

## **CHAPTER 3 DAY CARE**

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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:** Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

**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.

**BUILDING OFFICIAL:** The Building Official of the City as designated under the International Building Code adopted by the City.

**CERTIFIED CHILD CARE WORKER:** A person having obtained a Child Care Worker Certificate from the City for working in a Child Care Facility.

**CHIEF OF POLICE:** The Chief of Police of the City, or his or her nominee.

**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.

**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.

**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).

**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.

**CHILD CARE FACILITY LICENSE:** Any child care facility license required by this Chapter.

**CHILD CARE WORKER:** A person who provides child care at a Child Care Facility.

**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.

**CONTACT:** Verbal communication with and in the presence of a child or the act of being in immediate physical proximity to a child.

**CRIMINAL BACKGROUND INVESTIGATION:** A background investigation performed pursuant to Idaho Administrative Code, Section 16.05.06.

**DEPARTMENT:** The Idaho Department of Health and Welfare.

**DIRECTOR OF THE COMMUNITY DEVELOPMENT SERVICES DEPARTMENT:** The Director of the Community Development Services Department of the City, or his or her nominee.

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

**FACILITY:** The generic term referring to a Child Care Center Facility, Group Child Care Facility or Family Child Care Facility.

**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.

**FIRE MARSHAL:** The Fire Marshal of the City of Idaho Falls, or his or her nominee.

**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.

**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.

**MEMBER OF THE HOUSEHOLD:** Any person who resides in, or on the property of, a facility providing Child Care.

**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.

**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.

**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.

**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.

**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.

**PERSON:** Any individual, partnership, association, corporation, limited liability company or private organization of any kind.

**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.

**REGULAR:** A frequency of at least once each calendar week.

RELATIVE: Individuals related to a child by blood, marriage or adoption within the second degree of consanguinity.

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

VISITOR: An individual who is a guest or invitee at a Child Care Facility on a random or infrequent basis.

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; Ord. 3253, 5-13-19; Ord.3332, 09-10-20)

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.

and

- (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 Marshal 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.
- (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:

(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 Marshal 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:

and

- (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; and
  - (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 Marshal 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 Clerk shall review the application and determine whether or not the application is complete. If the 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 and there is compliance with all provisions of this Chapter, the Clerk shall issue a license. If the application is incomplete in any respect, the Clerk shall promptly notify the applicant that the application is incomplete and shall specify the items which the 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 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) and proof of compliance with this Chapter 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; Ord. 3253, 5-13-19; Ord. 3308, 6-18-20)

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 (16) and seventeen (17) 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 Clerk, accompanied by the following certificates and information:

- (1) A current certificate issued by the Red Cross, the Fire Marshal 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 for the applicant within two (2) years previous.
- (3) A birth certificate or picture identification evidencing the applicant's age.

- (4) 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.
- (5) The Clerk shall issue a Provisional CCWC, valid for forty-five (45) days, once the applicant's background check has been completed and cleared. A Child Care Worker may work under a Provisional CCWC.
- (6) The Clerk shall issue a CCWC when the applicant delivers to the Clerk a copy of his or her Child Abuse Registry records, provided that the Child Abuse Registry does not contain any records regarding the applicant. The term of a CCWC is five (5) years.
  - a. In the event that the Child Abuse Registry indicates that the applicant is a child abuser, the applicant's Provisional CCWC shall be immediately revoked.

(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 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) The name and address of the Child Care Facility where the On-Site Non-Provider is employed or will be present at the Facility.
- (3) A birth certificate or picture identification evidencing the applicant's age.
- (4) The Clerk shall issue Provisional On-Site Non-Provider Documentation, valid for forty-five (45) days, once the applicant's background check has been completed and cleared. A On-Site Non-Provider may reside or be present at the Child Care Facility under Provisional On-Site Non-Provider Documentation.

(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 Marshal, Building Official or law enforcement officer. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11; Ord. 3123, 6-19-17; Ord. 3213, 9-13-18; Ord. 3308, 6-18-20)

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

(A) The following shall constitute grounds for denial or 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 violated the provisions of subsection (A) of this Subsection, the 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 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 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; Ord. 3308, 6-18-20)

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 shall be denied, suspended, or revoked:

A. Where Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner:

1. Has been found guilty of, plead guilty to, received a withheld judgment, or admitted to the elements of any offense involving neglect, any physical injury, or other abuse of a child, including the following enumerated crimes, or any substantially similar provision



of a foreign criminal violation, notwithstanding the form of judgment:

- a. Felony injury of a child, section 18-1501, Idaho Code.
- b. The sexual abuse of a child under sixteen (16) years of age, Section 18- 1506, Idaho Code.
- c. The ritualized abuse of a child under eighteen (18) years of age, Section 18-1506A, Idaho Code.
- d. The sexual exploitation of a child, section 18-1507 or 18-1507A, Idaho Code.
- e. Sexual abuse of a child under the age of sixteen (16) years, Section 18- 1506, Idaho Code.
- f. Lewd conduct with a child under the age of sixteen (16) years, Section 18-1508, Idaho Code.
- g. The sale or barter of a child for adoption or other purposes, Section 18- 1511, Idaho Code.
- h. Murder in any degree, Section 18-4001 or 18-4003, Idaho Code.
- i. Assault with intent to murder, Section 18-4015, Idaho Code.
- j. Voluntary manslaughter, Section 18-4006, Idaho Code.
- k. Rape, Section 18-6101, Idaho Code.
- l. Incest, Section 18-6602, Idaho Code.
- m. Forcible sexual penetration by use of foreign object, Section 18-6608, Idaho Code.
- n. Abuse, neglect, or exploitation of a vulnerable adult, Section 18-1505, Idaho Code.
- o. Aggravated, first degree, second degree, and third-degree arson, Sections 18-801 through 18-805, Idaho Code.
- p. Nonconsensual sexual contact that is prohibited by Section 18-6605, Idaho Code.
- q. Kidnapping, Sections 18-4501 through 18-4503, Idaho Code.
- r. Mayhem, Section 18-5001, Idaho Code.
- s. Poisoning, Section 18-4014 or 18-5501, Idaho Code.

- t. Robbery, Section 18-6501, Idaho Code.
  - u. Stalking in the first degree, Section 18-7905, Idaho Code.
  - v. Video voyeurism, Section 18- 6609, Idaho Code.
  - w. Enticing of children, Section 18-1509 or 18-1509A, Idaho Code.
  - x. Inducing individuals under eighteen (18) years of age into prostitution, Section 18- 5609, Idaho Code.
  - y. Inducing person under eighteen (18) years of age to patronize a prostitute, Section 18-5611, Idaho Code.
  - z. Any felony punishable by death or life imprisonment.
  - aa. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.
  - bb. Felony domestic violence, Section 18-918(2), Idaho Code.
  - cc. Any offense requiring registration on a state sex offender registry or the national sex offender registry.
  - dd. A felony controlled-substance offense.
  - ee. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this Subsection.
2. Had his or her parental rights restricted or terminated by a Child protection action under Idaho Code, Section 16-1601 et seq., or Child custody termination action under Idaho Code, Section 16-2001 et seq.
  3. Where a registered sex offender resides on the Premises where Day Care services are provided.
- B. Where Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner has been found guilty of, plead guilty to, or received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or any substantially similar provision of foreign criminal violation, notwithstanding the form of judgment(s) for any offense involving neglect, any physical injury to, or other abuse of a child, or any of the following offenses or a similar provision in another jurisdiction, for a period of ten (10) years immediately preceding the date of application for license or renewal:

