premises must provide the following safeguards:
 - (a) The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements:

- (i) The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, surround all sides of the pool and have a gate that is self-closing and that has a self-latching mechanism in proper working order out of the reach of young children;
 - (ii) If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened;
 - (iii) Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool.
 - (b) If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child.
 - (c) Wading pools must be empty when not in use.
 - (d) Children must be under direct supervision of an adult staff member while using the pool, hot tub, pond or other body of water.
 - (e) A minimum of four (4) foot high fence must be present that prevents access from the daycare facility premises if the daycare premises are adjacent to a body of water.
- (5) Adequate shade areas shall be provided.
- (6) The outdoor play area shall be free of the following hazardous conditions.
- (a) Concrete or asphalt shall not be used under outdoor playground equipment, except wheel toys.
 - (b) The outdoor play area shall be well-drained.
 - (c) Playground equipment which is not designed to be portable shall be securely anchored so that it cannot be tipped over by an adult.

(d) The outdoor play area shall not have any sharp or broken objects, or areas where body limbs may become trapped, or strangulation may occur.

(7) Stairways or steps in the outside area which are used by the children shall have hand railings of a height no greater than 3 feet. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-8: LICENSES/CERTIFICATION, DENIAL, SUSPENSION OR REVOCATION:
A license or certification applied for or issued under this Chapter may be denied, suspended or revoked if any criminal history investigation reveals that the applicant, licensee or On-Site Non-Provider has engaged in conduct which could pose a risk of harm to the health, safety, and welfare of the children who are or will be under the direct care of any potential applicant or current licensee. This provision shall include all convictions, judgments, withheld judgments, and guilty pleas of any type. Examples of conduct or events, but not limited to the following, which can pose a risk to children and are therefore grounds for denial, suspension or revocation include:

(A) Having been found guilty of, pled guilty to, or admitted to conduct constituting a violation of a criminal law, regardless of the form of judgment, including, but not limited to, any felony, any misdemeanor involving moral turpitude or violence, any stalking or harassment of another person whether directly or indirectly Title 37, Chapter 27, Idaho Code, or similar provisions in another jurisdiction, within the past ten (10) years;

(B) Having been found guilty of, pled guilty to, regardless of the form of judgment, or admitted to any offense involving neglect or any physical injury to, or other abuse of, a child, including any sex crime as defined in Idaho Code 18, Chapter 66; Idaho Code; rape as defined in Title 18, Chapter 61, Idaho Code; injuring a child as defined in Section 18-1501, Idaho Code; selling or bartering a child as defined in Section 18-1511, Idaho Code; sexually abusing or exploiting a child as defined in Sections 18-1506, 18-1506A, and 18-1508, Idaho Code; disseminating obscene material to minors as provided in Sections 18-1513, and 18-1515, Idaho Code; or similar provisions in another jurisdiction;

(C) Having been committed pursuant to Title 66, Chapter 3, Idaho Code or similar provision in another jurisdiction, or having been taken into alcohol or mental protective custody, as a result of alcohol, drug, or mental health issues, unless such individual has been released from the protective custody or community treatment center and the individual presents no threat or danger to himself or herself or to any child.

(D) Having been found guilty of or received a withheld judgment for a crime involving any controlled substance;

(E) Having his or her parental rights affected by a child protection action under Section 16-1601 et. seq., Idaho Code or child custody termination action under Section 16-2001 et. seq.; Idaho Code or similar provisions in another jurisdiction;

(F) Having been found guilty of or received a withheld judgment of any provision of Section 39-1113, Idaho Code;

(G) Violating any of the terms of this Chapter;

(H) Supplying false information, or refusing or failing to disclose any information required on the application form, or refusing to authorize the criminal background investigation required by this Chapter.

(I) Having a substantiated claim of abuse and neglect against any child from the Child Abuse Registry with the Department. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-9: STAFFING REQUIREMENTS: All daycare providers shall follow the following staff to child ratio:

(A) Point System for Family Child Care Facilities. A maximum of twelve (12) points using the following points designation, will be allowed per certified staff member. Any child, even if that child is not being watched for compensation, under the age of five (5) years old will be counted in the ratio if they are present at the facility or home.

