

CHAPTER 15 - CHILD DAYCARE HOMES

SECTION:

8-15-1. - DEFINITIONS.

For the purposes of this Chapter, the following terms, phrases, words and derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory.

<i>APPLICANT.</i>	A person who submits to the Health Department an application for a permit or the renewal of a permit to conduct, operate or maintain a child daycare home under this Chapter.
<i>CHILD DAYCARE HOME.</i>	A family home which regularly provides daycare for less than twenty four (24) hours per day and is issued a license by the Illinois Department of Children and Family Services (DCFS) to care for more than three (3) and no more than twelve (12) children includes the family's natural, foster, or adopted persons under the age of twelve (12). The term does not include facilities that receive children from a single household.
<i>DEPARTMENT.</i>	The Health Department of the City of Evanston, charged with the responsibility of enforcing and administering the provisions of this Chapter.
<i>PERSON.</i>	Any person, firm, partnership, association, corporation, company or any organization of any kind.

(Ord. 39-0-82; Ord. 66-0-82; Ord. 5-0-96; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-1)), 1-23-2012)

8-15-2. - REGISTRATION PERMIT REQUIRED.

No person shall conduct, operate or maintain or permit to be conducted, operated or maintained or participate in the conduct, operation or maintenance of a child daycare home within the City unless the City has issued a registration permit as provided for in this Chapter and which is in full force and effect.

(Ord. 39-0-82; Ord. 66-0-82; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-1)), 1-23-2012)

8-15-3. - APPLICATION FOR PERMIT.

Application for such registration permit shall be made to the City Manager or his/her designee in such form and manner as may be prescribed by the Department. The application shall be under oath and shall contain:

- (A) The location of the daycare home for which a permit is sought;
- (B) The number of children to be cared for;
- (C) The name and address of the applicant if an individual, and if a firm, partnership or association, the principal address of the corporation and name and address of its officers;
- (D) The name of the person(s) under whose management or supervision the daycare home will be conducted;
- (E) A copy of the DCFS License or other written notification from DCFS approving the daycare;
- (F)
 1. Written authorization from the applicant, employee, caregiver, or anyone else over the age of thirteen (13) years residing in the home or having direct contact with the children, for an investigation to determine if such person has ever been convicted or found guilty of a crime listed in Subsection 8-15-5(B) of this Chapter. This authorization shall indicate the scope of the inquiry and the agencies which may be contacted, and, in the case of persons other than the applicant him or herself or herself, shall include a written release authorizing release of any information obtained on convictions and findings of guilty to the applicant. The Director of the Health Department shall request information and assistance from any appropriate federal, state, or local governmental agency as part of the authorized investigation.
 2. Information concerning convictions or findings of guilty of a permit applicant investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon request, to such applicant prior to final action by the department on the application. Such information on convictions or findings of guilty shall be provided to the operator of such home, and, upon request, to the person investigated. Any information concerning criminal convictions or findings of guilty obtained by the department shall be confidential and may not be transmitted outside the department, except as required herein, and may not be transmitted to anyone within the department except as needed for the purpose of evaluating an application or a child daycare home employee, caregiver, or other person investigated pursuant to this Section. Only information and standards which bear a reasonable and rational relation to the performance of a child daycare home shall be used by the department or any permittee or permit applicant. Any employee of the department or a child daycare home receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions or findings of guilty of a child daycare home applicant, employee, caregiver, or other person investigated shall be guilty of a violation of this code unless a release of such information is authorized by this Section, or by a court of competent jurisdiction, or by the person investigated.
 3. A statement that the applicant will not knowingly employ or permit to reside on the premises for which a permit is sought or to give direct care to the children served, anyone who has been adjudicated as a delinquent minor who has committed any offense(s) set forth in Section 8-15-5 of this Chapter under the Illinois Juvenile Court Act, 705 ILCS 405/1 et seq., who has been declared a sexually dangerous person, or who has been similarly adjudicated under the laws of any other state.
 4. A written statement from the applicant and from employees, prospective employees, caregivers, and anyone else over the age of thirteen (13) years residing in the home or having direct contact with the children, that such person has never abused alcohol or drugs.
 5. A child daycare home may hire, on a probationary basis, any employee or caregiver authorizing an investigation of criminal convictions or findings of guilty under this Section, pending the result of such investigation. Employees and/or caregivers shall be notified prior to hiring that such employment may be terminated on the basis of criminal history information received by the home pursuant to this Section.
- (G) 1. All child daycare home permit applicants and all current and prospective employees and caregivers of a child daycare home, as a condition of employment, shall authorize in writing on a form prescribed by the department, an investigation of the central register, as defined in the Abused

and Neglected Child Reporting Act, 325 ILCS 5/1 et seq., to ascertain if such applicant, employee, or caregiver has been determined to be a perpetrator in an indicated report of child abuse or neglect.

