

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2014 Legislative Session

Bill No. CB-83-2014
 Chapter No. 74
 Proposed and Presented by The Chairman (by request – County Executive)
 Introduced by Council Members Franklin, Lehman and Patterson
 Co-Sponsors _____
 Date of Introduction October 21, 2014

BILL

1 AN ACT concerning

2 Businesses and Licenses – Child Care Facilities

3 For the purpose of repealing provisions of the County Code pertaining to business licensing
 4 functions to comport with State law for functions which are handled by the Office of Child Care
 5 (OCC) in the Maryland State Department of Education.

6 BY repealing:

7 SUBTITLE 5. BUSINESSES AND LICENSES.

8 Sections 5-120, 5-121, 5-122, 5-123, 5-124,

9 5-125, 5-127, 5-128, 5-129

10 The Prince George's County Code

11 (2011 Edition; 2013 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 13 Maryland, that Sections 5-120 through 5-125 and 5-127 through 5-129 of the Prince George's
 14 County Code be and the same are hereby repealed:

15
 16 SUBTITLE 5. BUSINESSES AND LICENSES.

17 DIVISION 3. CHILD CARE FACILITIES.

18 **Sec. 5-120. [Permits for child care facilities--required] Reserved.**

19 [It shall be unlawful for any person to establish or maintain a child care facility within the
 20 county for the reception, board or care of children under six years of age, without first obtaining

1 a permit from the Health Officer to do so, and then only in accordance with the terms of such
2 permit]

3 **Sec. 5-121. [Application; notice to owner of premises; penalty] Reserved.**

4 [(a) An application for a permit under this Division shall be made, in writing, upon a form
5 prescribed by the Health Officer.]

6 [(b) The application shall state the name and address of the owner of the premises on which
7 the facility is to be operated.]

8 [(c) If the applicant is not the owner of such premises, the application shall contain the
9 written assent of the owner of the premises to the operation of the facility.]

10 [(d) Failure to comply with this Section is unlawful and subject to the penalty stated in
11 Section 1-123 of this Code.]

12 **Sec. 5-122. [Fees] Reserved.**

13 [(a) The fee for a new facility or for an increase in capacity is Twenty-five Dollars (\$25.00)
14 plus Three Dollars (\$3.00) per child. There is no fee for a decrease in capacity.]

15 [(b) The fee for annual renewal is Three Dollars (\$3.00) per child as established by the
16 maximum capacity recorded on the existing permit, with a minimum fee of Twenty-five Dollars
17 (\$25.00).]

18 **Sec. 5-123. [Issuance; expiration; renewal] Reserved.**

19 [(a) A permit shall be issued by the Health Officer where the facility is in compliance with
20 the provisions of this Division, unless the Health Officer has a reasonable basis to believe that
21 the applicant is insane or would constitute a threat to the health, safety or welfare of the
22 children.]

23 [(b) Prior to taking any action to deny a permit, the Health Officer shall notify the applicant
24 in writing, setting forth the grounds for such action.]

25 [(c) Permits shall be issued for a period of one (1) year and may be renewed for periods not
26 to exceed one (1) year. Permits will indicate the maximum capacity in accordance with criteria
27 established in this Division.]

28 **Sec. 5-124. [Revocation] Reserved.**

29 [(a) Any permit under this Division may be revoked at any time by the Health Officer, after
30 the opportunity for a hearing has been given, for repeated serious violations of portions of this
31 Division. For other causes which seriously threaten the health, welfare or security of the

1 children, the Health Officer may petition the Courts for an injunction to forbid further operation
 2 of a facility during the period prior to the hearing under circumstances set forth in Health
 3 General Title 14, Section 14-111(d) of the Annotated Code of Maryland. Prior to taking any
 4 action to revoke a permit, the Health Officer shall notify the permittee in writing, setting forth
 5 the grounds for such action.]

6 [(b) Any person aggrieved by a final decision of the Health Officer regarding the denial,
 7 suspension or revocation of a permit under this Division or by any other decision of the Health
 8 Officer regarding the interpretation or enforcement of the provisions of this Division may appeal
 9 such decision in accordance with the provisions of Health General Title 14, Section 14-112, of
 10 the Annotated Code of Maryland.]

