

ORDINANCE NO. 3493

AN ORDINANCE to amend and reordain Article A (GENERAL PROVISIONS), and to repeal Article C (DAY NURSERIES AND CHILDREN'S HOMES) and Article D (CHILD CARE HOMES) and to add a new Article C (DAY-CARE HOMES) to Chapter 3, Title 12 of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article A, Chapter 3, Title 12 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is repealed.

Section 2. That Chapter 3, Title 12 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and same hereby is amended by adding a new Article A to read as follows:

[The following is all new language]

ARTICLE A

General Provisions

Sec. 12-3-1 Definitions.

For purposes of this chapter, the following terms shall have the meanings provided below:

(1) "Adult" means any natural person of at least 18 years of age.

(2) "Child" means any natural person under 18 years of age.

(3) "Child-care services" means the regular provision, in exchange for compensation, of care, protection and guidance to from one to and including five children not related by blood or marriage to the care provider, while such children are separated from their parents, guardians or legal custodians, in a dwelling not the residence of one or more of the children, during a part of the day for at least four days of a calendar week.

(4) "Division of social services" means the component of the City of Alexandria department of human services responsible for administering the provisions of article C of this chapter.

(5) "Day-care home" means any residential building, or portion thereof, which is used to provide child-care services.

(6) "Nursery school" means a child day-care program for children from two to and including five years of age at which children two through four years of age attend no more than four hours per day and children five years of age attend no more than six and one-half hours per day, and which is operated primarily

for the educational development and instruction of two or more children who also are receiving care, protection, and guidance while separated from their parents.

Sec. 12-3-2 Zoning.

No day-care home or nursery school shall be registered under this chapter unless the land upon which the day-care home or nursery school is to be operated, or is operated, is zoned to permit such use.

Sec. 12-3-3 Performance of duties imposed by chapter.

It shall be unlawful for any person to fail, refuse or neglect to perform any duty imposed upon such person by this chapter.

Sec. 12-3-4 Day-care home regulations.

The division of social services shall issue regulations for day-care homes which shall be designed to ensure that such homes are operated in a manner conducive to the health, safety and welfare of the children who receive their services; provided, that such regulations shall not be more extensive in scope than state regulations applicable to family day-care homes, as defined in section 63.1-195 of the Virginia Code (1950), as amended.

Section 3. That Article C and Article D, Chapter 3, Title 12 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby are repealed.

Section 4. That Chapter 3, Title 12 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new Article C to read as follows:

[The following is all new language]

ARTICLE C

Day-Care Homes

Sec. 12-3-61 Purpose of article.

The purpose of this article is to ensure that child-care services provided in day-care homes in the city are safe and of good quality.

Sec. 12-3-62 Registration required.

It shall be unlawful for any person to operate a day-care home in the city without a registration issued by the division of social services pursuant to this article or in a manner not expressly authorized by such registration.

Sec. 12-3-63 Application for registration.

(a) Any person desiring to operate a day-care home shall apply for registration to the division of social services. In applying for registration, the applicant shall provide:

(1) The applicant's name, birthdate, address and phone number;

(2) The name, birthdate and address of every person who will provide or assist the applicant in the provision of child-care services in the proposed day-care home;

(3) The name, birthdate and relationship to the applicant (e.g., spouse, child) of every person living in the residence where the child-care services are to be provided;

(4) Certification from the Central Criminal Records Exchange for the applicant, for all persons who will provide or assist in the provision of child-care services in the proposed day-care home and for all adults who live in the proposed day-care home establishing that such persons have never been convicted of any offense involving the sexual molestation of a child or the physical or sexual abuse or rape of a child, or of murder, abduction for immoral purposes, sexual assault, failure to secure medical attention for an injured child, pandering, crimes against nature involving children, taking indecent liberties with children, neglect of children, obscenity or any offense identified in section 63.1-198.1 of the Virginia Code (1950), as amended;

(5) Certification from the Virginia department of social services for the applicant, for all persons who will provide or assist in the provision of child-care services in the proposed day-care home and for all adults who live in the proposed day-care home establishing that such persons have never been the subject of a founded complaint of child abuse or neglect;

(6) A completed certification form provided by the division of social services stating that the proposed day-care home complies with the regulations issued pursuant to section 12-3-4;

(7) Such additional information required by the division of social services to enable it to determine whether the proposed day-care home will comply with all requirements imposed by the regulations issued pursuant to section 12-3-4; and

(8) A registration fee of \$5.00.

Sec. 12-3-64 Processing of application.

After receipt of an application for registration, the division of social services shall examine the information provided therein and seek clarification or explanation if necessary, and the city shall inspect the proposed day-care home to ensure that it complies with fire and building code regulations. The division may also inspect and investigate the proposed day-care home to determine whether it will comply with the regulations issued pursuant to section 12-3-4 and will adequately provide for the health, safety and welfare of the children for whom child-care services will be provided.

Sec. 12-3-65 Action on registration.

(a) An application for registration under section 12-3-63 shall be denied if the division of social services finds that the applicant, any person who will provide or assist in the provision of child-care services or any adult who lives in the proposed day-care home has been convicted of any of the offenses described in section 12-3-63(4) or has been the subject of a founded case of child abuse or neglect, unless the division determines, after careful investigation, that, notwithstanding such conviction or founded case, the applicant is capable of providing child-care services consistent with the health, safety and welfare of the children who will be served and that the proposed home complies with all requirements imposed by the regulations issued pursuant to section 12-3-4. If an application for registration is denied under this subsection because of any adverse information appearing on a record obtained by the division of social services from the Central Criminal Records Exchange or the Virginia department of social services, the division shall provide the applicant a copy of the information upon which the denial was based.

