CHILD DAY CARE FACILITIES AND NURSERY SCHOOLS

Section 22.1 Definitions

(A) The term "Child Day Care Facility" means an establishment or facility for the day care of children, whether known as day care center, day nursery, child play school, child development center, early childhood center, school-age child care program or other descriptive title, name or similar terminology, whether or not operated for compensation or profit, which operates three (3) hours or more per day.

(B) The term "Day Care of Children" means care provided for six (6) or more children away from their homes for less than twenty-four (24) hours per day in a Child Day Care Facility.

(C) The term "Nursery School" means any facility or establishment, whether public, private or parochial, and whether or not operated for compensation or profit, which is engaged in or holds itself out as being engaged in teaching and educational activities for six (6) or more children below the age of compulsory education conducted at a specified place, facility or establishment on a regular basis for three (3) or more hours per day.

(D) The term “common use drinking utensil” means any implement shared by one or more persons for the purpose of consuming liquids and that is not washed, rinsed and sanitized between uses.

(E) The term “School-age child care program” means a program or facility which is not a residence in which child day care is provided to an enrolled group of six or more children under 15 years of age during the school year before and/or after the period such children are ordinarily in school or during school lunch periods. School-age child care programs may also provide care during school holidays and those periods of the year in which school is not in session, including summer vacation. Such programs must operate consistent with the local school calendar.

Section 22.2 Permit required

(A) Every person who operates a child day care facility or nursery school in Dutchess County must possess a valid permit issued by the Dutchess County Commissioner of Health or appointed designee.

(B) Application for a permit must be made at least thirty (30) days before the proposed start of operation or at least thirty (30) days prior to the expiration of the current permit. This application is to be completed in full on a form prescribed by the Dutchess County Commissioner of Health or appointed designee and accompanied by the prevailing fee.
(C) **Prior to the issuance of a permit to operate, the** applicant must furnish the Department such information as may be required therein, including but not limited to the following information:

1. Sketch or diagram of the facility and its premises showing the inside and outside areas, dimension and intended use.

2. Sketch or diagram of playground area and dimensions, location and description of water supply and sewage disposal facility, roads, pathways, waterways or other bodies of water, if any, whether they be on or adjacent to the property, and any other hazardous or potentially hazardous topography or terrain.

3. Evidence of a fire safety inspection by local or State fire officials, if so required by local or State regulation.

4. Evidence of a certificate of occupancy by an appropriate municipal agency.

(D) A permit issued pursuant to this Section shall expire one (1) year from the date of issuance, or as otherwise stated thereon, or upon change of the operator or upon revocation of the permit.

(E) A permit is not transferable or assignable.

(F) A permit may be revoked by the Dutchess County Commissioner of Health or appointed designee upon finding that the child day care facility or nursery school for which the permit is issued is maintained, operated or occupied in violation of law or this Article. A permit may also be revoked upon request of the permittee or upon abandonment of operation.

(G) A permit issued for the operation of a child day care facility or nursery school shall be posted in a conspicuous place on the premises.

(H) No substantial physical repair, change or alteration shall be made to a child day care facility or nursery school without prior written approval of the Dutchess County Department of Health.

**Section 22.3 Sanitary and safety requirements**

(A) The total permitted capacity of a child day care facility or nursery school shall not exceed the capacity indicated on the permit.

(B) Food service facilities shall meet the requirements of Article 14 of this Code and Subpart 14-1 of the New York State Sanitary Code where deemed applicable.
(C) Swimming pool and bathing beach facilities shall meet the requirements of Article 6 of this Code and Subpart 6-1 and Subpart 6-2 of the New York State Sanitary Code. All swimming pools shall be properly fenced to prevent access without proper supervision.

(D) An adequate and potable water supply meeting the requirements of Article 5 of this Code and the requirements of the New York State Sanitary Code Subpart 5-1 for a non-community public water supply serving 25 or more people shall be made available. Subject to the approval by the Department of Health, New York State certified bottled water may be acceptable for service.

(E) Sewerage disposal facilities accepted and/or approved by the Dutchess County Department of Health shall be made available. It shall be unlawful to allow sewage to discharge upon the surface of the ground or into surface waters, drainage ditches or catch basins for which no permit has been issued to do so.

(F) All buildings, premises, equipment and furnishings used for a child day care facility or nursery school shall be safe and suitable for the care and comfort of the children and shall be provided and maintained in a good state of repair and sanitation.

(G) All rooms occupied by children shall have windows equal to ten (10) percent of floor area. The total of operable window area shall be equal to at least forty-five (45) percent of the window area. No rooms shall be below ground level unless approved by the Dutchess County Department of Health.

(H) Heating, ventilating and lighting facilities shall be adequate for protection of the health of the children. A temperature of at least sixty-eight degrees (68°) Fahrenheit shall be maintained in all rooms at all times occupied by the children.