11 * * * * *

12 **Sec. 5-125. [Standards and requirements generally] Reserved.**

13 [(a) The Health Officer or his duly appointed representative shall have the right to enter and
 14 inspect any facility regulated by this Division at reasonable times to secure the enforcement of
 15 the provisions of the following regulations. Inspections of applicable written records as required
 16 by the Health Officer shall be conducted at a time mutually agreeable to the Health Officer and
 17 the permit holder. If no such mutual agreement can be reached, the Health Officer shall be
 18 authorized to conduct inspections of written records after giving the permit holder fifteen (15)
 19 calendar days advance written notice of the date and time of such inspection:]

20 [(1) Water Supply. There shall be available an abundant and constant supply of water
 21 from an approved source.]

22 [(2) Sewage Disposal. There shall be facilities for adequate and proper sewage
 23 disposal, either through a city sewerage system or by an approved alternative method.]

24 [(3) Ventilation. Ventilation by natural or mechanical means shall be provided and
 25 approved.]

26 [(4) Lighting. Each room used for children's activities shall be provided with
 27 sufficient artificial lighting so that the combined natural and artificial light will provide
 28 illumination of at least twenty foot candles at play surfaces at all times when the child care
 29 facility is in operation, and at least ten foot candles on all stairways and corridors. Glare shall be
 30 kept at a minimum by:]

31 [(A) Providing shades at all windows exposed to direct sunlight.]

1 [(B) Using lighting fixtures designed so that bare lamps or tubes are shielded at
2 normal viewing angles.]

3 [(5) Heating.]

4 [(A) Heating units must meet the State, and where applicable, local fire codes,
5 and must be adequate to maintain an even temperature of between 68° F and 70° F at floor level
6 when the outside temperature is 0° F.]

7 [(B) Portable space heaters are prohibited.]

8 [(C) Chimneys, flues, and pipes connected with the heating units shall be checked
9 and cleaned annually, and shall be maintained in proper operating condition at all times.]

10 [(D) All steam pipes shall be covered with insulating materials approved under all
11 applicable codes.]

12 [(E) The fuel supply shall be handled according to the regulations of the State
13 Fire Code and, where applicable, local fire codes. If coal is used, ashes shall be stored in
14 fireproof containers pending disposal.]

15 [(6) Insects and Rodents. All buildings used for child care shall be maintained free of
16 insects and rodents. Control measures shall be maintained to prevent rodent and insect
17 infestation. All control measures shall be by approved methods.]

18 [(7) Plumbing. All plumbing and plumbing fixtures shall conform to all applicable
19 State and local codes and shall be maintained in proper working order at all times.]

20 [(8) Gas and Electric Appliances.]

21 [(A) All gas appliances shall be connected by approved methods.]

22 [(B) All unused gas connections shall be removed or properly capped in an
23 approved manner.]

24 [(C) All wiring shall conform to all applicable electrical codes.]

25 [(9) Drinking Water. Drinking water shall be easily accessible to the children, and
26 shall be provided by either an angle jet drinking fountain with mouth guard, by a running water
27 supply with individual single service drinking cups, by approved bottled water in the original
28 container or other approved methods and sources. One (1) such drinking water facility shall be
29 available for each forty (40) children or less. Such facility shall not be located in a toilet room.]

30 [(10) Cleanliness of Premises. All parts of the premises and furnishing of each facility
31 shall be kept in a clean and sanitary condition, free from flies, vermin, rats or any other animals

1 which may cause or transmit disease. General and routine cleaning maintenance shall not be
 2 conducted while rooms are occupied by children, with the exception of clean-up activities which
 3 are part of the daily program or in emergencies.]

4 [(11) Square Footage.]

5 [(A) A minimum of thirty-five (35) cumulative square feet of usable floor space
 6 shall be provided for each child, exclusive of hallways, kitchens, bathrooms, offices, isolation
 7 rooms, permanent storage space which totally detracts from child usage, and permanent sleeping
 8 space. Minimum space may include nonfixed children's chairs, tables, and play equipment.]

9 [(B) In facilities where a valid day care license was held prior to December 1,
 10 1971, a minimum of thirty (30) square feet of usable floor space shall be provided for each child,
 11 subject to the other conditions stated in paragraph (1) for that portion of the facility under license
 12 prior to December 1, 1971, provided that the facility has been under continuous operation since
 13 the original date of licensure.]

14 [(C) The Health Officer shall have the right to waive the requirements of
 15 paragraph (11)(A), above, upon written request, where a license was issued for a greater capacity
 16 and the operation of the facility has been continuous since the original date of licensure.]

17 [(D) The requirements for square footage, as set forth in paragraph (11)(A),
 18 above, shall not apply to those facilities holding a valid certificate of approval issued by the
 19 Maryland State Department of Education, or those programs for children under six years of age
 20 which are part of a bona fide church operated day school ministry exempt under Education
 21 Article, Section 2-206(e)(4), of the Annotated Code of Maryland.]

