

Chapter 5-33

CHILD CARE FACILITIES

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Section 5-33-01 PURPOSE

The purpose of Boise City's child care licensing program is to promote a child care environment where children receive safe, healthy, and developmentally appropriate care.

Section 5-33-02 DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, words, and derivations thereof shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. APPLICANT:

A person making application for a license or the renewal of a license to operate a child care facility or to act as a child care worker, juvenile child care worker, or volunteer.

B. BABYSITTING:

The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily in the business of providing child care. Babysitting is temporary care of a child or children in the home or residence of the parent, guardian, or a person with the duties and powers of a guardian of the child or children being cared for.

C. CHIEF AGENT or DESIGNATED RESPONSIBLE PERSON:

A person who has authority to act on behalf of or represent the owner of a child care facility. These terms are used interchangeably throughout this Chapter.

D. CHILD:

Any person who is under thirteen (13) years of age who is being provided child care.

E. CHILD CARE:

The care and supervision provided for compensation (to the child care facility owner) during part of a twenty-four (24) hour day, for a child or children under thirteen (13) years of age, not related by blood, marriage, adoption, or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes.

F. CHILD CARE FACILITY:

Any home, business, or other place where child care is provided. There are four (4) types of child care facilities:

1. Family Child Care Home - A child care facility that provides care for six (6) or fewer children in a building inhabited by one (1) or more people who use the building as their home or residence.
2. Group Child Care Home - A child care facility that provides care for seven (7) to twelve (12) children in a building inhabited by one (1) or more people who use the building as their home or residence.
3. Residential Child Care Center - A child care facility that provides care for seven (7) to twelve (12) children in a home or residential building in which no person resides.
4. Commercial Child Care Center - A child care facility that provides child care for more than twelve (12) children or uses a non-residential building.

G. CHILD CARE FACILITY RESIDENT:

Any person thirteen (13) years of age or older who resides in any child care facility.

H. CHILD CARE WORKER:

Any person employed by, or who otherwise works at, a child care facility who has direct and regular contact with the children in such facility.

I. CITY CLERK:

Clerk of Boise City, Idaho, or his/her designee.

J. CLINIC:

Outpatient health facility.

K. DIRECT SUPERVISION:

Being physically present with immediate and direct line of sight to the person(s) or object(s) of supervision.

L. ENROLLED:

Any child who has been placed within a child care facility by agreement, contract, or arrangement between the parents or guardians of the child and the child care facility owner or authorized child care worker shall be deemed “enrolled” in that facility.

M. FLAME SOURCE UTILITY:

Any device that uses open flame combustion as a means of heating a space, surface, or fluid. Common examples (non-inclusive) are: wood, gas, coal, kerosene heaters, propane space heaters, gas water heaters or stoves, gas or kerosene furnaces, and wood or gas fireplaces.

N. HEALTH FACILITY:

Any facility that is operated for the diagnosis, care, prevention, and treatment of human illness or injury, including children's therapeutic outdoor programs, and any facilities providing treatment, therapy, or rehabilitation for children required to be licensed by the state of Idaho under any sections of the Idaho Code other than Title 39, Chapter 11.

O. JUVENILE CHILD CARE WORKER:

Any person employed by a child care facility who has direct contact with a child or children and is under the age of eighteen (18), but is thirteen (13) years of age or older. Every juvenile child care worker shall be under the direct supervision of a licensed child care worker.

P. LICENSEE:

Any person having a Boise City license in full force and effect, issued hereunder for operation of a child care facility or employment as a child care worker, juvenile child

care worker, or volunteer.

Q. LICENSING OFFICER:

A City Licensing Enforcement Specialist or the City Clerk.

R. OFFICER:

Any person who holds a position of authority or trust in an organization or corporation that owns, possesses, or operates any child care facility, including (but not limited to) all partners, officers, directors, members, or principal stockholders.

S. OWNER:

A person who has, owns, possesses or operates a child care facility. The person who is ultimately responsible for the management, supervision, and operation of a child care facility.

T. PERSON:

Any individual, partnership, association, corporation, or organization of any kind, or any governmental entity, including the state of Idaho and every political subdivision thereof.

U. PUBLIC RECREATION PROGRAM:

Any recreation program operated by the state, a county, a city, a special district, a college, or a university, which operates less than twelve (12) weeks during a calendar year or not more often than once a week.

V. VISITOR:

Any person who is a guest at a child care facility on a random or infrequent basis to provide a prearranged performance, presentation, or event, or to visit a child. Every visitor shall be under the direct supervision of a licensed child care worker. A visitor shall not count in the worker/child ratio.

W. VOLUNTEER:

Any person who periodically or intermittently provides a service to a child care facility without pay or remuneration of any kind. Every volunteer shall be under the direct supervision of a licensed child care worker while volunteering at a child care facility.

X. WORKER/CHILD POINT SYSTEM:

The methodology used to determine the number of licensed child care workers required to provide child care for a given number of children.

Section 5-33-03 HEALTHY INITIATIVES

The City of Boise shall monitor and disclose to the public each child care facility's compliance with regards to physical activity, screen time, nutrition menus, and infant feeding standards as defined in this Chapter. All records as required by this Chapter shall be available for inspection by any member of the public. The healthy initiatives established by this Chapter shall not be required for licensure by the City of Boise.

A. Physical Activity

1. A child over the age of one (1) year should receive a minimum of twenty (20) minutes of indoor and/or outdoor daily physical activity, weather permitting, every three (3) hours between the hours of 7:00 a.m. and 7:00 p.m.
2. A daily time record showing blocks of time assigned to types of physical activity for each group of children shall be maintained.

