#### ARTICLE IX. CHILD CARE CENTERS

#### Sec. 22.160 Definitions

In this article:

<u>Admission</u>. The process of enrolling a child in a child care center. The date of admission is the first day the child is physically present in the center.

Adult. A person 18 years of age and older.

<u>Caregiver</u>. A person whose duties include the supervision, guidance, and protection of a child. As used in this chapter, the term means a person who meets the minimum education, work experience, and training qualifications required.

*Child*. A person less than 18 years of age.

<u>Child care center</u>. An establishment that is licensed by the Texas Department of Protective and Regulatory Services as a child care facility.

<u>Director</u>. The adult designated to have the daily, onsite responsibility for operation of the child care center, including maintaining compliance with this article, with the minimum standards, and with all other applicable state law, regulations, and local ordinances.

<u>Employee</u>. Any person employed by or under contract with the child care center including, but not limited to, caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the director.

*Field trips*. Activities conducted away from the child care center.

Food service. The preparation or serving of meals or snacks.

<u>Health authority</u>. The Director of Health of the City of Garland or the Director's designated representative.

<u>Health care professional</u>. A physician, nurse, or other medical professional who possesses a license to practice medicine or participate in medical care issued by the Texas Department of State Health Services and who provides comprehensive preventative, diagnostic, or therapeutic medical care to a child.

*Infant*. A child from birth through 17 months of age.

<u>Minimum standards</u>. The rules contained in Chapters 720 (Standards for 24-hour Care Facilities), 727 (Licensing of Maternity Facilities), 746 (Minimum Standards for Child Care Centers), and 747 (Minimum Standards for Child Care Homes), and Subchapters H (Residential Child Care Minimum Standards) and I (Maternity Homes Minimum Standards) of Title 40, Part 19 of the TAC.

<u>Parent</u>. A person who has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

<u>Permit holder</u>. The person whose name appears on the child care center's permit.

<u>Person in charge</u>. The director or the qualified caregiver who has been designated by the director in the director's absence.

TAC. The Texas Administrative Code.

Toddler. A child from 18 months through 35 months of age.

(Ordinance 6395, sec. 1, adopted 4/20/10)

# Sec. 22.161 Permit required

No person shall operate a child care center without a valid permit issued by the health authority. (Ordinance 6395, sec. 1, adopted 4/20/10)

#### Sec. 22.162 Management and personnel

#### (A) Person in charge.

- (1) The director of the child care center shall be considered the person in charge and is responsible for ensuring that the child care center is operated and maintained in compliance with the requirements of this article.
- (2) In the director's absence, a qualified caregiver or other person shall be designated by the director as the person in charge of the child care center. A person designated as the person in charge shall have:
  - (a) Access to all essential information necessary to communicate with parents and state and local authorities as needed; and
  - (b) The authority to direct the child care center in compliance with this article and all other applicable state laws, regulations, and local ordinances.

### (B) Responsibilities.

- (1) The person in charge shall ensure that the child care center complies with all provisions of this article and the requirements contained in the minimum standards;
- (2) If an employee or child in care contracts a communicable disease which the law requires to be reported to the Department of State Health Services, or if a child dies while in care, the person in charge shall immediately notify the child's parent and the health authority;
- (3) In an emergency occurrence, such as any circumstance that renders all or part of the center unsafe or unsanitary for a child care (for example, but without

limitation, flood, fire, water outage, power outage, or sewage backup), the person in charge shall immediately notify the health authority;

(4) In the event that an outbreak of lice or other infestation occurs in the child care center, the person in charge shall provide a written notice to the parents of all children in the child care center either by posting in a prominent place in the child care center or by individual notices to the parent of each child. The health authority shall be notified within twenty-four (24) hours after the identification of such infestation.

### Sec. 22.163 Records

All child care center records required to be kept under this article or the minimum standards shall be produced for review and copying by the health authority upon request during the hours of operation of the child care center. Records shall be kept at the child care center and must be available during hours of operation and for at least three months after the child's last day in care.