22 [(12) Rest Periods.]

23 [(A) Provision shall be made for periods of rest appropriate to the age and activity
 24 of each child.]

25 [(B) Individual cots and bedding shall be provided for each child when time spent
 26 at the facility exceeds four (4) hours.]

27 [(C) Cots provided for children's naps shall be placed not less than three (3) feet
 28 if located head to head, or not less than one and a half (1 1/2) feet apart if the head and foot of
 29 the cots are alternated. No double-decker beds shall be used.]

30 [(13) Toilet Rooms.]

1 [(A) Toilet and Hand sink. A minimum of one (1) toilet and one (1) hand sink
2 shall be provided for each fifteen (15) or fraction of that number of children. The hand sink shall
3 be in proximity to each toilet, and shall be equipped with hot and cold running water. Toilet
4 seats shall be the open front type. The fixtures shall be of such height that they may be used by
5 the children without assistance. Children may use platforms to reach fixtures providing the
6 platforms are safe, easily cleanable, and kept in sanitary condition. The floor in each toilet room
7 shall have a water-resistant nonabsorbent finish, and the walls shall be smoothly finished with a
8 hard surface. Each toilet room shall be equipped with approved natural or mechanical
9 ventilation.]

10 [(B) Supplies. Individual paper towels, a trash receptacle, soap, and toilet paper
11 shall be provided at all times, and shall be placed within the reach of the children. No drinking
12 cups, towels, face cloths, brushes or combs shall be used in common.]

13 [(C) Soiled Linen. All soiled reusable diapers and clothing shall be immediately
14 rinsed in water and put in a covered receptacle. All soiled disposable diapers shall be disposed
15 of in a reasonable manner, as stipulated in writing by the Health Officer.]

16 [(14)Garbage and Refuse. Garbage and refuse shall be stored and disposed of in an
17 approved manner.]

18 [(15)Location. The premises on which a child care facility is operated shall be
19 serviced by a good road, which is kept passable at all times the facility is in operation, and shall
20 be accessible to emergency vehicles.]

21 [(16)Communication. There shall be at least one (1) telephone, not a pay station or
22 locked telephone, in the building, and such additional telephones or extensions as may be
23 required to summon help promptly in case of fire or other emergencies.]

24 [(17)Building. Any building to be used for a child care facility shall be of sound
25 construction, and shall be maintained in good repair. All interior paint and that exterior paint
26 accessible to children shall have a lead content not in excess of 0.06% lead by weight in dried
27 paint film.]

28 [(18)Basement Rooms.]

29 [(A) No basement room located entirely below ground level shall be used for the
30 care of children.]

1 [(B) A basement room having the uppermost three (3) feet of the required clear
2 inner height above the outside ground level may be used provided:

- 3 (i) Clear inner height shall be at least seven (7) feet;
- 4 (ii) The heating system shall keep the floor warm
- 5 (iii) There shall be no indication of dampness;
- 6 (iv) The room shall meet the requirements for ventilation as stated in this

7 Division;

- 8 (v) The room shall meet the State, and where applicable, local fire codes.]

9 [(C) The Health Officer shall have the right to waive the requirements of
10 paragraph (18)(B)(i) upon written request for those facilities licensed prior to December 1,
11 1971.]

12 [(19)Isolation. Temporary isolation in a separate area equipped with a cot or similar
13 furnishings, within sight and hearing of an adult, shall be provided for a child showing signs or
14 symptoms of illness. Parents, guardian, or other designated persons shall be contacted
15 immediately.]

16 [(20)Food Service. Food service shall comply with all applicable regulations of the
17 Maryland State Department of Health & Mental Hygiene and Prince George's County regarding
18 food storage, preparation, and service.]

19 [(21)Health Requirements Affecting Children.]

20 [(A) Daily Health Observation. The staff shall be responsible for observing each
21 child daily for signs and symptoms of illness.]

22 [(B) Exclusion for Communicable Disease. No child having a diagnosed
23 communicable disease shall remain in or return to a child care facility until the regulations for
24 communicable disease of the Maryland State Department of Health and Mental Hygiene have
25 been met.]

26 [(C) Reporting. In accordance with COMAR 10.06.01 Communicable Diseases,
27 the licensee of a facility shall immediately report to the local health department a child, a staff
28 member, a member of the household, or any person in contact with the children who appears to
29 be affected with a reportable disease or who, presumably, has been exposed to a reportable
30 disease.]

