

ORDINANCE NO. 4559

AN ORDINANCE to amend and reordain TITLE 12 (Education, Social Services, and Welfare), CHAPTER 3 (Child Care) ARTICLE A (General Provisions) and ARTICLE B (Day Care Homes) of the Code of the City of Alexandria, Virginia, 1981, amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

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

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, of care, protection and guidance to at least one, and up to and including five children for compensation, 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. The provision of such care, protection and guidance by a grandparent solely to his or her grandchildren shall not constitute child-care services for the purposes of this chapter. Providers caring for six or more children or more than four children under the age of two shall be licensed by the Virginia Department of Social Services.
- (4) "Department of Human Services or Department" is the City department responsible for administering the provisions of article B of this chapter.
- (5) "Child care home" means any residential building, or portion thereof, which is used to provide child care services.

Sec. 12-3-2 Zoning.

No child care home shall be registered under this chapter unless the land upon which the child care home 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 Child care home regulations.

The Department of Human Services shall issue regulations for child 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 homes, as defined in section 63.2-100 of the Virginia Code (1950), as amended.

Secs. 12-3-5 through 12-3-60 reserved.

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

ARTICLE B
Child Care Homes

Sec. 12-3-61 Purpose of article.

The purpose of this article is to ensure that child care services provided in child 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 child care home in the city without a registration issued by the Department of Human 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 child care home shall apply for registration to the Department of Human Services. In applying for registration, the applicant shall provide:

- (1) The applicant's name, birth date, address and phone number;
- (2) The name, birth date and address of every person who will provide or assist the applicant in the provision of child care services in the proposed child care home;
- (3) The name, birth date 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 of a national criminal record check for the applicant, for all persons who will provide or assist in the provision of child care services in the proposed child care home and for all adults who live in the proposed child care home establishing that such persons have never been convicted of any barrier crime or offense as defined in section 63.2-1719 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 child

care home and for all persons, age 14 and older, who live in the proposed child care home establishing that such persons have never been the subject of a founded complaint of child abuse or neglect;

(6) A completed self-certification form provided by the Department of Human Services attesting that the proposed child care home complies with the regulations issued pursuant to section 12-3-4;

(7) Such additional information required by the Department of Human Services to enable it to determine whether the proposed child 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.

Sec. 12-3-64 Processing of application.

After receipt of an application for registration, the Department of Human Services shall examine the information provided therein and seek clarification or explanation if necessary, and the city shall inspect the proposed child care home to ensure that it complies with fire and building code regulations. The Department may also inspect and investigate the proposed child 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 Department of Human 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 child care home has been convicted of any barrier crime or any of the offenses described in section 63.2-1719 of the Virginia Code (1950) as amended or has been the subject of a founded case of child abuse or neglect. An application for registration under section 12-3-63 shall also be denied if the Department determines that the proposed child care home fails to comply with all requirements proposed by the regulations issued pursuant to section 12-3-4, or determines that the applicant will not adequately provide for the health, safety and welfare of the children for whom child care services are to be provided. If an application for registration is denied under this subsection because of any adverse information appearing on a record obtained by the Department of Human Services from the Central Criminal Records Exchange or the Virginia Department of Social Services, the Department 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 Department of Human Services makes no finding under subsection (a), determines that the proposed child 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 -child 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 child care home registered under this chapter shall display its registration conspicuously. In addition, any such child 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 Department of Human 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 child care home may occur without the approval of the Department of Human Services. If, following the registration of a child 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 care home from the address stated in the home's registration, the original applicant-operator shall immediately notify the Department of Human Services of the proposal in writing on a form provided by the Department. 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 barrier crime or 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 Department determines that the child 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 Department shall approve the proposed new operator and shall amend the registration of the home accordingly. With respect to the proposed new address, if the Department 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 and issue a new certificate.

(b) An operator of a registered child care home may not, without the approval of the Department of Human Services, continue to provide child care services if a person not identified in the registration of the child care home provides or assists in the provision of child care services at the home, or if a person, age 14 and older, 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 persons, age 14 and older, not identified in the registration live in the home, the operator of the home shall immediately notify the Department of Human Services in writing on a form provided by the Department. 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 barrier crime or 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 Department determines that, with such persons, the child 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 child care home and shall amend the registration of the home accordingly.

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

The city may inspect any child care home registered under this article at any time child care services are scheduled to be provided.

Sec. 12-3-69 Revocation of registration.

(a) The registration of a child care home may be revoked by the Department of Human 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 a barrier crime or offense described in section 63.2-1719 of the Virginia Code (1950) as amended, or any person living in the home, age 14 or older, 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 during any time the home is scheduled to provide child care 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 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 Director of the Department of Human 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 Department 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 child 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 child 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 3. That this ordinance shall become effective September 13, 2008.

WILLIAM D. EUILLE
Mayor

Final Passage: September 13, 2008