#### Sec. 22.164 Infants and toddlers

- (A) <u>Basic care requirements for infants</u>. Basic care for infants shall include:
  - (1) Prompt attention to physical needs, such as feeding and diapering;
  - (2) Ensuring the environment is free of objects that may cause choking; and
  - (3) Never leaving an infant unsupervised.

### (B) <u>Infant safety requirements</u>.

- (1) Cribs shall have:
  - (a) A firm, flat mattress that snugly fits the sides of the crib. The mattress may not be supplemented with additional foam material or pads;
  - (b) Sheets that fit the mattress snugly and do not present an entanglement hazard;
  - (c) A mattress that is waterproof or washable;
  - (d) Sideboards designed to prevent falls;
  - (e) A maximum of 2-3/8 inches between crib slats or poles;
  - (f) No cutout areas in the headboard or footboard that could entrap a child's head or body; and
  - (g) Drop rails, if present, must fasten securely in a manner that cannot be opened by a child.

- (2) Cribs shall be cleaned and sanitized:
  - (a) At least once per day when in use;
  - (b) Before a different child is placed in the crib; and
  - (c) When soiled.
- (3) A child shall never be left unattended in a crib with the sideboard down.
- (4) Minimum infant feeding requirements shall include:
  - (a) Feeding bottles, training cups and any other feeding devices shall be clearly labeled with the name of the child using the feeding device; and
  - (b) Infant feeding surfaces, such as high chair trays, shall be cleaned and sanitized prior to each use.
- (C) <u>Toddler safety</u>. Basic care for toddlers shall include ensuring that the child care center in which the child is kept is free of objects that may pose a choking hazard in children younger than three years of age.

#### Sec. 22.165 Food preparation

- (A) <u>Food preparation onsite</u>. All food preparation conducted onsite at a child care facility must comply with <u>Chapter 22</u>, <u>Article II</u> of this code.
- (B) Offsite food. Food served at a child care facility that is not prepared onsite shall be from a source approved by the health authority. Such foods shall be held and served in compliance with Chapter 22, Article II of the this code.

#### Sec. 22.166 Health practices

- (A) <u>General health requirements</u>. The building, grounds, equipment and furnishings of the child care center shall be cleaned, repaired, and well maintained. This includes, but is not limited to:
  - (1) Setting aside toys and equipment that are placed in children's mouths, or are otherwise contaminated by body secretion or excrement, to be sanitized before handling by another child;
  - (2) Machine washing cloth toys, if used, at least weekly and when contaminated or soiled;
  - (3) Machine washing all linens at least weekly, when soiled, and before another child uses them;
  - (4) Sanitizing sleeping equipment at least weekly, before a different child uses it, and when soiled;

- (5) Sanitizing potty chairs after each use;
- (6) Emptying water play tables and toys used in water tables daily, sanitizing water play tables and toys used in water play tables after each day's use, and ensuring children and caregivers wash their hands before and after using a water table;
- (7) Maintaining sandboxes and sand tables in a sanitary manner;
- (8) Making all garbage inaccessible to children and managing it to keep the child care center inside and outside free of insects, rodents, and offensive odors, and disposing of it according to local and state requirements;
- (9) Keeping all floors, ceilings, and walls in good repair and clean;
- (10) Using paints that are lead free;
- (11) Maintaining exterior openings such as windows and doors in good repair and, if used for ventilation, providing that they are properly screened;
- (12) Maintaining interior spaces of the child care center used by children at an ambient air temperature of no less than 71 degrees Fahrenheit and no more than 81 degrees Fahrenheit, well lighted, and properly ventilated;
- (13) Sanitizing table tops, furniture, and other similar equipment used by children when soiled or contaminated with matter such as food, body secretions, or excrement;
- (14) Maintaining toilet facilities in a clean and sanitary condition; and
- (15) Clearly marking cleaning supplies and other toxic materials and keeping them separate from food and inaccessible to children.