(I) Rooms shall be effectively screened against insects.

(J) A firm and sanitary crib, sleeping pad, cot or bed of adequate size shall be provided for each child under five (5) years of age who spends more than four (4) hours per day at the child day care facility and any other child requiring a rest period. No sleeping unit shall be occupied by more than one (1) child at any one time. Individual sanitary bed covering shall be available for each child and shall be used when necessary.

(K) There shall be space provided for isolation of the child who becomes ill to provide him with quiet and rest and reduce the risk of infection or contagion to others.

(L) Toxic paints or finishes shall not be used on walls, window sills, beds, toys or any other equipment, materials or furnishings which may be used by children or within their reach. Peeling or damaged paint or plaster shall be repaired promptly to protect children from possible hazards. There shall be compliance with Article 20 of this Code pertaining to lead poisoning.
(M) The areas used for day care of children shall have floors and walls which can be fully cleaned and maintained and which are non-hazardous to the children's health, safety and clothes.

(N) Convenient, adequate and sanitary toilet facilities shall be provided for the children in a separate, properly ventilated room. One (1) sanitary toilet and one (1) sanitary wash basin for every group of fifteen (15) children or part thereof shall be deemed adequate.

(O) Children shall be accommodated in well-proportioned rooms having a minimum of thirty-five (35) square feet for each child, exclusive of halls, bathrooms, kitchens and offices.

(P) Space shall be provided and so arranged that each child's outer garments may be hung separately and in a manner such that these garments will not touch each other.

(Q) A constant supply of heated water, not to exceed one hundred twenty degrees (120°) Fahrenheit, shall be available.

(R) All rooms, outdoor play space, equipment, supplies and furnishings shall be kept clean and sanitary at all times. The child day care facility or nursery school and its premises shall be kept free from dampness, odors, and the accumulation of trash. The premises must be free of vermin and harborage areas.

(S) The floors and walls shall be kept clean and in good condition. All concrete floors used by the children shall be covered with an appropriate material approved by the Dutchess County Department of Health.

(T) Garbage receptacle(s) of proper construction and size shall be covered and cleansed after emptying. Garbage or rubbish shall not be stored in rooms ordinarily occupied by children, in outdoor play areas or in areas of access thereto.

(U) Individual drinking cups, disposable paper cups or bubbler fountains, of the angle jet-pump type, shall be provided. Common use drinking utensils shall be prohibited.

(V) Toilets and wash basins with soap and disposable towels shall be readily accessible to playrooms and outdoor play areas. Toilets and toilet seats shall be properly cleansed and sanitized as needed and after each day of use.

(W) Every vehicle used by the child day care facility or nursery school for transporting registered children shall bear a valid required inspection sticker and registration of the New York State Department of Motor Vehicles or, where required, the inspection sticker of the New York State Department of Transportation. Drivers shall be properly licensed and at least 18 years of age. Proof of insurance on all vehicles must be maintained.

Section 22.4 Communicable diseases and health care
(A) No child shall be accepted or continue in enrollment at a child day care facility or nursery school unless:

1. Such child has received a complete medical examination by a physician or nurse practitioner within six (6) months prior to initial admission and a written statement has been furnished giving assurance that there is no medical reason which would prohibit attendance. Such child shall maintain a record of health examinations in accordance with the American Academy of Pediatrics schedule for the duration of the child’s enrollment;

2. The child has received adequate prophylaxis against rubeola (measles), rubella, mumps, diphtheria, tetanus, pertussis, poliomyelitis, haemophilus influenzae type b, hepatitis B, and varicella when there are no medical contraindications documented by a physician's certificate. Such child shall maintain a record of these immunizations in accordance with the American Academy of Pediatrics schedule for the duration of the child’s enrollment.

(B) Every child day care facility or nursery school shall maintain, on the premises, a record of all immunizations of children registered in the child day care facility or nursery school and such records shall be available to any official representative of the department for inspection.

(C) Persons suffering from, or suspected of suffering from any communicable disease or having acute symptoms of respiratory, gastrointestinal or skin infection shall not be in attendance at any child day care facility or nursery school unless so authorized and under the direction of a physician. Communicable disease illness must be reported by the child day care facility or nursery school operator to the Department of Health within 24 hours in accordance with reporting requirements outlined in Article 10 of this Code. Investigation and follow-up by official representatives of the department will be conducted in accordance with Article 10 of this Code.

(D) Children shall not be administered any medication (whether by prescription or otherwise), medically required diet, nor any special medical procedures carried out except upon written order of a physician. Medication shall be carefully labeled with the child's name and stored in an area not accessible to children. Medication requiring refrigeration shall be stored in a designated receptacle separate from food items. A written record of prescription medicine administration is to be maintained and the medication is to be returned to the parents, guardian and/or person having custody of the child when no longer needed.

