

Chapter 59 FAMILY DAY CARE HOMES*

***Cross references:** Building code, Ch. 3; fire prevention code, Ch. 8; licenses, Ch. 11; nursing homes and child care agencies, Ch. 16; child care centers, pre-schools, nursery schools, etc., Ch. 52.

- § 59-1. Policy, assurances.
- § 59-2. Definitions.
- § 59-3. License required, posting of license.
- § 59-4. Types of licenses.
- § 59-5. Applications for license.
- § 59-6. Investigation on receipt of application.
- § 59-7. Issuance of license.
- § 59-8. Denial of application.
- § 59-9. Renewal of license.
- § 59-10. Suspension of license.
- § 59-11. Revocation of license.
- § 59-12. Deferred compliance.
- § 59-13. Inspection period.
- § 59-14. License conditions.
- § 59-15. Modification.
- § 59-16. Personnel and household requirements.
- § 59-17. Care of children.
- § 59-18. Family day care homes in which less than four children are received.
- § 59-19. Penalties.
- § 59-20. Severability.

§ 59-1. Policy, assurances.

It is hereby declared to be the policy of the County of Arlington in the exercise of its police power for the protection of the public health, safety and general welfare to provide for the licensing and regulation of family day care homes in order to adequately protect the children of Arlington County. The facility licensed under this chapter shall operate in accordance with Titles VI and VII of the Civil Rights Act of 1964, which prohibit any distinction on the grounds of race, color, or national origin in providing to individuals any of its services or in employing staff. The facility shall provide the licensing authority annually with written assurance of such compliance.

§ 59-2. Definitions.

- (a) *Person* : Any natural person, or any association, partnership or corporation.
- (b) *Child* : Any natural person under eighteen (18) years of age.
- (c) *County manager* : The county manager of Arlington County, Virginia, in his role as the local board of public welfare or any of his duly authorized deputies or agents acting in his role as the local board or public welfare.
- (d) *Family day care home* : A private family home where nine (9) or fewer children are received, for a fee, for the care, protection and guidance during only part of the twenty-four (24) hour day, except children who are related by blood, adoption or marriage to the person who maintains the home.

§ 59-3. License required, posting of license.

It shall be unlawful to operate a family day care home as defined herein in which more than three (3) but less than ten (10) children are received, without a valid nonsuspended license issued pursuant to this chapter. Such license shall be posted in a conspicuous location within the licensed premises.

§ 59-4. Types of licenses.

(a) *Annual license* : One which is granted to a family day care home whose program, facilities, and operations meet the minimum standards for a license.

(b) *Provisional license* : One which is granted if the applicant is temporarily unable to completely comply with the requirements but does not endanger the health, safety and welfare of the children and under the condition that all of the requirements will be met within six (6) months from the date of its issuance. A provisional license is nonrenewable.

§ 59-5. Applications for license.

(a) Any person who intends to operate or maintain a family day care home for more than three (3) children and any person who operates or maintains a family day care home for more than three (3) children on the effective date of this chapter shall make application (on forms provided by the county manager) to the county manager for a license in the name of the person for the specified structure to which the application relates. No license issued pursuant to this chapter shall be transferable.

(b) Any person who intends to provide a family day care home in which four (4) through nine (9) children are to be received shall file an application for a license at least two (2) months in advance of the planned opening date.

§ 59-6. Investigation on receipt of application.

Upon receipt of the application, the county manager shall cause an investigation to be made of the activities, services and facilities of the applicant. The applicant shall afford the representatives of the county manager required to make the investigation reasonable opportunity to inspect all of the applicant's facilities and to interview the applicant or his agents and employees.

§ 59-7. Issuance of license.

(a) *Annual license* . Upon completion of the investigation, the county manager shall grant an annual license in writing to any applicant thereof upon production of evidence satisfactory to him that the applicant, his facilities, services and activities are in compliance with the provisions of this chapter, the Arlington County Code and the Code of Virginia.

(b) *Provisional license* . Upon completion of the investigation, the county manager shall grant a provisional license in writing to any applicant thereof upon production of evidence satisfactory to him that the applicant is in compliance with the County Code and the Code of Virginia but that the facilities, services and activities are temporarily unable to completely comply with the requirements of this chapter and do not endanger the health, safety and welfare of the children and that all the requirements will be met within six (6) months from the date of its issuance.