#### (B) Sanitizing and disinfecting.

- (1) The sanitizing process shall be completed in the following manner:
  - (a) Washing with soap and water;
  - (b) Rinsing with clean water;
  - (c) Soaking in or spraying on a disinfecting solution for at least 30 seconds;
  - (d) Rinsing with water only those items that children are likely to place in their mouths; and
  - (e) Allowing the surface or article to air dry prior to use by caregivers or children.
- (2) A disinfecting solution may be:

- (a) A chlorine solution, prepared fresh daily, with a free chlorine concentration between 50 and 100 mg/L;
- (b) A quaternary ammonium solution with a quaternary ammonium concentration of 200 mg/L; or
- (c) A commercial product that meets the Environmental Protection Agency's (EPA's) standards for "hospital grade" germicides (solutions that kill germs) used according to label directions. Commercial products shall not leave toxic residues on surfaces likely to be mouthed by children, such as crib rails or toys.
- (3) A test kit or other device that accurately measures the concentration in parts per million (ppm) of disinfecting solutions shall be provided and readily available for use.

# (C) Handwashing.

- (1) Employees shall wash their hands:
  - (a) Before eating or handling food or medication;
  - (b) Before feeding a child;
  - (c) After arriving at the child care center;
  - (d) After diapering a child;
  - (e) After assisting a child with toileting;
  - (f) After personal toileting;
  - (g) After handling or cleaning body fluids, such as wiping noses, mouths, changing diapers, and tending sores;
  - (h) After handling or feeding animals;
  - (i) After outdoor activities;
  - (j) After handling raw food products;
  - (k) After eating, drinking, or smoking; and
  - (l) After using any cleaners or toxic chemicals.
- (2) Caregivers shall ensure that children wash their hands:
  - (a) Before eating;
  - (b) Before and after playing in a water play table;

- (c) After toileting or having a diaper changed;
- (d) After outdoor activities;
- (e) After playing in sand;
- (f) After feeding or touching animals; and
- (g) At any other time the caregiver has reason to believe the child has come in contact with substances that could be harmful to the child.
- (3) Children 18 months of age and older shall be made to thoroughly wash their hands with soap and running water and made to dry their hands using clean disposable towels. Pre-moistened towels or wipes and waterless hand cleaners shall not be used as a substitute for soap and running water.
- (4) Employees shall wash their hands and exposed portions of their arms with a cleaning compound by vigorously rubbing together the surfaces of their lathered fingers, finger tips, areas between the fingers, underneath fingernails, hands and arms for at least 20 seconds and thoroughly rinsing with clean, running warm water. Employees shall dry their hands using clean disposable towels.
- (5) Infant handwashing shall be performed in the following manner:
  - (a) If infants are incapable of, even with assistance, washing their hands under running water, caregivers shall wash the child's hands by using an individual cloth or disposable towel with soap to thoroughly clean both hands followed by rinsing with clean water or a clean disposable towel and drying the hands with a disposable towel.
  - (b) By using soap and running water as specified in subsection (C)(3) above, when an infant is old enough to be raised to the faucet and any other time that the caregiver has reason to believe the child has come in contact with substances that could be harmful to the child.
- (D) <u>Hot water requirement</u>. Hot water is not required for handwashing at children's hand sinks. Handwashing sinks designated for diaper changing shall be adequately supplied with hot water to continually maintain a minimum water temperature of 100 degrees Fahrenheit. If hot water is accessible to children, a thermostat shall be installed to maintain the water temperature no higher than 120 degrees Fahrenheit.
- (E) Use of gloves. Caregivers shall:
  - (1) Use disposable, nonporous gloves when changing diapers and when handling blood, vomit or other bodily fluids that may contain blood;
  - (2) Discard the gloves immediately after one use; and
  - (3) Wash hands after using and disposing the gloves.

# (F) <u>Plumbing fixtures</u>.

- (1) A handwashing sink shall be provided in each diaper changing area, and placed so that the caregiver using it may maintain supervision of children in the center.
- (2) Handwashing sinks shall be provided with soap, running water, and dispensed single-use disposable towels.
- (3) All plumbing fixtures including but not limited to, sinks, toilets, and hose bibs, shall be maintained in good repair and shall meet all applicable laws and ordinances pertaining to backflow prevention.
- (4) All plumbing fixtures intended for use by children, such as sinks, urinals, or drinking fountains, shall be equipped with anchored steps or a broad-based platform with a non-slip surface to facilitate use. Steps or platforms shall not be required if the fixtures are located thirty-six (36) inches or less from the floor.
- (G) <u>Pesticide application</u>. A child care center shall be treated for pests as needed by an individual licensed by the Texas Structural Pest Control Board to prevent, control, or eliminate pest infestations at the child care center.