A child 0-12 months of age	2 points (maximum of 2 enrolled)
A child 13 -24 months of age	1.5 points (maximum of 4 enrolled)
A child 25 months through 4 years of age	1 point
A child 5 years and up	.5 points

(B) Ratio System for Group Child Care and Child Care Center Facilities. The following worker to child ratio shall be used for Group Child Care and Child Care Center Facilities:

(1) For those facilities who have a separate classroom for the children of the same age group, the ratio is as follows:

children.	A room with children from 0-12 months of age:	1	worker	per	4
children	A room with children from 13-24 months of age:	1	worker	per	6
children	A classroom with children from 25-36 months of age:	1	worker	per	8
children	A classroom with children from 3-4 years of age:	1	worker	per	12
children	A classroom with children 5 years of age or older:	1	worker	per	18

(2) For those facilities who combine age groups into a single room, then a point system shall be used. A maximum of twelve (12) points using the following points designation, will be allowed per certified staff member.

A child 0-12 months of age:	2 points (maximum of 2 per worker)
A child 13 -24 months of age:	1.5 points (maximum of 4 per worker)
A child 25 months through 4 years of age:	1 point
A child 5 years and up:	.5 points

(C) Service staff, such as cooks, janitors, bus drivers, or other on-site non-providers, shall not be counted in the required staff-child ratio unless they are licensed as a Child Care Worker, and are also providing child care at the licensed facility for a scheduled period of not less than twenty (20) hours per week. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-10: RECORD MAINTENANCE: Each Child Care Facility shall maintain the following records on the premises at all times while the facility is in operation and make the same available upon request by any designated person set forth in Section 6-3-12 of this Title:

(A) A current facility license which shall be on display in a public area of the facility.

(B) A copy of each Child Care Worker Certification for each employee.

(C) A copy of all On-Site Non-Providers' documentation.

(D) A separate file shall be maintained of each child receiving child care on the Premises. Said record shall contain the child's name, date of birth, address, parent/guardians name and contact information including work phone and/or cell phone numbers.

(E) Immunization records for each child as required by the State of Idaho, Idaho Code § 39-1118 and Idaho State Regulation 16.02.11.

(F) A daily listing of the children who are enrolled and who were actually cared for that day at the facility.

(G) A daily listing of the staff on duty and the hours worked.

(H) Medical release for each child signed by each parent or guardian. (Ord. 2759, 06-24-08)

6-3-11: RIGHT OF ENTRY FOR GOVERNING OFFICIALS: Every Facility shall, upon presentation of identification, allow the Fire Marshall, Fire Chief, Building Official, Police Officer, Idaho Department of Health and Welfare officer, Code Enforcement Officer, EIPHD

Representative, City Clerk or other designated City Official immediate entry to the Child Care facility for the purposes of inspection for compliance with the terms of this Chapter. The license of any Child Care Facility or an employee's certification may be denied, suspended or revoked if such provider refuses to allow entry. (Ord. 2759, 06-24-08)

6-3-12: REPORTING OF ABUSE, ABANDONMENT OR NEGLECT: Pursuant to Idaho Code Section 16-605, any Child Care Facility, personnel or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the Idaho Department of Health and Welfare. Any employee of a Child Care facility shall also report any incident to their manager/owner. (Ord. 2759, 06-24-08)

6-3-13: LIABILITY: This Chapter is not intended to impose or create any private cause of action against the City, its agents, officials or employees for any loss or damage based upon the failure of any Child Care Facility, or the owner or operator thereof, to meet the standards contained in this Chapter or failure of such persons to enforce the standards and regulations adopted by this Chapter. (Ord. 2759, 06-24-08)

6-3-14: PENALTY: In addition to the revocation procedures as set forth in section 6-3-6(B), any willful violation of this Chapter shall be a misdemeanor. (Ord. 2816, 6-11-09)