§ 59-8. Denial of application.

(a) The county manager shall deny a license to any applicant upon a finding that the activities, services and facilities of the applicant are in violation of any provision of this chapter, the Arlington County Code, the Code of Virginia and are a danger to the health, safety and welfare of the children.

(b) Upon the denial of the application for a license or renewal or upon revocation of a permit as described in section 59-8(a), the county manager shall notify the applicant that the application or license is denied or revoked stating:

(1) The reason for the denial; and

(2) That the applicant has the right to request a hearing if written request is made within thirty (30) days after receipt of the notice of denial or revocation. Unless written request is made within the thirty-day period, the applicant's right to a hearing is waived.

§ 59-9. Renewal of license.

Every license shall be renewed annually on or before thirty (30) days prior to the expiration of the license. The facilities and records of each applicant for renewal of a license may be inspected or examined by the county manager or his designee to determine whether the applicant is in compliance with this chapter.

A provisional license may be issued for any period not to exceed six (6) months and shall not be renewable.

§ 59-10. Suspension of license.

(a) Whenever the county manager finds by complaint, investigation, or otherwise that any condition exists, within a facility required to be licensed by this chapter, which is a violation of the ordinance but does not endanger the life, health or safety of the children, he shall order that the necessary corrective action be taken within a specified period of time as determined by the county manager.

(b) Whenever the county manager finds by complaint, investigation, or otherwise that any condition exists that endangers the life, health or safety of the children, within a facility required to be licensed by this chapter, he shall order that the license to operate the facility be temporarily suspended. Whenever a license has been so temporarily suspended, a hearing shall be held before the county manager to determine whether the license to operate the facility should be permanently suspended. If the temporary suspension occurs during normal business hours, the hearing shall be held prior to 5:00 p.m. of that day. Should the temporary suspension occur after business hours, the hearing shall be held on the next regular business day. At the hearing a representative of the facility shall have the right to answer personally or in writing or both personally and in writing. The right to answer personally includes the right to answer orally in person or by being given a reasonable opportunity to make representations which the representative believes might affect the final decision of the county manager. The county manager shall send a written statement of the findings of the hearing to the facility within twenty-four (24) hours after the hearing is terminated. In the event the county manager finds that the conditions at the facility do not endanger the life, health or safety of the children, he shall order that the license of that facility be reinstated immediately. In the event that the county manager finds that there exist conditions which endanger the life, health or safety of the children, he shall order that the license of that facility be suspended until such time as the conditions which caused said suspension are eliminated.

§ 59-11. Revocation of license.

The county manager shall revoke the license of any establishment if the corrective action specified under section 59-10(a) of this chapter is not taken. Procedure for revocation of a license shall be the same as described in section 59-8 of this chapter. Nothing in this section shall be construed to deny the right of any facility so affected to reapply for a license in accordance with the procedures established by this chapter.

§ 59-12. Deferred compliance.

The owner or operators of any facility required to be licensed by this chapter, operating in the county as of the effective date of this chapter, may apply for and be granted a time period not to exceed six (6) months in order to comply with the licensing requirement prescribed hereunder which were not in effect on the date of enactment or this chapter. All other provisions of this chapter become effective upon the effective date of this chapter.

§ 59-13. Inspection period.

Each facility required to be licensed by this chapter shall be subject to inspection by health authorities and by the county manager or his designated agent at least once a year and as often as deemed necessary for the purpose of determining that there is compliance with the provisions of this chapter.

§ 59-14. License conditions.

Each license issued pursuant to this chapter shall set forth the conditions under which the license may operate. Said conditions shall include, but not be limited to, the name(s) of the operator(s) of the family day care home, the maximum number and age range of children to be served, and the period of time for which the license is effective. Each provisional license issued pursuant to this chapter shall be accompanied by a letter from the county manager or his designated agent stating the reason(s) for its being provisional.

§ 59-15. Modification.