2. All child daycare homes as a condition of receiving a permit pursuant to this Chapter shall maintain such information which demonstrates that all current employees, caregivers, applicants for employment, and persons over the age of thirteen (13) years residing in the home or having direct contact with the children cared for, have authorized an investigation of the central register as hereinabove required.
3. Such information concerning a permit applicant, employee, caregiver, prospective employee, or person over the age of thirteen (13) years residing in the home or having direct contact with the children cared for, obtained by the department, shall be confidential and exempt from public inspection and copying as provided under the Freedom of Information Act, 5 ILCS 140/7, and such information shall not be transmitted to anyone within the department except as needed for the purposes of evaluation of an applicant for a permit or for consideration by a child daycare home of an employee or caregiver. Any employee of the department who gives or causes to be given any confidential information concerning any child abuse or neglect reports about a child daycare home applicant, or child daycare home employee, or caregiver, or person over thirteen (13) years residing in the home or having direct contact with the children cared for, shall be guilty of a violation of this Section unless release of such information is authorized by the Abused and Neglected Child Reporting Act, 325 ILCS 5/11.1, by a court of competent jurisdiction, or as otherwise authorized by law.

(H) Such other information as the director may request.

(Ord. 113-0-08; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-3)), 1-23-2012)

8-15-4. - INSPECTION.

The Director of the Health Department may cause an inspection to be made of the child daycare home upon receipt of an application for a permit hereunder, or based on a complaint or upon reasonable cause to believe that a violation of this Chapter may exist. The applicant shall afford representatives of the City's departments reasonable opportunity to inspect the premises for which the permit is requested and to interview the applicant's agents and employees or caregivers and any child or other person who maintains his/her residence in the particular home for which a permit is being requested.

(Ord. 99-0-88; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-4)), 1-23-2012)

8-15-5. - GROUNDS FOR DENIAL OF PERMIT.

- (A) No applicant may receive a permit from the City Manager or his/her designee and no person may give direct childcare in a child daycare home who refuses to submit an application as required by Section 8-15-3 of this Chapter.
- (B) No applicant may receive a permit from the City Manager or his/her designee and no person may be employed by, or may work in or reside on the premises of a child daycare home holding a permit from the City Manager's Office or other office charged with enforcing this ordinance who has been declared a sexually dangerous or sexually violent person under the "Sexually Dangerous Persons Act," 725 ILCS 205/0.01 et seq., as amended, or convicted of committing or attempting to commit any of the following offenses or who has been adjudicated as a delinquent minor who has committed or attempted to commit any of these offenses:
 1. Set forth in the criminal code, 720 ILCS 5/1 et seq.
 - (a) Murder;
 - (b) A sex offense under article 11 (720 ILCS 5/11-1 et seq.), except offenses described in Sections 11-7, 11-8, 11-12, 11-13 and 11-18;

- (c) Kidnapping;
 - (d) Aggravated kidnapping;
 - (e) Child abduction;
 - (f) Aggravated battery of a child;
 - (g) Criminal sexual assault;
 - (h) Aggravated criminal sexual assault;
 - (i) Criminal sexual abuse;
 - (j) Aggravated sexual abuse;
 - (k) Public indecency;
 - (l) Child pornography;
 - (m) Aggravated incest;
 - (n) Exploitation of children;
 - (o) Tattooing the body of a minor;
2. Violation of the Controlled Substances Act, 720 ILCS 570/101 et seq.;
 3. Violation of the Cannabis Control Act, 720 ILCS 550/1 et seq.;
 4. An offense in any other state, or a Federal offense, the elements of which are similar and bear a substantial relationship to any offenses enumerated in this Subsection 8-15-5(B).
- (C) The physical health of the applicant or other persons directly responsible for the care and welfare of the children is not in the best interest of the children.
 - (D) The City Manager or his/her designee has determined that the premises are inadequate to ensure the safety and well-being of the children supervised.
 - (E) The day care home applicant does not have a current license under the Child Care Act, 225 ILCS 10/1 et seq., if one is required for the home.
 - (F) The City Manager or his/her designee has a reasonable belief that denial of the permit is in the best interests of the children.

(Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-5)), 1-23-2012)

8-15-6. - REVOCATION OR REFUSAL TO RENEW PERMIT, GROUNDS.

The Department may revoke or refuse to renew the permit of any child day care home should the holder of a permit:

- (A) Fail to maintain standards prescribed and published by the Department;
- (B) Violate any of the provisions of the permit;
- (C) Furnish or make any materially misleading or any materially false statement or report to the Department;
- (D) Refuse to submit to the Department any reports or refuse to make available to said office(s) any records required by said office(s) in making investigation of the home for permit purposes;
- (E) Fail or refuse to submit to an inspection by the Department;
- (F) Fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of inspection;

- (G) Fail to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care as otherwise required by any law, regulation, or ordinance applicable to the location of such day care home;
- (H) Refuse to display permit;
- (I) Be the subject of an indicated report under Section 3 of the Abused and Neglected Child Reporting Act, 325 ILCS 5/3 et seq., or fail to discharge or sever affiliation with the child day care home of an employee or care-giver at the child day care home with direct contact with children who is the subject of an indicated report under Section 3 of the Act;
- (J) Fail to exercise reasonable care in the hiring, training, or supervision of child day care home personnel;
- (K) Fail to report suspected abuse or neglect of children within the child day care home, as required by the Abused and Neglected Child Reporting Act, 325 ILCS 5/1 et seq.;
- (L) Be a person whom the City Manager's Office or any other office tasked with enforcing this ordinance knows has repeatedly misused, or abused alcohol or drugs, and has not successfully participated in treatment, self-help groups, or other suitable activities, and the City Manager's Office or any other office tasked with enforcing this ordinance determines that because of such abuse, it is not in the best interest of the children served for the holder of the permit or any other person directly responsible for the care and welfare of the children to be operating or working in a child day care home.
- (M) Be convicted or found guilty of any offense(s) enumerated in Subsection 8-15-5(B) or be declared a sexually dangerous person.

(Ord. 99-0-88; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-6)), 1-23-2012)

8-15-7. - STANDARDS FOR ISSUANCE OF PERMIT.

Upon completion of such inspection, the City Manager or his/her designee shall issue an appropriate permit to the applicant for the child day care home, providing the City Manager or his/her designee finds and determines that the applicant meets the minimum standards of the Fire, Housing and Health Codes of this City Code and that such child day care home conforms to the requirements of this Chapter.

(Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-7)), 1-23-2012)

8-15-8. - TERM OF PERMITS.

The terminal date of the permit issued by the City Manager or his/her designee shall be the same as the terminal date of the permit issued by DCFS.

(Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-8)), 1-23-2012)

8-15-8-1. - PERMIT.

The City Manager or his/her designee shall provide for the issuance and renewal of permits for child day care homes. The permits shall be issued on forms prescribed by the Health Department. Permits shall not be transferable either as to place or person. The registered permit shall be displayed in a conspicuous place near the main entrance inside the home.

(Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-8-1)), 1-23-2012)

8-15-8-2. - PROVISIONAL PERMIT.

The City Manager or his/her designee may issue a provisional permit to any applicant for any period not to exceed six (6) months if the applicant is temporarily unable to comply with all of the requirements of this Chapter. Such provisional permit may be renewed but only for one additional period, not exceeding six (6) months, provided the applicant has made reasonable efforts to comply with such requirements.

(Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-8-2)), 1-23-2012)

8-15-9. - RECORDS AND REPORTS.

Every registrant shall keep and maintain such records and make such reports to the Department as it may reasonably require upon such forms as it may prescribe. Data from such reports and from applications on file within the City shall be made available by the Department to the Evanston community coordinated child care office.

(Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-9)), 1-23-2012)

8-15-10. - COMPLIANCE WITH LOCAL AND STATE CODES.

The premises used as child day care homes as defined by the City Code shall comply with the housing, zoning, fire and health provisions of the Code of the City for the type of structure being utilized. Such premises shall also comply with "Licensing Standards for Day Care Homes," 89 Illinois Administrative Code, Chapter III, Subchapter E, Part 406.

(Ords. 39-0-82, 66-0-82; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-10)), 1-23-2012)

8-15-11. - PENALTY.

Any person violating any of the provisions of this Chapter shall be fined not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate and distinct offense shall be considered as having been committed for each and every day on which any person shall be guilty of any such violation.

(Ords. 39-0-82, 66-0-82; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-11)), 1-23-2012)

8-15-12. - SUSPENSION OF PERMIT.

- (A) The Director of the Health Department may, upon written notice, without prior warning, notice, or hearing, suspend any permit to operate a child day care home upon a determination that such suspension is in the best interests of the children served.
- (B) Whenever a permit to operate a child day care home is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit to operate the child day care home is, upon service of the notice, immediately suspended and that an opportunity for an appeal pursuant to Section 8-15-11 will be provided if a written request for such appeal is filed with the Director of the Health Department by the holder of the permit within seven (7) days. If no written request for an appeal is filed within seven (7) days, the suspension is sustained. The Director of the Health Department shall end the suspension if reasons for suspension no longer exist.

(Ord. 99-0-88; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-12)), 1-23-2012)

8-15-13. - DAYCARE LOG REQUIRED.

- (A) Each child daycare permit holder shall maintain a daycare log listing information on each child (other than those living on the premises). Such log shall include for each child: the child's name and date of birth; and the names, addresses and phone numbers of the parent(s)/guardian(s).
- (B) A copy of such daycare log shall be filed with the Department prior to the initial opening of the child daycare home.
- (C) Each child daycare permit holder shall be responsible for updating the daycare log and providing the Department with a current copy.
- (D) Each child daycare permit holder shall, upon request, immediately provide a copy of the current child daycare log to the Department or the Police Department.
- (E) Failure to comply with this Section may result in a fine up to five hundred dollars (\$500.00) and/or a suspension or revocation of the child daycare permit.

(Ord. 64-0-99; Ord. No. 8-0-12, (49-0-11(exh. A, § 8-15-13)), 1-23-2012)