# (H) <u>Diaper changing</u>.

# (1) Caregivers shall:

- (a) Promptly change soiled or wet diapers or clothing;
- (b) Thoroughly and promptly cleanse a child whose diaper has been changed with individual cloths or disposable towels. Disposable cloths or towels shall be discarded after use. Reusable cloths shall be laundered prior to subsequent use:
- (c) Ensure that children are dry before placing a new diaper on the child, if the child must be dried, a clean, individual cloth or disposable towel must be used to dry the child. Disposable towels shall be discarded after use. Reusable cloths shall be laundered prior to subsequent use;
- (d) Not apply powders, creams, ointments, or lotions without the parent's written permission. If the parent supplies these items, permission is implicit and written permission need not be obtained;
- (e) Label provided powders, creams, ointments, or lotions with the individual child's name;
- (f) Keep all diaper-changing supplies and waste out of children's reach;
- (g) Place soiled diapers, disposable cloths and towels soiled during the diaper changing process, and soiled reusable cloths in a covered or sealed container that is not accessible to children; and

- (h) Not participate in diaper changing if the caregiver has an open wound on the hands or lower arms or my injury that inhibits handwashing, such as casts, bandages, or braces.
- (2) A diaper changing table or surface shall be provided that is smooth, non-absorbent, and easy to clean.
- (3) Areas that children come into close contact with during play or eating, such as dining tables, sofas, or floor play areas, shall not be used for diaper changing.
- (4) The diaper changing surface shall be sanitized using a disinfecting solution prepared as specified in subsection (B)(2) above, after each use. A clean, disposable covering on the diaper changing surface may be used in lieu of the sanitation process provided it is changed after each use.
- (5) A diaper changing surface that is above floor level shall be equipped with a safety mechanism that prevents the child from falling from the surface. The safety mechanism shall be used at all times when a child is on the diaper changing surface.
- (I) <u>Exclusion from admission</u>. An ill child shall not be admitted for care if one or more of the following exists:
  - (1) The illness prevents the child from participating comfortably in child care center activities including outdoor play;
  - (2) The illness results in a greater need for care than caregivers can provide without compromising the health, safety, or supervision of other children in care;
  - (3) The child has one of the following, unless medical evaluation by a health care professional indicates that the child can be included in the child care center's activities:
    - (a) Oral temperature of 100.4 degrees or greater, accompanied by behavior changes or other signs or symptoms of illness;
    - (b) Rectal temperature of 101.4 degrees or greater, accompanied by behavior changes or other signs or symptoms of illness;
    - (c) Armpit temperature of 99.4 degrees or greater, accompanied by behavior changes or other signs or symptoms of illness; or
    - (d) Symptoms and signs of possible severe illness such as lethargy, abnormal breathing, diarrhea, two or more vomiting episodes in 24 hours, rash with fever, mouth sores with drooling, behavior changes, or other signs that the child may be severely ill.
  - (4) A health care professional has diagnosed the child with a communicable disease as defined by the Department of State Health Services in 25 TAC Section 97.7 (relating to Diseases Requiring Exclusions from Child Care Facilities and

Schools), and either the child does not have medical documentation to indicate that the child is no longer contagious or the child has not met the readmission criteria specified in 25 TAC Section 97.7.

- (5) If a child becomes ill while in care, caretakers shall take the following actions:
  - (a) Contact the child's parent to pick up the child;
  - (b) Separate the child from other children; and
  - (c) Provide appropriate attention and supervision until the parent arrives.
- (J) <u>Safety practices</u>. All areas accessible to a child on the premises of the child care center shall be free from hazards including, but not limited to, the following:
  - (1) Electrical outlets accessible to a child younger than five years shall be equipped with safety outlets or childproof covers;
  - (2) 220-volt electrical connections within a child's reach shall be equipped with a childproof screen or guard;
  - (3) Air conditioners, electric fans, and heaters shall be mounted out of all children's reach or have safeguards that prevent child access;
  - (4) Glass in sliding doors shall be clearly marked with decals or other materials placed at children's eye level;
  - (5) Play materials and equipment shall be safe and free from sharp or rough edges and toxic paints;
  - (6) All bodies of water such as pools, hot tubs, ponds, creeks, birdbaths, fountains, buckets, and rain barrels shall be inaccessible to all children without adult supervision;
  - (7) Persons shall not consume, nor be under the influence of, alcohol or controlled substances without a prescription or otherwise impaired by prescription medication in the child care center, during transportation, or on field trips;
  - (8) Persons shall not smoke or use tobacco products at the child care center, on the premises, on the playground, in transportation vehicles, or during field trips.

### (K) Medication.

- (1) Parents shall sign an authorization statement indicating times for child care center employees to administer each medication according to label directions.
- (2) Medication shall be in the original container labeled with the child's full name and the date brought to the child care center.

- (3) Medication shall be administered in amounts according to the label directions or as amended by a physician.
- (4) Medicine shall be administered only to the child for whom it is prescribed or intended.
- (5) Medication shall not be administered after its expiration date.
- (6) Medication shall be stored as follows:
  - (a) Out of the reach of children or in locked storage;
  - (b) In a manner that does not contaminate food; and
  - (c) Under refrigeration, if refrigeration is required, separate from food.
- (L) <u>Potty chairs</u>. If used, potty chairs shall be cleaned and sanitized, as prescribed in subsection (B) above, after each use.

# (M) <u>Sleeping arrangements</u>.

- (1) An individual crib shall be provided for each non-walking child younger than 18 months to sleep or rest in.
- (2) For periods of child care lasting longer than 4 hours, unless provided by the child, an individual cot, bed, or mat that is waterproof or washable shall be provided for each walking child through four years of age to sleep or rest on.
- (3) Individual arrangements for sleep or rest shall be provided for children five years and older who are in care for more than five hours per day, or whose individual care needs require a nap or rest time.
- (4) Cots, cribs, beds, or mats shall be labeled with the child's name. Labeling cots, beds, or mats with a number related to a number assignment map may be used as an alternative.
- (5) Unless provided by the child, floor mats used for napping shall be cleaned and sanitized daily.
- (N) <u>Storage for children's belongings</u>. Individual lockers, cubicles, separate hooks and shelves, or other adequate storage space for each child's personal belongings shall be provided and shall be clearly labeled with the child's name, a photograph, or other symbol the child recognizes as his or her own.
- (O) <u>Telephone</u>. A telephone with a listed number shall be provided to each separate building of a child care facility. Coin-operated pay phones or cellular phones may not be used to meet this requirement. During all hours of operation, an employee shall be available to:
  - (1) Receive incoming calls to the child care center;

- (2) Immediately transmit messages regarding children in care to child care center caregivers; and
- (3) Make outgoing calls for the child care center as necessary.

# Sec. 22.167 Swimming pools and sprinkler play

- (A) A caregiver shall be immediately present at all times when children are within swimming pool enclosures.
- (B) Swimming pools used both at and away from the child care center must comply with Chapter 22, Article VIof this and all other applicable state or local requirements. Any type of fill and drain pools are prohibited for use. Children under the care of a child care center shall not swim in a lake, pond, river, or other body of water other than a swimming pool.
- (C) In addition to the requirements for swimming pool enclosures set forth in <u>Chapter 22</u>, <u>Article VI</u>, of this code, swimming pool fences at child care centers shall have a fence or wall no less than six (6) feet high as measured from the ground to the top of the fence. Gates that lead to the pool area shall be equipped with self closing and self latching hardware located out of children's reach and shall be locked when not in use. Doors from the child care center to the pool area shall have a lock out of children's reach that can only be opened by an adult. These doors and gates shall not be designated as fire and emergency evacuation exits.
- (D) Sprinkler play activities shall not be conducted on or near a hard, slippery surface such as a driveway, sidewalk, or patio. Sprinkler equipment and water hoses shall be stored out of children's reach when not in use.