The conditions of the license may be modified by the county manager or his designated agent during the licensing year with respect to the number of children, the age range or other conditions. A licensee shall report in writing to the county manager or his designated representative any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. No contemplated changes in staff or program of a family day care home shall be reported unless they affect the terms of the license or the continuing eligibility of the licensee.

§ 59-16. Personnel and household requirements.**(a) Personnel and management .**

(1) There shall be one (1) adult day care parent for a maximum of six (6) children, including the parent's own or related children under age fourteen (14). The ages and number of the children in care may vary according to age combinations as shown in the following tables:

TABLE INSET:

	Adults	Ages of Children	Maximum Number of Children
Table I	1	Under 2 years	0
		Over 2 years	6
Table II	1	Under 2 years	1
		Over 2 years	4
Table III	1	Under 2 years	2
		Over 2 years	2

(2) There shall be one (1) adult day care parent and an assistant when more than six (6) children are in care, up to a maximum of nine (9) children, including the parent's or assistant's own or related children under age fourteen (14). Both day care parent and assistant must be present at all times. In the absence of either, a qualified substitute shall be present. The ages and number of the children in care may vary according to age combinations as shown in the following tables:

TABLE INSET:

	Adults	Ages of Children	Maximum Number of Children
Table I	2	Under 2 years	0
		Over 2 years	9
Table II	2	Under 2 years	1
		Over 2 years	8
Table III	2	Under 2 years	2
		Over 2 years	7
Table IV	2	Under 2 years	3
		Over 2 years	6
Table V	2	Under 2 years	4
		Over 2 years	4
Table VI	2	Under 2 years	5
		Over 2 years	2
Table VII	2	Under 2 years	6
		Over 2 years	0

(3) Where the day care provider has responsibility for a handicapped person including any person related by blood or marriage, that person shall be considered for the purpose of the adult-child ratio on the basis of his or her mental and physical functional age.

(4) Provided, however, that children of the adult day care parent and assistant shall not be included in determining the aforementioned adult-child ratio unless such children are being provided day care at the family day care home contemporaneously.

(b) *Household* .

(1) Age of adults: The adults in charge of day care children shall be at least eighteen (18) years of age.

(2) All members of the day care household, including relatives, lodgers, and servants, shall be responsible, wholesome, and emotionally stable persons of good character and reputation. They shall not be persons convicted of any unlawful act involving sex offenses or offenses of bodily harm.

(3) Medical requirements.

a. Each employee who comes into contact with the children and each staff person responsible for preparation and serving of food must have a current medical certificate certifying freedom from chronic, communicable or incapacitating disease, based on an examination by a licensed physician, including a negative chest X-ray or TB skin test. Employees shall provide certification of a negative chest X-ray or TB skin test annually thereafter. Records of examinations must be presented upon request. In the event of serious illness or hospitalization of the licensee or director, the county manager must be informed immediately of the nature of the illness or hospitalization and the arrangements that have been made for delegation of responsibility for operation of the program in the licensee's absence.

b. For providers of family day care for four (4) or more children: All members of the day care household who are exposed to the children including relatives, lodgers, servants, and cooks, and assistants, shall have had a satisfactory chest X-ray and shall have had a tuberculin test at the time of application. Annually thereafter, those whose previous tuberculin test was negative shall be required to have a tuberculin skin test only, but those whose previous tuberculin test was positive shall be required to be X-rayed annually.

(4) A family day care parent must have understanding of the problems of childhood and sympathy for them. He/she shall be able to give the child the affection and security that the child needs. The family day care parent's motivation in taking a child shall include a desire to contribute to the child's wholesome development and not be limited to meeting the family day care parent's own needs. All members of the family must be willing to accept the family day care child into the home as a member of the family.

(c) *Physical environment* .