(E) At least one on-site staff person shall possess a current First Aid certificate valid for no more than three years, and a current Adult and Pediatric C.P.R. certificate valid for no more than one year. Only First Aid and CPR courses acceptable to the Commissioner of Health given by a certified provider shall satisfy this requirement.

Section 22.5 Recreational areas, supervision
(A) When the child day care facility or nursery school is in operation, there shall be a person designated as the director to supervise and direct activities. The director shall be at least twenty-one (21) years old and demonstrate appropriate child-related training and teaching or supervisory experience. There shall be a competent staff member available at all times to substitute for the director when the director is away from the premises.

(B) During the hours the child day care facility or nursery school is in operation, an adequate number of qualified staff shall be on duty to insure the health and safety of the children in their care. A qualified substitute shall be provided for an absent staff member.

(C) Children shall not be left without competent supervision at any time. Supervision shall be by a qualified person who shall be at least eighteen (18) years of age. No person who has been convicted of a crime against children shall be in the employ of a child day care facility or nursery school.

(D) No child shall be released from the child day care facility or nursery school to any person other than his parent, guardian, lawful custodian or person previously designated thereby in writing.

(E) All playgrounds and recreational areas at a child day care facility or nursery school shall be maintained free of any condition which may be a danger to the life, safety or health of any child. Playgrounds and recreational areas shall be fenced or have other means for keeping children within the area. Fences confining the children close to the house or building shall have at least one (1) gate that may be used as an emergency exit.

(F) Staff child ratios shall be as follows:

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<thead>
<tr>
<th>AGE OF CHILD</th>
<th>MIN. REQUIRED STAFF PER # OF CHILDREN</th>
<th>MAXIMUM GROUP SIZE</th>
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<tbody>
<tr>
<td>8 weeks to 1½ years</td>
<td>1:4</td>
<td>8</td>
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<tr>
<td>1½ years to 3 years</td>
<td>1:5</td>
<td>12</td>
</tr>
<tr>
<td>3 years</td>
<td>1:7</td>
<td>18</td>
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<tr>
<td>4 years</td>
<td>1:8</td>
<td>21</td>
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Section 22.6 Fire safety and safety requirements

(A) Suitable precautions shall be taken to eliminate all conditions which may constitute or create a fire or safety hazard.

(B) Portable electrical heaters or other portable heating devices shall not be used in rooms accessible to children, regardless of the type of fuel used.

(C) The Dutchess County Department of Health may require or accept a fire inspection by another agency having jurisdiction or being qualified to do so.

(D) To determine adequate fire safety, the Dutchess County Department of Health may use acceptable fire safety codes and standards, including but not limited to the National Fire Protection Association Life Safety Code and Life Safety Code Handbook, and the State Uniform Fire Prevention and Building Code and any subsequent revisions of or additions to those Codes.

(E) There shall be an adequate number of acceptable fire extinguishers. The extinguishers shall be maintained in good working condition and tested and tagged annually.

(F) There shall be an adequate number of properly placed heat and/or smoke sensing devices. They shall be maintained and operable at all times. They shall be tested on a monthly basis and a log maintained showing date of test and result.

(G) Children shall be cared for only on such floors as are provided with readily accessible, alternate means of egress, which are remote from each other.

(H) All corridors and approaches to means of egress and exits shall be kept unobstructed at all times.

(I) Exit stairways shall be equipped with low railings for the use of children.

(J) Porches, walkways and play areas which are elevated shall have barriers to prevent accidents.

(K) Stairs, walkways, ramps and porches shall be maintained free from accumulations of water, ice and snow.
(L) A written plan shall be developed and posted for the emergency evacuation of children from the premises and a subsequent roll call. All staff shall be given instructions as to their specific responsibilities in the event of fire. Primary emphasis shall be placed on the evacuation of children. Monthly fire drills shall be conducted and a log with dates of these drills must be maintained. This log must be made available for inspection.

(M) A commercially available 24-unit first aid kit or equivalent shall be kept adequately stocked for emergency treatment in child day care facilities or nursery schools. First-aid supplies shall be kept in a clean container out of the reach of children.

(N) All flammable liquids, cleaning supplies, detergents, matches, lighters, and any other such items which may be harmful to children shall be kept in a place inaccessible to children. Flammable liquids shall be stored in approved containers acceptable to the Dutchess County Department of Health. Heat-producing equipment rooms shall not be utilized for the storage of combustible materials.

(O) Protective receptacle covers for electrical outlets shall be installed in all areas in the child day care facility or nursery school which are occupied by children.