### Sec. 22.168 Fire safety and emergency practice

- (A) Child care centers shall have an annual fire inspection that is conducted by a state or local fire marshal. A copy of the inspection shall be available at the child care center during hours of operation to verify the date and findings of the inspection. The report shall include the name and telephone number of the inspector.
- (B) Fire drills shall be practiced at least monthly and severe weather drills shall be practiced no less than once each six months. The drills shall be documented, including the date of the drill, the time of the drill, and the length of time for the evacuation or relocation to take place. Documentation for fire drills shall be maintained onsite for no less than three (3) years from the date of the drill.

# Sec. 22.169 Enforcement, permits, and inspections

(A) <u>General offenses</u>. A person commits an offense if the person operates or causes to be operated a child care center within the City in violation of any provision of this article.

# (B) <u>Permit required</u>.

(1) <u>Generally</u>. A person commits an offense if the person operates or causes to be operated a child care center within the City without having first obtained a permit

issued by the health authority. Permits are not transferable. A valid permit shall be posted in plain view of parents in every child care center.

- (2) Application. A person desiring to operate a child care center shall make written application for a permit on a form or forms provided by the health authority. The application shall include the name, telephone number, facsimile number and business or residence address of the owner. If the owner is a partnership, the application shall include the name, telephone number, facsimile number and business or residence address of each general or managing partner. If the owner is a corporation, the application shall include the name, telephone number, facsimile number and business or residence address of the registered agent. If the health authority determines that the application is incomplete, that the requirements of this article have not been met, or that the application contains false statements as to a material matter, the health authority shall deny the permit and deliver written notice to the applicant that the application is denied, including in the notice the reasons for denying the application.
- (3) <u>Permit fees</u>. The fee for a child care center permit issued by the health authority shall be one hundred dollars (\$100.00).
- (4) Operating authority. A permit issued under this article provides the authority to operate a child care center only to the permit holder identified on the permit and only for the child care center for which the permit is issued. No permit or other action issued or taken under this article shall in any manner affect a child care center's obligations under any other law to obtain any required permit or approval from any state or federal agency or regulatory body including, but not limited to, the Texas Department of Family and Protective Services. It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a permit. A permit may be canceled upon written request of the owner(s) or operator and surrender of the permit itself to the health authority. The surrender of a permit shall be effective immediately upon its filing in the office of the health authority.
- (5) <u>Duration</u>. A permit issued under the provisions of this article, unless sooner suspended or revoked, shall remain in effect for one year from the date of issuance.

# (6) <u>Suspension and revocation</u>.

- (a) The health authority may immediately suspend a permit by issuing a declaration of suspension to the permit holder, director or person in charge if the health authority has reasonable cause to believe that an imminent health hazard exists at the child care center including, but not limited to, a lack of potable water or power, a sewage back-up inside of the building, or a temperature within the building that does not comply with the comfortable temperature zone specified in section 22.166(A). Operations shall not be resumed until authorized by the health authority,
- (b) The health authority may revoke a permit if the health authority has reasonable cause to believe that:
  - 1. A statement of fact contained in the application was false or materially misleading;

- 2. The permit holder has caused, suffered or permitted the commission of an aggravated violation of any provision of this article; or
- 3. The permit holder, the director, or a person in charge employed by the permit holder has repeatedly failed to comply with any provision of this article.

The health authority shall provide notice of the revocation by certified mail, personal service, or courier-receipted commercial delivery sent to the address provided on the permit holder's application. The permit holder may appeal the denial or revocation of a permit to the City Manager or a designated representative of the City Manager by filing a written notice of appeal with the health authority within ten days of delivery of notice of the denial or revocation. The City Manager (or a designated representative of the City Manager) shall render a decision on the appeal within ten days of the date of the hearing. The decision of the City Manager or the designated representative shall be final. A revocation shall remain in effect for a period of 36 months during which time neither the permit holder nor any director, officer, principal agent, or partner of the permit holder may be issued another permit.