(1) The physical facilities of homes used for day care shall provide adequate space for daily activities of young children and present no hazards to their health or safety. There shall be space indoors and outdoors for the child to play, and sufficient play materials and equipment to stimulate activity and imaginative play suitable to the ages of the children. A safe, fenced play area shall be provided. Fencing shall not be required if the applicant can show that the play area provides proper protection from traffic and other hazards.

a. In family day care homes, emphasis shall be placed on homemaking rather than housekeeping. The premises shall be kept clean.

b. Provision shall be made for individual children for quiet rest or napping on beds, cribs, cots and couches. All beds, cribs, cots and couches used shall be safe, in clean and sanitary condition at all times with bedding suitable to the occasion. The crib should either meet federal standards or be equipped with securely fastened bumper pads. When cots are used, there shall be at least two (2) feet of space between cots.

c. A space to keep clothing, toys and other personal belongings shall be provided for each child.

d. Play material and equipment which are necessary to provide children with stimulating experiences, especially for preschool children who spend their whole day in the day care home shall be made available for the children's use. Day care parents shall be encouraged to provide safe, constructive, educational, and not

necessarily expensive equipment and to let children make use of available material such as kitchen utensils, water, dough, empty cartons, newspapers, spools, bags, string, fabric remnants, and scraps.

e. There shall be proper provision for food preparation, care of perishable food, and for refrigeration, especially of milk.

f. The house must be screened and properly ventilated and must be dry and heated in the winter; sixty-eight (68) to seventy-two (72) degrees Fahrenheit shall be maintained in all rooms occupied by children. Where a heater is used to supplement heat in any room, protection must be provided for the safety of the children.

g. Drinking water must be made available to the children at all times. If paper cups are not used, each child shall have his individually assigned glass.

h. Provisions for isolation of sick children shall be made.

i. Paper towels may be used. If paper towels are not used, towels shall be individually assigned.

j. Adequate lighting shall be provided in each room. There shall be sufficient windows to admit natural light. Whenever natural light must be supplemented, there shall be the equivalency of thirty (30) footcandles of light.

k. There must be adequate bathing and toilet facilities to include at least one (1) lavatory and one (1) commode easily accessible to the children.

l. There shall be a telephone in the family day care home. The number for the doctor who may be called in an emergency, ambulance, fire department, and the police shall be posted near the telephone out of children's reach.

m. Fire prevention: The home shall be free from fire hazards and have adequate fire protection. Inspection and approval of such authorities as are either required or permitted to inspect and enforce fire regulations shall be required in instances when conditions seem to indicate need for same.

(d) *Records* . Each family day care home in which four (4) or more children are received shall maintain a record for each child as long as the child remains in care. In homes with one (1) to three (3) children, these records are recommended:

(1) Identifying information: Name and nickname (if any) of the child, birthdate, names, home addresses, and telephone number of parents or other responsible person and of the family physician; place of parents' employment and telephone numbers; address and telephone number of some designated person to call in case of an emergency when the parent cannot be reached; names of persons authorized to call for the child as well as those who are not to visit; and date of admission and date of withdrawal.

(2) A current medical statement signed by a licensed physician shall be required on each child at the time of the child's acceptance in the home and annually thereafter. This statement shall consist of a record of the child's having had a TB test and immunizations as required by the state health department. In the case of infants below two (2) years of age, there shall be a statement from the physician as to the child's immunization status since the timing of immunizations for infants will be a determination of the child's physician.

(3) There shall be a record of other information including allergies, food habits (special diets), and any pertinent information pertaining to a particular child.

(4) Each home shall have a state health department "Communicable Disease Chart" and a state health and education department flip chart "Suggestions for Temporary Care of Emergencies in Schools."

(5) Agreement forms: Written agreements shall be made between the day care parent and

the natural parent, guardian or other responsible person for each child in care. Sample forms may be obtained from the child care coordinator. These agreements shall cover:

- a. Hours of care per day, week, or month; cost of care per day, week, or month; frequency and amount of payment per day, week, or month; and any special services to be provided by either party to the agreement.
- b. Authorization for emergency medical care if any emergency occurs when parents cannot be located immediately.
- c. Authorization for participation in community activities when feasible.
- d. Authorization for field trips when taken.
- e. Provision that the day care parent will notify him or her when the child becomes ill and that the child will be picked up as soon as it is feasible for the parent to do so.
- f. One (1) copy shall be maintained with the record and one (1) copy shall be given to the parent, guardian, or other responsible person.

(6) *Fees* : There shall be a record of fees paid for each child.

(e) *Liability and fire insurance* .

(1) For four (4) through nine (9) children: The day care provider(s) shall have adequate liability and fire insurance to protect themselves and the children served. The possibility of carrying a nursery supplement shall be considered with the insurance company. A copy of the insurance policy shall be available to the county manager or his designated agent upon request.

(2) For one (1) through three (3) children: Subsection (5)a is recommended.

(f) *Energy shortage emergencies* . Whenever the county manager shall determine and declare that an energy shortage exists, the minimum thermal standards set forth in this section shall be superseded by thermal standards established by the county manager. Such standards shall be consistent with the nature and extent of the energy shortage and the health and safety of the occupants. These standards shall remain in effect until the county manager shall declare the emergency is ended.

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§ 59-17. Care of children.

(a) The family day care home shall provide a homelike atmosphere. In its provision of supplementary care, the family day care parent shall be aware of the development needs and varying potentialities of each child.

(b) Activities and experiences.

(1) Each family day care home shall provide opportunities to meet the needs of the children in attendance, to help each child learn about himself, others, and the world about him.

(2) The developmental experiences of the family day care home shall emphasize self-expression, creativity, physical development, social, and emotional development of the child.

(3) The daily experiences shall include opportunities for alternating periods of active and quiet participation.

(4) Depending upon the age of the child, the activities for each day shall include opportunities for vigorous indoor and outdoor play dependent upon the weather and the health of the child.

(5) Each preschool child shall have one (1) or more regularly scheduled rest period(s) appropriate to his age and needs.

(6) Children shall be supervised at all times by the day care home provider or qualified assistant.

(7) Television shall be used sparingly with discretion and selectivity. Visual protection is essential. The television room shall be well-lighted and the child shall be a safe distance from the television set when viewing a television program.

(c) Nutrition and food services.

(1) The food for children shall be adequate for nutritional needs for wholesome growth and development. Special diets are to be provided as prescribed by a physician for individual children.

(2) Provision shall be made for the children's comfort during mealtime.

(3) Eating utensils and dishes shall be appropriate in size to be handled by the child. If disposable dishes and utensils are used, they shall be sturdy enough to prevent them from being a safety hazard.

(4) Disposable dishes and utensils shall be used only once and discarded.

(5) Meals and snacks.

a. Meals shall include a morning snack. If the child arrives before 8:00 a.m., breakfast or a snack shall be served soon after arrival, if the child has not been given breakfast before leaving home. Sugarless snacks shall be available.

b. The meals shall be planned to provide the opportunity for the child to learn to eat and enjoy a variety of nutritious foods.

c. Meals shall be served in a pleasant, clean atmosphere.

d. For providers of family day care for four (4) or more children: The main meal of the day served in the family day care home, unless otherwise specifically provided by the parent, shall consist of:

1. Meat, eggs, cheese, poultry, fish (2--4 tablespoons). Dry beans, peas, or peanut butter may be substituted in place of meat not more than two (2) times a week (2--4 tablespoons).

2. Dark green leafy vegetable or deep yellow vegetable at least three (3) times a week (1/2 cup).

3. Another vegetable (potatoes approximately three (3) times a week (1/2 cup)).

4. Fruit (1/2 cup).

5. Milk (1/2 to 1 cup).

6. Enriched or whole grain bread (1/2--1 1/2 slices).

7. Butter or fortified margarine (1/2 teaspoon).

e. For providers of family day care for three (3) or fewer children: Subsection (5)(d) 1. through 7. is recommended.

f. All food for children shall be adequate for nutritional needs for wholesome growth and development. Meals shall be planned to provide the opportunity for each child to learn to eat and enjoy a variety of nutritious food.

g. Children shall be served small-sized portions and permitted to have additional

servings.

h. Snacks shall be selected and planned to provide nutritional needs of the child. Portions served shall be small in amount and not less than one hour and a half (1 1/2 hr.) prior to the meal.

(d) Parental involvement.

(1) Parents or other responsible person shall be encouraged by the day care parent to visit the home while it is in operation. There shall be a plan for parental involvement for homes of four (4) or more children.

(2) Opportunities shall be provided for development of mutual understanding and attitudes toward:

- a. Guidance and behavior;
- b. Development experience; and
- c. Knowledge of preventive health measures.

(3) If the family day care parent becomes aware of any unusual or special needs of a child, he/she shall discuss them with the parent or guardian. Consultation regarding referral resources is available through the county manager's representative.

(4) Parents shall be encouraged to participate in planned activities within the home and to exchange ideas with other parents and to offer special talents where feasible.

(e) Behavior and guidance.

(1) Constructive methods for establishing freedom within limitations shall be used for behavioral guidance with an awareness of total developmental needs of the child.

(2) The family day care parent shall not use or permit an employee or volunteer to use corporal punishment or any humiliating or frightening methods of discipline.

(3) Any effort toward toilet training shall be made in consultation with and consent of the child's parent or parents.

(4) Children shall not be punished for refusing food nor shall they be deprived of meals or parts of meals or snacks as disciplinary measures.

(f) Health care; safety.

(1) Prior to admission and annually thereafter, a child shall meet the medical requirements as outlined in section 59-16(d)2 and 3.

(2) The day care parent shall inspect each child daily for signs of communicable diseases and other illnesses.

(3) Parents shall be advised that children who are ill will not be accepted at the family day care home.

(4) If a child becomes ill during the day, the child shall be isolated and the parents or other responsible person shall be notified immediately in order that the child may be removed. The child shall be isolated, but not left unattended.

(g) Medical policies.

(1) Arrangements shall be made to have a licensed physician available for referral or contact in cases of emergency when the physician designated by the parent or other responsible person cannot be reached. The provider shall furnish to the county manager the name of the physician or facilities to be used.

(2) The telephone number of a doctor who may be called in an emergency when the child's

own doctor is unavailable and that of a hospital shall be posted in a conspicuous place for use in case of serious accident or illness. The telephone number of an ambulance or rescue squad service shall be posted, but out of reach of children. At least one (1) person in the home during the time children are there shall have a current Red Cross First Aid Certificate or shall obtain one within a year after the date these standards become effective.

(3) All injuries or accidents and all head injuries shall be reported immediately to the parents. Parents shall also be notified if the child has been exposed to a contagious disease.

(4) No medication shall be given a child without a signed doctor's order and a signed permission from the parents, guardian, or other responsible person. Medications shall be identified and carefully labeled with the child's name, kept out of reach of all children, and be returned to the parents when no longer needed.

(5) In cases where there are pets in the day care home, special care shall be exercised in protecting the children.

- a. All dogs and cats over six (6) months of age shall be immunized against rabies. A maximum of three (3) dogs and/or cats shall be permitted. Dogs past the age of six (6) months must be licensed.
- b. There shall be no turtles due to high accident of gastroenteritis, which is turtle-related, or wild animals in the family day care home.
- c. Animals known to be dangerous to children shall not be kept near the children nor shall children be allowed access to such animals.
- d. At no time shall animal excreta be allowed to remain in areas used by children.

§ 59-18. Family day care homes in which less than four children are received.

Family day care homes in which less than four (4) children are received shall comply with all standards and policies prescribed herein except that a license shall not be required. If the county manager determines that such standards and policies are not being met in any family day care home in which less than four (4) children are received, he shall notify the operator of such failure and he shall require compliance within ten (10) days of such notice. Continued operation beyond the ten-day period without correcting the violation shall be unlawful, and the penalties prescribed under section 59-19 shall apply. In addition to said penalties, the home shall not be operated for a period of six (6) months unless the county manager receives satisfactory evidence that full compliance with the standards will be made.

§ 59-19. Penalties.

Any person who operates a family day care home in which four (4) or more children are received without a valid, nonsuspended license issued pursuant to this chapter, and any person who operates a family day care home in which less than four (4) children are received, for more than ten (10) days after receipt of notice from the county manager that a violation of this chapter exists without having corrected such violation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment in jail not to exceed thirty (30) days or both. Each day of violation shall constitute a separate offense.

§ 59-20. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance be adjudged by a court of competent jurisdiction to be unconstitutional or invalid,

said judgment shall not affect, impair or invalidate the remainder of the chapter or the application of such provisions to other persons or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which said judgment shall have been rendered, and the person or circumstance involved.