1. Aggravated assault, Section 18-905, Idaho Code.
  2. Aggravated battery, Section 18- 907(1), Idaho Code.
  3. Burglary, Section 18-1401, Idaho Code.
  4. Felony theft, Sections 18-2403 and 18-2407(1), Idaho Code.
  5. Forgery of a financial transaction card, Section 18-3123, Idaho Code.
  6. Fraudulent use of a financial transaction card or number, Section 18-3124, Idaho Code.
  7. Forgery or counterfeiting, Chapter 36, Title 18, Idaho Code.
  8. Misappropriation of personal identifying information, Section 18-3126, Idaho Code.
  9. Insurance fraud, Section 41-293, Idaho Code.
  10. Damage to or destruction of insured property, Section 41-294, Idaho Code.
  11. Public assistance fraud, Section 56-227, Idaho Code.
  12. Provider fraud, Section 56-227A, Idaho Code.
  13. Attempted strangulation, Section 18-923, Idaho Code.
  14. Misdemeanor injury to a child, Section 18-1501(2), Idaho Code.
  15. Disseminating obscene material to minors, as defined in Sections 18-1513 through 18- 1515, Idaho Code.
  16. 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this Subsection.
- C. Where Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner has been found guilty of, plead guilty to, or received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or any substantially similar provision of foreign criminal violation, notwithstanding the form of judgment(s) for any offense involving neglect, any physical injury to, or other abuse of a child, or any of the following offenses or a similar provision in another jurisdiction, for a period of five (5) years immediately preceding the date of application for license or renewal:
1. Transporting a minor in a motor vehicle while under the influence, Section 18-1501(3), Idaho Code.
  2. Violation of a Civil Protection Order or No Contact Order, Section 18-920, Idaho Code.

3. A misdemeanor controlled-substance related offense.
  4. Misdemeanor domestic violence, Section 18-918(3), Idaho Code.
  5. Misdemeanor Assault or Battery, Sections 18-902 and 18-903, Idaho Code
  6. Stalking in the second degree, Section 18-7906, Idaho Code.
  7. Disturbing the Peace, Section 18-6409, Idaho Code
  8. Petit Theft, Section 18-6409
- D. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner, where there is evidence demonstrating that they have been committed pursuant to Title 66, Chapter 3, Idaho Code, or similar provision in another jurisdiction, as a voluntary or involuntary patient for mental health, drug, or alcohol treatment, within the past year from the date of application.
- E. For any Child Care Facility, unless all applicable codes, and other pertinent provisions of all City ordinances, including health requirements herein, as far as can be determined, are being complied with.
- F. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner, where there is evidence demonstrating to the City that health or safety problems exist or are probable. No Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner shall be qualified to receive a license under this Chapter for a period of no less than one (1) year from the date of the health and/or safety problems which resulted in denial or revocation of a license under this Chapter.
- G. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; Spouse or significant other of an Owner presiding at the Premises, who has supplied false or misleading information, failed or refused to disclose any information required on the application form, or refused to authorize the police investigation required herein. Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner presiding at the Premises shall be able to apply to receive a license under this Chapter for a period of less than six (6) months from the date of the denial, suspension, or revocation of the license under this Subsection.
- H. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On- Site Non-Provider; spouse or significant other of an Owner presiding at the Premises, who has violated any of the provisions of this Chapter during licensure other than of 6-3-8(A) of this Chapter. No Applicant; Licensee; Owner; Operator; Child Care Worker;

Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner presiding at the Child Care Facility shall be qualified to receive a license under this Chapter for a period of less than six (6) months from the date of the denial or revocation of the license under this Subsection.

I. For any applicant who has a current active arrest warrant for a crime which, if convicted, would subject them to the limitations in this section. Nothing in this section shall be interpreted to disqualify any applicant who

1. Is or has been merely charged with a disqualifying crime; or
2. Has had a disqualifying criminal charge dismissed; or
3. Has been found not guilty of a disqualifying crime.

J. The applicant falsifies, omits, or otherwise intentionally misrepresents any information on the application. An applicant who has falsifies, omits, or otherwise intentionally misrepresents any information on the application shall be ineligible to reapply for licensing for a period of forty-two (42) days. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11; Ord. 3308, 6-18-20)

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 Marshal, 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)