(P) Any pet or animal on the premises, indoors or outdoors, shall be in good health, properly cared for and known to be a suitable pet for children. The child day care facility or nursery school operator shall verify that these animals are maintained in compliance with the Environmental Conservation Law, Agriculture and Markets Law, Public Health Law and New York State Sanitary Code.

(Q) The child day care facility or nursery school shall be provided with a minimum of one (1) single-line, listed telephone for general use and emergencies, and there shall be conspicuously posted nearby appropriate telephone numbers and instructions for obtaining fire, police and medical assistance.

(R) Heaters, furnaces or other heat-producing equipment shall be properly serviced at least annually to ensure proper and safe operation and shall be an approved type, properly installed and contained in other rooms or separated from areas accessible to the children.

Section 22.7 Special provisions for infants under three (3) years of age

The following special provisions and care shall be provided in a child day care facility where infants between eight (8) weeks of age and three (3) years of age are accepted; provided, however, that no infant under eight (8) weeks of age shall be accepted or admitted to any child day care facility:

(A) Quarters or areas separated from that of older children shall be provided for such infant groups in the child day care facility.
(B) Play areas, apart from sleeping quarters, shall be provided where the infants may comfortably and safely sit, crawl, toddle, walk and play. A minimum of thirty-five (35) square feet per infant shall be provided for such purpose.

(C) Infant group caregivers must be at least eighteen (18) years of age, with a caregiver to infant group ratio of 1:4 and group size not to exceed 8.

(D) Appropriate and separate sleeping accommodations shall be provided, as follows:

1. Cribs or padded playpens must be provided for each infant and shall be situated at least two (2) feet apart.

2. Pillows shall not be used.

3. A clean sheet and a blanket, when necessary, shall be provided for exclusive use of each infant.

(E) Facilities shall be provided for the proper cleaning of linens, toys, equipment and supplies used with each group of infants and for the proper refrigeration of food and baby formula. Infant formula shall be prepared and provided by the parent, guardian or person having custody. All bottles and containers of formula shall be clearly marked with the child's first name and last name.

(F) Infants' diapers must be changed as often as necessary in the area provided for the infant group, and a covered container for soiled diapers and an employee handwash sink must be immediately available. The handwash sink shall be provided with soap, running hot and cold water and disposable hand towels.

(G) Toileting equipment, such as potty chairs, appropriate to the toilet training level of the infants in the group, shall be provided. All such equipment shall be completely washable. All such equipment shall be washed and sanitized after each use.

Section 22.8 Other laws

Every child day care facility or nursery school shall comply with the provisions of the Social Services Law, Public Health Law, State and County Sanitary Codes, and Mental Hygiene Law applicable to child day care facilities and such laws shall supersede the provisions of this Article in such instances where this Article is less stringent or in conflict with the statutes pertaining thereto; provided, however, that in no event shall this be construed to exempt a child day care facility or nursery school from the requirements of obtaining a permit from the Dutchess County Department of Health and from meeting the sanitary requirements of this Article pertaining thereto.

Section 22.9 Injuries and illnesses records
(A) Every child day care facility or nursery school shall maintain on the premises at all times a record of any injury, accident, or illness of any child or staff members. Such records shall be kept for at least two (2) years from the date of the occurrence of accident, injury or onset of illness.

(B) The child day care facility or nursery school operator shall report the following incidents occurring on premises to the Department of Health within 24 hours: all child and staff injuries that result in death or which require resuscitation, admission to the hospital or the administration of epinephrine; all child and staff exposures to animals potentially infected with rabies; injuries to a child’s eye, head, neck or spine which require referral to a hospital or other facility for medical treatment, or injuries to a child where the victim sustains second or third degree burns to five percent or more of the body; child injuries which involve bone fractures or dislocations, and all lacerations requiring sutures.

Section 22.10 Lead screening status of children who enroll in nursery school or child day care

(A) Prior to or within three months of initial enrollment, each child day care facility and nursery school shall obtain a copy of a certificate of lead screening for any child at least one year of age but under six years of age and retain such documentation until one year after the child is no longer enrolled.

(B) When no documentation of lead screening exists, the child shall not be excluded from attending the nursery school or child day care facility. However, the owner or person in charge of the nursery school or child day care facility shall provide the parent or guardian of the child with information on lead poisoning and lead poisoning prevention and refer the parent or guardian to the child's primary health care provider; or, if the child's primary care provider is unavailable or if the child has no primary health care provider, to another primary care provider or to the local health unit to obtain a blood lead test. Documentation that information on lead poisoning and lead poisoning prevention was given to the parent or guardian must be maintained.

Section 22.11 Variances and waivers

The Dutchess County Commissioner of Health or appointed designee may, on written application, and after review, grant a waiver or variance from a specific provision of this Article. A variance or waiver shall be subject to appropriate conditions. A variance shall include a time schedule for compliance where such variance is in harmony with the general purpose and intent of this article.