(b) An application for registration under section 12-3-63 shall be granted if the division of social services makes no finding under subsection (a), determines that the proposed day-care home complies with all requirements imposed by the regulations issued pursuant to section 12-3-4 and determines that the applicant will adequately provide for the health, safety and welfare of the children for whom child-care services are to be provided. A registration issued under this section shall, at a minimum, contain the name of the applicant-operator of the registered day-care home, the address of the home, the names of all persons authorized to provide or assist in the provision of child-care services at the home, the names of all persons who live in the home, and the maximum number of children to be served at any one time at the home.

Sec. 12-3-66 Display of registration; provision of child-care information.

Any day-care home registered under this chapter shall display its registration conspicuously. In addition, any such day-care home shall provide to the parent, guardian or legal custodian of each child for whom child-care services is provided a pamphlet on child-care evaluation and standards prepared and provided by the division of social services.

Sec. 12-3-67 Change in operator, address or personnel; amendments to registration.

(a) No change in the operator or address of a registered day-care home may occur without the approval of the division of social services. If, following the registration of a day-care home, the person identified as the applicant-operator in the home's registration proposes to be replaced with another operator, or proposes to move the day-care home from the address stated in the home's registration, the original applicant-operator shall immediately notify the division of social services of the proposal in writing on a form provided by the division. With respect to the proposed new operator, the original operator shall provide the information described in subsections (4), (5) and, if applicable, (7) of section 12-3-63. If the proposed new operator has not been convicted of any of the offenses described in section 12-3-63(4) and has not been the subject of a founded case of child abuse or neglect, and the division determines that the day-care home will continue under the proposed new operator to provide child-care services consistent with the health, safety and welfare of the children it is serving, the division shall approve the proposed new operator and shall amend the registration of the home accordingly. With respect to the proposed new address, if the division determines that the new address meets the requirement of section 12-3-2, it shall approve the change in address and shall amend the registration of the home accordingly.

(b) An operator of a registered day-care home may not, without the approval of the division of social services, continue to provide child-care services if a person not identified in the registration of the day-care home provides or assists in the provision of child-care services at the home, or if an adult not identified in the registration lives in the home. If an operator proposes that one or more persons not identified in the registration provide or assist in the provision of child-care services at a registered home, or that one or more adults not identified in the registration live in the home, the operator of the home shall immediately notify the division of social services in writing on a form provided by the division. With respect to each such person, the operator shall provide the information

described in subsections (4), (5) and, if applicable, (7) of section 12-3-63. If such persons have not been convicted of any of the offenses described in section 12-3-63(4) and have not been the subject of a founded case of child abuse or neglect, and the division determines that, with such persons, the day-care home will continue to provide child-care services consistent with the health, safety and welfare of the children it is serving, the division shall approve the continued operation of the day-care home and shall amend the registration of the home accordingly.

Sec. 12-3-68 Inspection of day-care home.

The city may inspect any day-care home registered under this article on weekdays between 8:00 a.m. and 5:00 p.m.

Sec. 12-3-69 Revocation of registration.

(a) The registration of a day-care home may be revoked by the division of social services if it is determined that the home is in violation of applicable fire or building codes, that any person providing or assisting in the provision of child-care services or an adult living in the home has been convicted of an offense described in section 12-3-63(4) or has been the subject of a founded case of child abuse or neglect, that the home has served more children than the maximum number listed in its registration, that permission to inspect the home on a weekday between 8:00 a.m. and 5:00 p.m. has been denied, that the home has represented its registration as constituting official city approval of the child-care services it is providing, that the applicant has misrepresented or provided false information on or in conjunction with the application for the home, that the home is not complying with all requirements imposed by the regulations issued pursuant to section 12-3-4, or that the home is not being operated in a manner consistent with the health, safety and welfare of the children it is serving.

(b) No registration may be revoked without 10 days' written notice to the applicant-operator, at the address listed on the registration, which shall contain a statement of the reasons why the registration is being revoked. Unless the health, safety and welfare of the children being served by the home is immediately threatened, the notice shall inform the applicant-operator that he or she has 10 days within which to remove the reasons for the revocation or to establish that such reasons either do not exist or do not warrant the revocation of the registration. The notice shall also inform the applicant-operator that, prior to the expiration of this 10-day period, he or she may meet with the chief of the division of social services, or a designee, in order to present reasons why the registration should not be revoked. In the event that the reasons for the revocation have not been removed or negated within the 10-day period, the division shall

revoke the registration.

Sec. 12-3-70 Penalties.

Any person who violates section 12-3-62 shall be guilty of a class 4 misdemeanor. For purposes of this article, each day a person operates a day-care home without a registration or in a manner not authorized by a registration shall constitute a separate offense.

Sec. 12-3-71 Business license not required.

Persons operating a day-care home under a registration issued pursuant to this article shall not come within the provisions of article C, chapter 1, title 9 of this code.

Section 5. This ordinance shall become effective upon the date and at the time of its final passage.

PATRICIA S. TICER
Mayor

Final Passage: January 12, 1991