B. Screen Time

1. A daily limitation on sedentary, non-educational screen time (media and computer) of no more than one (1) hour per day or five (5) hours per calendar week during the child care facility's hours of operation.
2. A daily time record for each group of children showing the minutes that any screens are on shall be maintained, including but not limited to televisions, computers, tablet devices, cell phones, video game systems, or any other media device.
3. Screen time shall be deemed sedentary and non-educational unless the owner has maintained a contemporaneous record documenting the specific educational objectives of the screen time and as approved by the licensing officer.
4. Use of screen time for a child's homework assignments, or for a child with health care needs who require assistive and adaptive computer technology shall not be deemed sedentary and non-educational.

C. Nutrition Menus

1. A menu which meets the USDA's Child and Adult Care Food Program (CACFP) meal patterns for infants and children. Facilities not providing meals or snacks are exempt from this requirement.
2. A weekly menu record shall be maintained of all meals and snacks provided by the facility. Records are not required for facilities participating in the following programs or if meals and snacks are not provided by the facility:

- a. Nutrition Works
 - b. State Department of Education
 - c. Under the Umbrella
3. Exemptions will be provided for medical purposes or religious beliefs in accordance with written consent of the child's parents, guardians, or medical provider. Written consent shall be kept on site in the child's file.

D. Infant Feeding

1. A private, designated location, other than a restroom, for breastfeeding at a child care facility.
2. The area shall be maintained in a sanitary condition, with access to an electrical outlet, chair, and near running water.

E. Exemptions. All child care facilities who hold one of the following accreditations are exempt from Healthy Initiative training and Healthy Initiative inspection requirements:

1. National Association for the Education of Young Children;
2. National Association for Family Child Care; or
3. Accredited Montessori Schools as defined in § 5-33-06(D) of this Title and Chapter.

Section 5-33-04 LICENSES REQUIRED; APPLICATION; EXPIRATION AND RENEWAL; EXEMPTIONS

A. Child Care Facility License

1. No person shall own or operate a child care facility without first obtaining and maintaining a valid child care facility license as provided in this Chapter.
2. Each child care facility license shall expire upon the earlier of:
 - a. One (1) year from the date of issuance;
 - b. The date on which a licensee sells or otherwise transfers any amount or degree of ownership or control of the child care facility, except when the change of ownership applies to the transfer of stock when the child care facility is owned by a corporation and such transfer does not constitute a majority of the issued shares of such corporation;

- c. The date on which a licensee surrenders the license to a Licensing Officer; or
 - d. The date on which a licensee moves the child care facility from one location to another.
3. The City Clerk shall collect, at the time of application, a non-refundable license fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule for family child care homes, group child care homes, residential child care centers, and commercial child care centers.
4. An individual licensed as the owner of a family child care home or group child care home shall be considered licensed as a child care worker in that facility, and shall not be charged an additional fee for a child care worker license. However, such a licensee shall meet all requirements and possess all qualifications of a child care worker.
5. No less than thirty (30) and no more than sixty (60) days prior to the expiration of a current and valid child care facility license, the license may be renewed by submitting the following to the City Clerk:
 - a. A completed application, or a signed and dated certification or declaration made under penalty of perjury that none of the information provided in the original license application has changed.
 - b. The required fee, pursuant to the City Clerk's License Fee Schedule.
 - c. Fingerprints and authorization to conduct background checks on the applicant and all other people subject to the background check requirement.
 - d. Copies of certificates of attendance, training logs, or college transcripts showing completion of the number of training hours required by § 5-33-10 shall be submitted with the application for license renewal for all continuing education required during the license term.
 - e. If there has been any lapse of licensure for any reason within the preceding two (2) years prior to reinstatement, the person must meet all requirements for licensure, including all training requirements. Copies of certificates of attendance, training logs, or college transcripts showing completion of the number of training hours required by § 5-33-10 shall be required for the entire period of licensure and lapse. Example - If a licensed child care worker's license expired in 2012, and the worker wanted to reapply in 2014, they must complete all training requirements for 2013 and 2014 prior to being eligible for licensure in 2014.
 - f. Proof that all required inspections were satisfactorily completed.
6. Upon the timely submission of a completed renewal application or a signed and dated certification or declaration made under penalty of perjury that circumstances are

unchanged, the current license shall remain valid until the City Clerk reviews the applicant's qualifications and either denies the renewal application or re-issues the license.

B. Child Care Worker and Volunteer Licenses

1. Types of licenses:
 - a. Child Care Worker License
 - b. Juvenile Child Care Worker License
 - c. Volunteer License
2. No person shall act as a child care worker, juvenile child care worker, or volunteer without first obtaining and maintaining a valid child care license as provided in this Chapter.
3. Each child care worker, juvenile child care worker, and volunteer license shall expire at the end of one (1) year from the date of issuance. No child care worker, juvenile child care worker, or volunteer license shall be transferable to another person.
4. The City Clerk shall collect, at the time of application, a non-refundable license fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule.
5. No less than thirty (30) and no more than sixty (60) days prior to the expiration of a current and valid child care worker or volunteer license, the license may be renewed by submitting the following to the City Clerk:
 - a. A completed application, or a signed and dated certification or declaration made under penalty of perjury that none of the information provided in the original license application has changed.
 - b. The required fee, pursuant to the City Clerk's License Fee Schedule.
 - c. Fingerprints and authorization to conduct background checks on the applicant and all other people subject to the background check requirement, pursuant to this Chapter.
 - d. Copies of certificates of attendance, training logs, or college transcripts showing completion of the number of training hours required by § 5-33-10 shall be submitted with the application for license renewal for all continuing education required during the license term.
 - e. If there has been any lapse of licensure for any reason within the preceding two (2) years prior to reinstatement, the person must meet all requirements for licensure,

including all training requirements. Copies of certificates of attendance, training logs, or college transcripts showing completion of the number of training hours required by § 5-33-10 shall be required for the entire period of licensure and lapse. Example - If a licensed child care worker's license expired in 2012, and the worker wanted to reapply in 2014, they must complete all training requirements for 2013 and 2014 prior to being eligible for licensure in 2014.

6. Upon the timely submission of a completed renewal application or a signed and dated certification or declaration made under penalty of perjury that circumstances are unchanged, the current license shall remain valid until the City Clerk reviews the applicant's qualifications and either denies the renewal application or re-issues the license.

C. The general standards and requirements for license applications are as follows:

1. Application for any license pursuant to this Chapter shall be made to the City Clerk in the form and manner prescribed by the City Clerk.
2. Every application containing untrue or misleading information shall be returned to the applicant without refund or consideration, and may result in criminal charges or penalties as prescribed by law.
3. Every incomplete application shall be returned to the applicant without refund or consideration.
4. Every applicant and licensee has an ongoing affirmative duty to update all information provided on the application for a license, in the event such information becomes outdated, untrue, or otherwise incorrect, within ten (10) business days of such change.
5. Applicant and licensee shall report all misdemeanor and felony criminal convictions immediately, which shall mean no more than two (2) business days.

D. A license fee shall not be imposed upon the state of Idaho or any of its agencies, departments, or political subdivisions.

E. The licensing requirements of this Chapter do not apply to any of the following:

1. Any health facility.
2. Any clinic.
3. Any facility that:
 - a. is a religious school for educational purposes for children over four (4) years of age and older; or
 - b. is public or private elementary school meeting the standards established by the State

Board of Education, and operates during the period of normally established school hours.

4. Any arrangement for the child care of the niece, nephew, first or second generation cousin, grandchild, brother or sister, son or daughter, related either by blood or marriage to the child care provider, unless child care is at the same time being provided to an unrelated child or children. When determining the worker/child ratio within a licensed child care facility, all related and unrelated children under the age of thirteen (13) shall be counted. The total number of related and unrelated children shall not exceed the number for which the facility is licensed.
5. Babysitting.
6. The provision of occasional care exclusively for children of parents who are simultaneously in the same building.
7. Any recreation program for children conducted by the Girl Scouts, Boy Scouts, Boys Club, Girls Club, Camp Fire, or similar organization, and any day camps, programs, and religious schools operating for less than twelve (12) weeks during a calendar year or not more often than once a week.
8. Any public recreation program.
9. Any person enrolled in a program that meets the standards established by the State Board of Education and has a curriculum requirement of interaction/observation at a child care facility. This person shall not be counted in the worker/child ratio.
10. Any cooperative child care arrangement between parents or guardians of children where no payment is involved, and where the child care occurs in the home of the parents or guardians of one (1) or more of the children for whom child care is provided.
11. Any arrangement between the parent(s), guardian(s), or person(s) with the duties and powers of a guardian of a child or children and a close friend of the parent(s), guardian(s), or person(s) with the duties and powers of a guardian, provided that such arrangement is not for financial profit, does not exceed ten (10) hours per week, and is not provided for the children of more than one (1) family. Child care provided pursuant to this subsection that exceeds ten (10) hours per week shall not be prohibited when provided on an occasional, non-recurring, temporary basis for reasons including, but not limited to family emergencies, vacation or military leave.
12. Any agency, person, program, facility, or institution defined as a health facility in this Code, and foster homes, children's residential care facilities, residential schools, and substance abuse treatment facilities exempted from the licensing requirements of Title 39, Chapter 12, Idaho Code, except those which provide only child care as defined in this Ordinance.

- F. Notwithstanding the exemptions set forth herein, any person who owns, operates, or is employed by a private school for children four (4) through six (6) years of age or a private kindergarten shall comply with the criminal history check requirements of this Section.
- G. Any person otherwise exempt from the licensing requirements of this Section may apply for any type of child care license. Upon a determination that all applicable standards and qualifications of this Chapter are met, the applicant shall be issued the license. Application fees shall be paid by the applicant prior to issuance of the license.

(Ord-38-15, Amended, 8/25/2015)

Section 5-33-05 INVESTIGATION AND INSPECTION UPON APPLICATION FOR LICENSING

- A. Upon the receipt of an application for a license, the Licensing Officer, or a person designated by the City Clerk shall conduct an investigation to determine whether the standards established by §§ 5-33-04 through 5-33-11 are met.
- B. The Licensing Officer shall conduct an investigation on any resident in a child care facility who is thirteen (13) years of age or older consistent with Boise City Code §§ 5-33-04(D), 5-33-04(E), and 5-33-11.
- C. The Licensing Officer shall obtain from the applicant a criminal history check on the owners, officers, child care workers, directors, and employees of a child care facility who have direct contact with children, and on all other individuals thirteen (13) years of age or older who have unsupervised direct contact with children or are regularly on the premises of a child care facility. The criminal history check consistent with §§ 5-33-04(D), 5-33-04(E), and 5-33-11 shall include the following for all persons subject to the provisions of this Section who are eighteen (18) years of age or older:
 - 1. Statewide Criminal Identification Bureau;
 - 2. Federal Bureau of Investigation (FBI) criminal history;
 - 3. National Crime Information Center;
 - 4. State of Idaho Sex Offender Registry; and
 - 5. Statewide Child Abuse Registry.
- D. Prior to issuing or renewing a child care facility license, the City Clerk shall conduct an inspection of the premises at which the applicant will operate the child care facility, to ensure that the premises are in compliance with the requirements of this Chapter.

(Ord-38-15, Amended, 8/25/2015)

Section 5-33-06 REQUIREMENTS FOR ISSUANCE AND MAINTENANCE OF LICENSES

- A. No license governed by this Chapter shall be issued unless and until the Licensing Officer determines that all applicable license standards and qualifications contained herein are met, and that the applicant does not possess any disqualifications.
- B. Every licensee shall continue to have and maintain all of the qualifications and none of the disqualifications provided in this Chapter throughout the license period or, in addition to the criminal penalties prescribed therefor, the Licensing Officer shall suspend or revoke all licenses issued pursuant to this Chapter that are held by the licensee. The procedures for suspension and revocation, including the right of appeal are as set forth in §§ 5-33-14, 5-33-15 and Title 5, Chapter 2, Boise City Code.
- C. Child Care Facility License Requirement:
 - 1. No person owning or operating a child care facility shall employ or otherwise utilize any person as a child care worker, juvenile child care worker, or volunteer unless such person possesses a valid license as provided in this Chapter. Unless exempted by this Chapter, every person on the applicant's staff who has direct contact with any child or children at the child care facility shall possess and maintain a valid license of the type required by this Chapter.
 - 2. Child Care Facility Staffing Requirements.
 - a. At least one (1) licensed adult child care worker (18 years of age or older) must be present at all times when a child or children are present.
 - b. The director must be eighteen (18) years of age or older.
 - c. At all times a child care facility is open or operating, the owner shall ensure a designated responsible person or chief agent is present at the child care facility.
 - d. The person designated as the responsible person or chief agent shall be a licensed child care worker.
 - e. The person designated as the responsible person or chief agent shall be responsible for all children and all conditions at the child care facility.
 - f. Every juvenile child care worker and volunteer shall be under the direct supervision of a licensed child care worker. No child care facility owner or child care worker shall leave an unsupervised juvenile child care worker or volunteer in charge of one (1) or more children.
 - g. Every visitor shall be under the direct supervision of a licensed child care worker while visiting a child care facility. No owner or child care worker shall leave an unattended visitor in the presence of children, unrelated to the visitor, who are under the care or supervision of the child care facility.

- h. Every child care worker who is caring for one (1) or more children shall be within sight or hearing of all such children at all times, including nap time, and shall be capable of immediately assisting a child in an emergency.
- i. Only child care workers, juvenile child care workers, and volunteers who are primarily engaged in caring for the children shall be counted in calculating the worker/child point system. The number of child care workers, volunteers, and juvenile child care workers who are supervising or caring for children shall be sufficient to comply with the worker/child point system required by this Chapter.

D. Child Care Worker Staffing Requirements. The requirements of this subsection shall become effective and enforceable one (1) year after implementation or October 1, 2015, whichever is later.

1. Worker/Child Point System. The maximum allowable child:staff ratio shall not exceed twelve (12) points. The number of points shall be determined by using the following point system:

- a. Each child in attendance in a group who is under the age of twenty-four (24) months 2.4 points
- b. Each child in attendance in a group who is twenty-four (24) months or older, but under thirty-six (36) months of age 2 points
- c. Each child in attendance in a group who is thirty-six (36) months or older, but under five (5) years of age..... 1.2 points
- d. Each child in attendance in a group who is five (5) years of age or older, but under thirteen (13) years of age.....1 point

NUMBER OF CHILDREN ALLOWED				
Number of Staff Required	Less than 2 Years	2 Years	3-4 Years	5-12 Years
1	Maximum 5 Children	Maximum 6 Children	Maximum 10 Children	Maximum 12 Children
2	Maximum 10 Children	Maximum 12 Children	Maximum 20 Children	Maximum 24 Children
3	Maximum 15 Children	Maximum 18 Children	Maximum 30 Children	Maximum 36 Children

2. If the worker/child point system contained in the Idaho Code is more restrictive than this Chapter, the point system contained in the Idaho Code shall control.
3. Each and every child present or in attendance on the premises (both indoor and outdoor) of a child care facility shall be counted to establish the maximum allowable points for determining compliance with the worker/child point system set forth in this Section.
4. Exemption for Accredited Montessori Schools.
 - a. A Montessori school accredited by one (1) or more of the accrediting organizations named herein shall not be required to comply with the worker/child point system set forth in this Chapter.
 - b. The authorized accrediting organizations include:
 - i. Association Montessori Internationale (A.M.I.);
 - ii. American Montessori Society (A.M.S.);
 - iii. International Montessori Council; and
 - iv. Montessori School Accreditation Commission (M.S.A.C.).
 - c. To qualify for and receive this exemption from the worker/child point system, a Montessori school shall provide a copy of the certificate of recognition or accreditation issued by the accrediting organization to the City Clerk.
 - d. An accredited Montessori school's exemption from the worker/child point system does not exempt that Montessori school from any of the other requirements of this chapter.

Section 5-33-07 RECORD KEEPING REQUIREMENTS

A. Child Care Facility Record Keeping Requirements for Each Enrolled Child.

1. Every child care facility owner shall maintain on the premises of the child care facility, in a secure location, a file or record for each and every child enrolled at, attending, or present at the child care facility. The files and records shall be indexed and filed together in a secure, but readily available, location. Every child's file and records shall be purged by the child care facility owner within six (6) months of the date the child withdraws from enrollment at the child care facility. The required file or record shall contain, at a minimum, the following documents and information:
 - a. The child's full name.

- b. The child's birthdate.
 - c. The full name, telephone number(s), and address(es) of each child's parent(s), guardian, emergency contact person(s), or agency which placed the child.
 - d. A medical treatment consent form signed by the child's parent(s) or guardian(s), which authorizes emergency medical treatment by a physician if the parent(s) or guardian(s) cannot be reached.
 - e. The name, address, and telephone number of a physician designated by the child's parent(s) or guardian(s), including any hospital preference if emergency medical treatment is required.
 - f. Information regarding the child's allergies, medication, and other health-related needs.
 - g. Within fourteen (14) days of initial attendance, the child care facility must obtain from the child's parent or guardian a current immunization record for each enrolled child unless the child's parent or guardian has submitted to the child care facility director:
 - i. A certificate provided by the child's parent(s) or guardian(s) and signed by a physician licensed by the State Board of Medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child; or
 - ii. A signed statement objecting to immunizations upon religious grounds.
 - h. The immunization record of each child shall contain the immunizations required by the Idaho Board of Health and Welfare's rules adopted under the provisions of Chapter 52, Title 67, Idaho Code.
 - i. Immunization records must be signed by a physician or his representative or another licensed health care professional and shall verify that the child has received or is in the process of receiving immunizations as specified by the Idaho Board of Health and Welfare; or can effectively demonstrate, through verification in a form approved by the Idaho Department of Health and Welfare, immunity gained through prior contraction of the disease.
- B. Every child care facility owner, chief agent, or designated responsible person shall maintain on the premises of the child care facility training records for every child care worker. These records shall contain the number of hours of workshop attendance, the name of every training session attended, the subject content, and the name of the instructor. Training records and the following documentation and information shall be posted in a conspicuous place or available for inspection within the pick-up and drop-off area of every child care facility:

1. A copy of Boise City Code Title 5, Chapter 33, or a notice that a copy may be obtained from the child care facility upon request;
 2. A current CPR and first aid certification for every child care worker employed at the child care facility;
 3. A current Boise City license for the child care facility and the current Boise City licenses of every child care worker, juvenile child care worker, and volunteer employed or being utilized at that child care facility (each license is a verification of passage of criminal history check);
 4. An illness policy;
 5. A discipline policy outlining and describing all methods of discipline employed at the facility;
 6. A fire escape plan;
 7. A fire inspection certificate;
 8. A policy on enrolling children without current immunizations; and
 9. Written documentation identifying every person who picks up a child from the facility. Only the child's parent(s) or guardian, or those people approved in advance and in writing by the child's parent or guardian may pick up a child from a facility.
 10. A "Permission to Provide Transportation" form signed by the child's parent(s) or guardian(s), if applicable.
- C. Every building in which a child care facility is operated shall comply with all applicable building, fire, health, and zoning standards provided by law, including the safety standards specifically set forth in Idaho Code § 39-1109(1). Licensing by the City Clerk does not exempt the child care facility from any other requirements, including building code, fire code, and zoning ordinances. It is a violation of this Ordinance to operate any child care facility in contravention of any applicable building, fire, health, and zoning standards provided by law.

Section 5-33-08 TRANSPORTATION SAFETY

Every person employed by a child care facility who transports children using any vehicle or resource owned, operated, or arranged by the child care facility shall:

- A. Verify that every child being transported has a current and valid "Permission to Provide Transportation" form signed by the child's parent(s) or guardian(s) and on record at the facility at the time the transportation is provided;

- B. Possess a valid state issued driver's license appropriate for the vehicle being driven;
- C. Possess a valid child care worker license issued by Boise City;
- D. Ensure that the vehicle is registered and insured according to Idaho State Law;
- E. Not leave any child or children unattended or unsupervised in a vehicle at any time, for any length of time;
- F. Not transport any child under the age of thirteen (13) in the front passenger-side of any vehicle with an enabled passenger side airbag.
- G. Not have been convicted, plead guilty to, or received a withheld judgment for Driving Under the Influence or Reckless Driving in Idaho, or any substantially conforming crimes in another State within the previous five (5) years.
- H. Have a restraint system for each child in the vehicle. Every restraint system shall comply with Idaho Code § 49-672 and Federal Motor Vehicle Safety Standard No. 213. Buses that are specifically designed for transporting children and have other protective devices, such as padding are exempted from this rule.

Section 5-33-09 HEALTH AND SANITATION STANDARDS

- A. Every child care facility shall be inspected by the Central District Health Department for acceptable public health practices to prevent the spread of communicable diseases. These practices include, but are not limited to:
 - 1. Every child care facility shall be maintained in a sanitary condition;
 - 2. Food for use in child care facilities shall be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent contamination;
 - 3. All food that is to be served in a child care facility shall be stored in such a manner that it is protected from potential contamination;
 - 4. Any water supply, where the source is other than a public water system, shall be approved by the Central District Health Department prior to its original use and annually thereafter;
 - 5. Medicines, cleaning supplies and other hazardous substances shall be stored out of children's reach.
- B. Every child care facility shall conform to appropriate sanitation conditions, including but not limited to:

1. Every child who is ill shall be excluded from the general population;
 2. Diaper changing shall be conducted in such manner as to prevent spread of communicable diseases;
 3. Sleeping areas, play areas, and fixtures shall be maintained in a safe, sanitary condition;
 4. Children and workers shall be provided with individual or disposable towels for hand washing. The hand washing area shall include soap and hot and cold running water. Every child care worker, juvenile child care worker, and volunteer shall wash their hands after changing a diaper, using the restroom, and prior to preparing or serving food or drink at the child care facility;
 5. Every restroom in a child care facility shall be maintained in a sanitary condition;
 6. Every kitchen in a child care facility shall be maintained in a sanitary condition;
 7. Smoking or alcohol consumption is prohibited on the premises of a child care facility during the child care facility's hours of operation;
 8. Health and safety inspectors, including Central District Health or City Clerk inspectors shall not be denied access to a child care facility during hours of operation for purposes of control of communicable disease or inspection.
- C. Every child care facility shall require all children to be age-appropriately immunized within fourteen (14) days of initial attendance as provided in § 5-33-07(A)(1)(g).

Section 5-33-10 SAFETY STANDARDS

- A. Every licensed child care facility having a flame source utility on their premises shall be required to have a carbon monoxide detector operating at all times in the area where children are present. A multi-floor child care facility with a flame source utility shall have a minimum of one (1) carbon monoxide detector operating on each floor where any child is present.
- B. All licensed child care workers, owners, chief agents or designated responsible persons shall be responsible for the special needs of all children under their supervision, including:
 1. The ability to recognize and respond to potentially hazardous and emergency situations; and
 2. The mental and physical capability of assisting and/or supervising young children, lifting children, equipment and supplies, and quickly moving young children out of harm's way.
- C. In addition to all other safety standards contained in this Chapter, every child care facility shall comply with the following health and safety standards:

1. Fire and smoke alarms as required by the Boise City Fire Code shall be present and maintained in working condition;
2. Fire extinguishers as required by the Boise City Fire Code or the Boise Fire Department shall be present and maintained in working condition;
3. All exits shall be maintained free and clear of all obstructions, and marked in such a way as to be easily identified and located;
4. A functioning telephone shall be located on the child care facility premises during hours of operation;
5. Every firearm or other weapon kept, stored, or otherwise present on the premises of a child care facility shall be kept in a locked container that is inaccessible to any child;
6. All cribs must meet federal safety standards, including those enumerated in 16 C.F.R. §§ 1219 and 1220;
7. Every pool, hot tub, pond, and other body of water on the property of a child care facility shall provide the following safeguards:
 - i. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements:
 - (A) Except as provided herein, the pool, hot tub, pond, and/or other body of water shall be completely surrounded by a fence or barrier at least four (4) feet high, having no vertical opening more than four (4) inches wide, designed so that a young child cannot climb it or squeeze under or through it; and
 - (B) The required fence or barrier shall:
 - (1) Include an installed gate that is equipped with a self-closing mechanism that causes the gate to close automatically, and is equipped with a self-latching mechanism, located out of the reach of small children,
 - (2) Have no gaps, holes, or openings that could allow unsupervised entry by any child; and
 - (3) Have all equipment and mechanisms required by this Chapter present and maintained in good working condition.
 - ii. If a house forms one (1) or more sides of the fence or barrier, every door with access to the pool, hot tub, pond, or other body of water shall be equipped with an alarm that produces an audible sound when the door is opened.

- iii. No furniture or other object shall be left near the fence required by this Chapter that would enable or allow a child to climb on the furniture or other object to gain access to the pool, hot tub, pond, or other body of water.
- iv. If a pool, hot tub, pond, or other body of water is not fenced, gated, and locked as required by this Chapter, there shall be a secured protective covering placed over it such that access to the pool, hot tub, pond, or other body of water by a child is impossible.
- v. Wading pools must be empty when not in use by children supervised pursuant to this Chapter.
- vi. Children must be under direct supervision of at least one (1) adult child care worker while using a pool, hot tub, pond, or other body of water.

Section 5-33-11 TRAINING STANDARDS FOR DIRECTORS AND WORKERS

A. Child care facility directors and workers shall have their vocational and academic experience levels reviewed and be designated as a Level One (Assistant Teacher), Level Two (Teacher), or Level Three (Senior Teacher) for the purpose of establishing the number of training hours required for licensing. The appropriate level designation shall appear on each worker's license. All child care directors and workers shall meet the training standards as established in this Chapter by October 1, 2015. The Licensing Officer is hereby authorized to phase implementation of these requirements as necessary for ease of administration. The following criteria shall be used to establish child care experience levels and training requirements:

1. Level One (Assistant Teacher):

- a. has less than five (5) years full-time experience in the child care profession; and
- b. does not possess any formal academic degrees in early childhood education, development, or psychology; and
- c. does not possess any of the professional child care certifications identified within the Level Two definition.
- d. Fourteen (14) hours of training required annually.

2. Level Two (Teacher):

- a. has at least five (5) years but less than ten (10) years of full-time experience in the child care profession; or
- b. possesses an Associate's Degree from an accredited university in early childhood education, development, or psychology; or
- c. possesses a professionally-recognized credential or certification in early

childhood education, child development, child psychology, or child care.

d. Ten (10) hours of training required annually.

3. Level Three (Senior Teacher):

a. has more than ten (10) years of full-time experience in the child care profession;
or

b. possesses a Bachelor's Degree or higher from an accredited university in early childhood education, development, or psychology; or

c. possesses an Elementary or Secondary Teaching Credential from the Board of Education of any state within the United States.

d. Eight (8) hours of training required annually.

4. Training shall include the areas of childhood development, childhood education, childhood psychology, business management, safety or health (including CPR and First Aid training).

5. Copies of training certificates indicating completion of the required training shall be included with the renewal application at the time of license renewal. Such training sessions are to be approved by the Licensing Officer.

Level	Hours of Required Training
Level I (Assistant Teacher)	14
Level II (Teacher)	10
Level III (Senior Teacher)	8

6. New license holders have one (1) year to meet training hours as defined above with the exception of CPR and First Aid which are required upon application.

B. Every child care facility applicant shall complete a one-time Healthy Initiatives training, except those accredited by one of the following:

1. National Association for the Education of Young Children; or

2. National Association for Family Child Care; or

3. Accredited Montessori Schools as defined in § 5-33-06(D)(1)(g).

C. First Aid Training

1. Every child care worker shall maintain current adult, child, and infant First Aid and CPR certification from the American Heart Association, American Safety and Health Institute or the American Red Cross. CPR and First Aid certifications shall be renewed annually and remain current throughout the licensing period. CPR, First Aid courses, and qualified instructors shall meet American Heart Association, American Safety and Health Institute, or the American Red Cross certification and instruction requirements. The materials covered in the certification must meet the following minimum requirements:
 - a. First Aid Basics: General principles of First Aid; victim and rescuer safety; checking the adult, child, or infant for injuries and illnesses.
 - b. Rescue Breathing: Rescue breathing for adults, children, and infants.
 - c. Choking: Signs and actions for adult, child, and infant choking.
 - d. Cardiopulmonary Resuscitation (CPR): Adult, child, and infant CPR, including special situations; use of a mask.
 - e. Automated External Defibrillation (AED): Adult and child AED training.
 - f. Medical Emergencies: Medical problems; diabetes and low blood sugar; seizures and shock.
 - g. Injury Emergencies: Bleeding; wounds; head, neck and spine injuries; breaks, sprains and bruises; burns and electrocution.
 - h. Environmental Emergencies: Bites and stings; temperature-related emergencies; poisons; drowning.
 - i. Hands-on and in-person training (course cannot be entirely online).

Section 5-33-12 STANDARDS APPLICABLE TO CHILD CARE FACILITIES OPERATION AND CHILD CARE WORKERS

A. Criminal History

1. Each applicant seeking licensure for a child care facility must submit evidence to the City Clerk that the following individuals have successfully completed a criminal history and background check as set forth in § 5-33-04(D) for every:
 - a. owner, officer, and child care worker (employed and volunteer);
 - b. child care facility resident; and
 - c. All other individuals thirteen (13) years of age or older who are regularly on the

premises or would have a right of access based upon marriage or their status as an owner or officer during hours of operation.

2. The applicant, or if the applicant is a business association and not an individual, the applicant's officers, chief agents, and any child care facility residents, if any:
 - a. Shall not have had a child care facility license, child care worker license, or other similar permit or license, revoked, or suspended by Boise City or any other state or local agency within the five (5) years preceding the date of application;
 - b. Shall not have any outstanding warrants;
 - c. Shall not have pleaded guilty to, been convicted of (regardless of the form of judgment), or received a withheld judgment within the five (5) years preceding the date of application of any crime in this state, of any federal crimes or any other crimes in another jurisdiction which under the laws of Idaho would be a felony.
3. No person who pleads guilty to, has been found guilty of, or received a withheld judgment for any offense involving neglect or any physical injury to, or other abuse of a child, including the offenses set forth in Idaho Code § 39-1113(2), or a similar provision in another jurisdiction, shall be eligible for a license under the provisions of this Chapter, including:
 - a. Aggravated assault, § 18-905, Idaho Code;
 - b. Aggravated battery, § 18-907(1), Idaho Code;
 - c. Attempted strangulation, § 18-923, Idaho Code; and
 - d. Misdemeanor injury to a child, § 18-1501(2), Idaho Code.
4. The applicant, or if the applicant is a business association and not an individual, the applicant's officers, chief agents, and any child care facility residents:
 - a. Shall not be a registered sex offender or be a person who has failed to register as a sex offender in the state of Idaho or any other state as required by law.
 - b. Shall not have ever been diagnosed by a licensed counselor, psychologist, psychiatrist or court appointed examiner as a pedophile.
 - c. Shall not have pleaded guilty to, been found guilty of, or received a withheld judgment within one (1) year preceding the date of application of any crime involving the use of alcohol, or the sale, possession, or use of drugs, to include the use or possession of drug paraphernalia.

- d. Shall immediately report any crime committed after a license application has been submitted or a license granted that results in a conviction or withheld judgment. In no event shall the report required by this Section take more than two (2) business days.

B. Child Care Facilities Operation Standards and Child Care Worker Duties

1. Every child care worker shall be constantly aware of the name, number, and special needs of every child under his or her supervision.
2. Every juvenile child care worker and volunteer shall be under the direct supervision of a licensed child care worker while in direct contact with any child.
3. It is the duty of every child care worker to ensure a designated responsible person or chief agent is present at the child care facility at which the child care worker is working during hours of operation.
4. Child care workers who are primarily engaged in caring for children must be within sight or hearing of the children who are inside and outside the child care facility at all times, including nap time, and must be available and able to immediately assist a child in an emergency.

Section 5-33-13 RIGHT TO INSPECT

The Licensing Officer or health inspector may, upon presentation of proper identification, enter immediately and inspect any child care facility at any time during the business hours of such facility, with or without advance notice. This inspection may include all portions of the premises or facility whether or not used regularly for child care purposes or is child accessible. The Licensing Officer shall have the absolute right to enter the premises of any child care facility as often as necessary to secure compliance with, or to prevent a violation of, this Chapter. The failure of a licensee or other person to grant access to the Licensing Officer shall be express grounds for revocation of all Boise City licenses held by the licensee, in addition to any criminal penalties that may be assessed. Violation of this provision is a criminal offense pursuant to Boise City Code § 5-33-17 and punishable as stated in Boise City Code § 5-33-19.

Section 5-33-14 VISITATION

Any parent or legal guardian shall have the absolute right to enter the premises of any child care facility during the period of care for the parents' or guardians' child or children. Any failure or refusal to allow entry to a parent or guardian may be grounds for revocation of the license pursuant to § 5-02-15, Boise City Code. If a parent or guardian has been granted limited visitation or has been denied visitation rights by a court of competent jurisdiction, this Section shall not confer a right to visitation. Violation of this provision shall be a criminal offense pursuant to Boise City Code § 5-33-17 and punishable as stated in Boise City Code § 5-33-19.

Section 5-33-15 LICENSE DENIAL, REVOCATION, AND SUSPENSION

- A. Every civil license penalty imposed by the Licensing Officer shall be proportional to the type and severity of the violation.
- B. License Denial. In the event the Licensing Officer determines that an applicant fails to qualify for a license governed by this Chapter, the Licensing Officer may deny such applicant a license by following the procedures set forth in Title 5, Chapter 2, Boise City Code.
- C. License Revocation. Upon a finding of any of the following violations by the licensee, the Licensing Officer shall follow the procedures set forth in Title 5, Chapter 2, Boise City Code in revoking any affected license(s) governed by this Chapter.
1. In the event the Licensing Officer determines that a licensee has plead guilty to, has been found guilty of, or has received a withheld judgment for, or has been sentenced for a violation of this Chapter, in addition to the criminal penalties prescribed therefor, the licensee shall have the affected license(s) governed by this Chapter revoked, or be ineligible for reapplication, reinstatement, or issuance of any license governed by this Chapter for a period of up to five (5) years.
 2. In the event a licensee fails to take corrective action within the timeframe specified in a notice of suspension to resolve or correct the basis for a suspension of the license(s) governed by this Chapter held by that licensee, the Licensing Officer may revoke the affected license(s). Such revocation shall prevent the licensee from obtaining or reinstating any license governed by this Chapter for a minimum period of one (1) year from the date of revocation.
 3. If the Licensing Officer determines that a licensee failed to continue to have and maintain all of the qualifications and none of the disqualifications provided in this Chapter throughout the license period, the Licensing Officer shall revoke the affected license(s). Such revocation shall prevent the licensee from obtaining or reinstating any such license until the licensee qualifies for the license(s) and applies anew for said license(s).
 4. If the Licensing Officer determines that an application for a license knowingly included fraud, misrepresentation, or any material false statement, the Licensing Officer shall revoke all licenses governed by this Chapter held by that licensee. This revocation shall prevent the licensee from obtaining or reinstating any such license for a period of up to five (5) years.
 5. If the Licensing Officer determines that the activity, use, or privilege conducted pursuant to the license is being or has been exercised so as to be detrimental to the public health, safety, or welfare, the Licensing Officer may revoke the affected license(s). Such revocation shall prevent the licensee from obtaining or reinstating any such license until the Licensing Officer determines the detriment has ceased.

6. If the Licensing Officer determines that the license issued is being or has been exercised contrary to the terms or conditions of such license, or in violation of any law, the Licensing Officer shall, in his/her discretion, revoke the affected license(s). Such revocation shall prevent the licensee from obtaining or reinstating any such license for a minimum period of one (1) year from the date of revocation.
 7. A third (3rd) license suspension within one (1) license term shall be deemed a revocation.
 8. A person whose license is revoked shall be required to re-apply for a new license, rather than apply for reinstatement of the revoked license.
- D. License Suspension. Upon a finding of any of the following violations by the licensee, the Licensing Officer shall follow the procedures set forth in Title 5, Chapter 2, Boise City Code, as applicable, in suspending any affected license(s) governed by this Chapter. A licensee subject to a license suspension may appeal the suspension consistent with the procedures set forth in Title 5, Chapter 2, Boise City Code.
1. Every licensee who violates any provision of the Idaho Code or the Boise City Code, in addition to the criminal or civil penalties prescribed by law for such violation, shall have all licenses governed by this Chapter suspended for a period not to exceed one hundred eighty (180) days by the Licensing Officer.
 2. A license governed by this Chapter shall be suspended even though no criminal charge or infraction is filed.
 3. Unless otherwise provided in a notice of suspension, every license suspension shall be effective at twelve o'clock (12:00) a.m. on the third (3rd) day following the date written notice of the suspension is sent to the licensee. Every license suspension shall be effective immediately if hand-served upon the licensee, unless otherwise determined by the Licensing Officer.
 4. Upon determining that a licensee is in violation of any provision of the Idaho Code or the Boise City Code, but that the licensee does not pose an immediate threat of harm to the public health, safety, or welfare, the Licensing Officer may precede the suspension of a license governed by this Chapter with a notice of violation.
 - a. Every notice of violation issued pursuant to this Chapter shall:
 - i. Conform to the same notice and service requirements as a notice of suspension;
 - ii. State the basis for the notice of violation;
 - iii. Identify the corrective action(s) that shall be taken to address the basis for the notice of violation;

- iv. State the date and time by which the required corrective action(s) shall be completed; and
 - v. State the date on which the license suspension would begin, and the length and terms of such a suspension, should the licensee fail to complete the required corrective action(s) by the date and time specified in the notice of violation.
- b. The Licensing Officer shall not be required to serve a licensee with a notice of violation prior to suspending the affected license.
- c. In the event a licensee, having received a notice of violation, fails to complete the corrective action(s) stated in the notice of violation, his/her affected license shall be suspended as stated in the notice of violation.
- i. It shall be the duty of the licensee to provide proof of completion of the corrective action(s) to the Licensing Officer. Failure to do so shall result in license suspension as stated in the notice of violation.
 - ii. Upon receipt of satisfactory proof of completion of the correction action(s), the Licensing Officer shall provide the licensee with written notice rescinding the possibility of the suspension stated in the notice of violation.
 - iii. No notice of suspension shall be required to be served upon the licensee for a suspension following a notice of violation to take effect. The notice of suspension contained within the notice of violation shall suffice to provide notice of suspension.
 - iv. The licensee shall maintain the right to appeal a suspension that follows a notice of violation.

Section 5-33-16 RIGHT OF APPEAL

Every applicant who, upon application, is denied a license governed by this Chapter, or who has a license governed by this Chapter suspended or revoked, shall have a right of appeal consistent with the procedures and requirements set forth in Title 5, Chapter 2, Boise City Code.

Section 5-33-17 ENFORCEMENT

The Licensing Officer is authorized to carry out the policies and procedures herein described, and may enforce the provisions of this Title and Chapter by imposing administrative license penalties, including suspension or revocation of the license(s), by initiating criminal charges by serving an Idaho Uniform Citation or by referring a written report to the Boise City Attorney's Office for review and filing of a complaint and summons or warrant in the Magistrate's Division of the District Court, or by both such administrative license penalties and criminal penalties.

Section 5-33-18 PENALTIES

Unless otherwise provided herein, every violation of this Chapter shall constitute a general misdemeanor, and every person deemed guilty thereof shall, upon conviction, be subject to a fine of up to one thousand dollars (\$1,000.00), imprisonment for a period of up to one hundred eighty (180) days, or both such fine and imprisonment, unless Idaho Code or Boise City Code provides a specific lesser penalty for the violation set forth in this Chapter.

Section 5-33-19 PROVISIONS SEVERABLE

The provisions of this Chapter are severable. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter.

(Ord-36-14, Repealed and Enacted, 09/30/14)