1 [(D) First Aid Supplies. Every facility shall have first aid supplies as designated
2 by the Health Officer for the treatment of minor injuries.]

3 [(E) Medication. Medication may be administered to children only upon the
4 written order of a licensed physician. A Physician's Medication Order Form (DHMH #560B)
5 supplied or approved by the Maryland State Department of Health and Mental Hygiene shall be
6 completed for each medication prescribed.

7 (i) A record of medication dispensed to a child during care shall be
8 recorded on the Child's Personal Record (DHMH #560).

9 (ii) All medications shall be properly labeled and shall be stored in an area
10 inaccessible to children. Any medication that must be refrigerated shall be stored in covered
11 containers separate from all food.]

12 [(F) Emergency Plan. The Permit Holder shall be responsible for instructing the
13 facility staff in emergency procedure. The facility shall maintain the following readily accessible
14 written information:

- 15 (i) Where the parent can be reached;
- 16 (ii) Where a responsible adult designated by the parents can be reached;
- 17 (iii) The child's physician and his phone number; and
- 18 (iv) A list of the child's allergies or specific medical conditions and
19 treatment requirements for each allergy and/or condition; and
- 20 (v) A source of emergency health services acceptable to parents with
21 written parental agreement for its use.]

22 [(G) Posted Emergency Numbers. Each facility shall provide a list of emergency
23 telephone numbers including fire, rescue, police and hospital. This list shall be posted on or
24 beside each telephone in the facility.]

25 [(22) Admission Policies.]

26 [(A) Minimum Age. No child under twenty-four (24) months of age shall be
27 admitted to a child care facility without prior approval of the Health Officer.]

28 [(B) Admission of Children Requiring Special Care. A child with a known
29 serious mental or physical condition requiring special care shall be admitted to a child care
30 facility only upon prior approval from the Health Officer. When a child requiring special care is
31 admitted to a facility, information about the following shall be required from the child's parent or

guardian by the operator of the child care facility in consultation with the local Health Officer, and also be recorded in the Child's Personal Record, in order for the center to provide adequate care for that child:

- (i) Instruction for care in an emergency;
- (ii) Medication;
- (iii) Special nutritional needs and feeding procedures; and
- (iv) Special medical or nonmedical treatments or procedures.]

[(23) Safety. Safety precautions shall be instituted and maintained -- this shall include but not be limited to the following:]

[(A) Stairways and hallways shall be kept free of obstructions and shall be well lighted.]

[(B) Petroleum and flammable products shall be stored in an approved manner.]

[(C) Drugs, alcoholic beverages, cleaning agents, pesticides, and poisonous products shall be stored apart from food and out of reach of children and shall only be used in such manner as to insure safety of children.]

[(D) Electrical outlets within reach of children shall be capped.]

[(E) All transparent glass doors, and windows reaching the floor, must be blocked by equipment, or marked by decals at both child and adult heights. All glass doors shall be of safety glass.]

[(F) Turtles and psittacine birds shall not be allowed at any child care facility.]

[(G) Any dog being kept at the facility, or being brought to the facility, shall have a current rabies shot and be properly confined during the hours the facility is in operation.]

[(H) Potentially harmful objects such as knives, sharp tools, and scissors:

- (i) Shall be stored out of reach of children;
- (ii) Shall be used safely and with proper care; and
- (iii) May be used by children only under supervision.]

[(I) Firearms are prohibited in all areas to which children have access.]

[(24) Outdoor Play Space. Ample outdoor play space shall be provided for playground activities for every age group. The playground shall be sanitary, accessible to the facility, and properly free from conditions likely to endanger the life or health of children, such as streams, washes or drainage areas, steep slopes, or other undesirable or unsafe conditions.]

1 [(A) All outdoor play areas shall be enclosed by a substantial wall or fence at
2 least four (4) feet in height.]

3 [(B) Ample outdoor play space shall consist of seventy-five (75) square feet of
4 usable space per child for fifty percent (50%) of the licensed capacity or seventy-five (75) square
5 feet per child for the total number of children to use the play area at one (1) time, but not less
6 than fifty percent (50%) of the licensed capacity.]

7 [(25)Fire Control.]

8 [(A) Provision shall be made for adequate fire control equipment, fire escapes,
9 and evacuation of children in case of fire or other emergency. The building shall conform to
10 State and where applicable, local fire codes.]

11 [(B) A plan for evacuation approved by the State or local fire marshal shall be
12 maintained and posted in each area of the facility designated by a fire marshal. Orientation of
13 children and staff in case of fire or other emergency shall be conducted.]

14 [(26)Diapering.]

15 [(A) Diapers, clothing, and linen shall be changed when soiled or wet.]

16 [(B) Diapering shall be done in the child's own crib or cot, or in an approved
17 designated diapering area.]

18 [(C) All diapering areas, supplies, and equipment shall be maintained in an
19 approved safe, secure, and sanitary manner.]

20 [(D) All diapering procedures shall be conducted in an approved safe and sanitary
21 manner.]

22 [(E) Soiled diapers, linen, and clothing shall be handled in accordance with
23 Regulation (M)(3).]

24 * * * * * * * * *

25 **Sec. 5-127. [Child Care worker permit; required] Reserved.**

26 [(a) Every staff member of a child care facility shall be required to have a valid child care
27 worker permit issued pursuant to the provisions of this Code. All new employees of a child care
28 facility shall be required to have proof of application for such permit within five days of
29 beginning employment in a child care facility.]

1 [(b) The permits, or pending applications, of all staff members shall be maintained on the
2 premises of the facility and be available for inspection by the County Health Officer or his duly
3 appointed representative.]

4 [(c) For purposes of this Section, "staff member" shall include any owner or manager of the
5 facility and any salaried or contractual employee, teacher, instructor, aide or assistant, substitute,
6 cook, janitor, maintenance worker, after hours instructor or teacher, bus driver, or any other
7 person having regular access to or contact with the children in the facility. It shall also include
8 any volunteer who is in the facility on a regular basis more than ten (10) hours per month and
9 who has regular access to or contact with the children in the facility.]

10 [(d) The County Health Officer may revoke the child care facility permit of any facility
11 which employs a staff member without a valid child care worker permit, as required by this
12 Section.]

13
14 **Sec. 5-128. [Same; application; fee; term] Reserved.**

15 [(a) Each applicant for a child care worker permit must complete an application form
16 prescribed by the Director of Environmental Resources.]

17 [(b) The application form shall be completed under oath.]

18 [(c) The application fee for a child care worker permit shall be Ten Dollars (\$10.00). The
19 annual renewal fee shall be Ten Dollars (\$10.00). The fee for a duplicate permit shall be Ten
20 Dollars (\$10.00). There shall be no fees for volunteers or for students participating in an
21 educational curriculum which requires work in a child care facility who are required to have a
22 permit under this Section.]

23 [(d) The applicant shall submit two (2) recent color photographs, not larger than two (2)
24 inches square, one of which shall be sealed on the permit issued and one to be retained by the
25 Director.]

26 [(e) A child care worker permit shall be valid for one (1) year from date of issuance.]

27 [(f) Notwithstanding any other provision of this Division, the Director may, in his
28 discretion, establish a systematic method for administering the renewal of licenses under this
29 Division, including, but not limited to, establishing staggered renewal dates for existing licenses
30 and prorating license fees based on such renewal dates. In no event shall the Director:]

1 [(1) Restrict the right of a licensee, under any initial license issued in accordance with
2 the provisions of this Division, to an initial term of less than one (1) year from the date of
3 issuance;]

4 [(2) Issue any initial license for a period to exceed eighteen (18) calendar months;
5 and]

6 [(3) Renew any license for a period of less than seven (7) calendar months, or for a
7 period of more than eighteen (18) calendar months.]

8 **Sec. 5-129. [~~Same; investigation; grounds for denial or revocation~~] Reserved.**

9 [(a) Upon receipt of the application and fee as provided for in Section 5-128, the Director
10 of Environmental Resources shall make or cause to be made a criminal history investigation of
11 the applicant.]

12 [(b) The Director shall deny any application for a child care worker permit or revoke a
13 permit once issued if the Director finds that the applicant has ever been convicted of or with
14 respect to whom a court has accepted a plea of nolo contendere to or has been granted a
15 disposition of probation prior to judgment pursuant to Article 27, Section 641 of the Annotated
16 Code of Maryland or a similar ordinance from another jurisdiction with regard to a charge of:

- 17 (1) Murder or attempted murder;
- 18 (2) Child abuse;
- 19 (3) Rape or attempted rape;
- 20 (4) A sexual offense involving a minor or nonconsenting adult;
- 21 (5) Child pornography; or
- 22 (6) Kidnapping or abduction of a child.]

23 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
24 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
25 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
26 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
27 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
28 Act, since the same would have been enacted without the incorporation in this Act of any such
29 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

30 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
31 calendar days after it becomes law.

Adopted this 19th day of November, 2014.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive