

Exhibit “A”

CHILD-CARE FACILITIES

§ 110.25 MINIMUM STANDARDS ADOPTED.

There is adopted the “Minimum Standards for Child-Care Centers” as published and promoted by the Texas Health and Human Services Commission, as amended from time to time. The provisions thereof shall be incorporated herein and made a part hereof the same as if fully copied herein, except as modified by this subchapter. A true copy of the minimum standards shall be kept on file in the office of the City Secretary and available for inspection during all regular business hours.

§ 110.26 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEFORE AND AFTER-SCHOOL PROGRAM. A child-care center that provides care before or after, or before and after, the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend prekindergarten through grade six. A before and after-school program is licensed by and meets the minimum standards of the Texas Department of State Health Services.

CHILD-CARE CENTER. An establishment subject to regulation by licensing that provides:

- (1) Assessment, care, training, education, custody, treatment or supervision is provided for more than six children who are not related by blood, marriage, or adoption;
- (2) Assessment, care, training, education, custody, treatment or supervision is provided for all or part of a 24-hour day, whether or not the establishment operates for profit or charges for its service; and
- (3) A child-care center includes the people, administration, governing body, activities on or off premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care center does not include child-placing agencies, listed family homes, employer-based child-care operations, or shelter care operations.

CHILD-CARE STAFF. Any person whose primary duty includes direct care, supervision or guidance of children in a child care center.

GUARDIAN. A child’s parent or other person who has legal care, custody and control of a child through natural or court appointed rights.

HEALTH INSPECTOR. An employee of the city appointed by the City Manager as his/her representative to inspect and enforce the provisions of this subchapter.

ISOLATION AREA. An area or room apart from other facilities which is available for use by children who become sick or injured.

PERMIT. A complete document issued to the approved applicant of a child-care center authorizing operation at a specific location in accordance with the provisions of this subchapter.

RELIGIOUS ORGANIZATIONS. A church, synagogue or other religious institution whose purpose is to support and serve the propagation of truly held religious beliefs.

REGULATORY AUTHORITY. The City of Mansfield Department of Regulatory Compliance or its authorized representatives or designees.

SCHOOL. A child-care center offering an educational program in one or more grades for children from the ages of five through 13 during the customary public school day.

§ 110.27 PERMIT REQUIRED; EXCEPTIONS.

(A) No person, firm or corporation shall operate a child-care center within the city unless a permit for such purpose has been issued by the Fire Department and a permit for such purpose has been issued by the Regulatory Authority. This shall not exclude requirements of the City adopted International Fire Code or the Texas Health and Human Services Commission for fire alarm and sprinkling mandates.

(B) The term “child-care” shall not apply to, nor shall a permit be required for, the following facilities:

(1) A state operated facility;

(2) An agency foster home or agency foster group as designated by the Texas Human Resources Code, § 42.002(11) and (12), as amended;

(3) A facility that is operated in connection with a shopping center business, religious organization or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, or engaging in other activities on or near the premises, including, but not limited to retreats or classes for religious instructions;

(4) A school or class for religious instruction that does not last longer than two weeks that is conducted by a religious organization during the summer months;

(5) A youth camp licensed by the Texas Department of State Health Services;

(6) A hospital licensed by the Texas Department of State Health Services;

(7) An education facility accredited by the Texas Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above or a before and after-school program operated directly by an accredited educational facility or a before and after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency or Southern Association of Colleges and Schools has approved the curriculum content of the before and after-school program operated under the contracts;

(8) An educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day and is a member of an organization that promulgates, publishes and requires compliance with health, safety, fire and sanitation standards equal to standards required by state, county or municipal codes;

(9) A kindergarten or preschool educational program that is operated as part of a public school or private school accredited by the Texas Education Agency and offers educational programs through grade six and does not provide custodial care during the hours before or after the customary school day;

(10) A registered family home as defined by Texas Human Resources Code, § 42.002(9), as amended;

(11) An educational facility that is integral to and inseparable from its sponsoring religious organization and which does not provide custodial care for more than two hours maximum, per day, and that offers educational programs for children ages five and above one or more of the following:

(a) Kindergarten through grade three;

(b) Upper elementary or secondary grades, provided however, that a religious organization such as that described in division (3), where children are cared for during short periods while parents or persons responsible for the children are attending religious services or engaged in other activities on or near the premises, may provide custodial care for more than two hours per day;

(12) The Mansfield Independent School District and schools accredited by the Texas Education Agency;

(13) A facility licensed, operated, certified, or registered by a state agency other than the Department of Health and Human Services; or

(14) A juvenile detention facility certified under Tex. Fam. Code §§ 51.12 or 141.042(d), a juvenile facility providing services solely for the Texas Youth Commission, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state.

§ 110.28 PERMIT APPLICATION.

(A) Application for an annual permit to operate a child-care center shall be submitted by the operator on a form specified by the Fire Department and on a separate form specified by the regulatory authority.

(B) A Fire Department permit application shall state the name, address and telephone number of the permit applicant and the name, driver's license number and date of birth of all employees and child-care staff members as required in Minimum Standards for Child-Care Centers. The employee background records must be made available upon request by the regulatory authority.

(1) A site plan shall be submitted with the application, drawn to an accurate scale, indicating the legal description of the property, and showing the indoor and outdoor areas to be used for the child-care center.

(2) Any permit issued under this subchapter is nontransferable.

(3) The permit application shall include a certificate of liability insurance coverage showing the minimum policy limits on coverage for bodily injury or death of any person entrusted to the care of the child-care center.

(C) *Child-care center requirements.* The applicant is responsible for complying with all applicable city ordinances, including, but not limited to, zoning, building, fire, and health ordinances of the city.

(D) *Permits required.* Any person currently operating a child-care center without a permit under existing ordinances shall, within 30 days after the effective date hereof, make application under the provisions of this subchapter.

(E) *Fire permit inspection fee.* An annual permit fee of \$75 shall be payable upon application to the Fire Department, and thereafter, no later than the thirtieth of January of each year. No refund or proration of any fee required hereunder shall be made.

(F) *Health permit requirements.* No person shall operate or cause to be operated a child-care center in the City of Mansfield without first obtaining a health department certificate of inspection as issued by the regulatory authority.

(1) The health permit application shall be submitted to the regulatory authority by the owner of a child-care center on a form specified by the department. The health permit application must include the licensed capacity of the facility and a copy of their current child-care licensing permit.

(2) The health permit application shall state the name(s), address(es), and telephone number(s) of all persons having an ownership interest in the child-care center, as well as any other information requested by the regulatory authority.

(3) Any permit issued under this subchapter is not transferable and must be prominently displayed.

(G) *Permit issuance.* The City Manager, or his designated representative, shall have authority to grant or refuse a permit to operate a child-care center under the provisions of this subchapter.

(H) *Fire permit duration and renewal.* Upon approval, the Fire Department shall issue the permit for operation of the child care center. All permits will be due for renewal on or before the thirtieth of January of each succeeding year.

(I) *Health permit duration and renewal.* Upon approval by the regulatory authority, the permit for operation of a child-care center will be valid for one year from the issuance of the permit. Upon expiration, the permit may be renewed for a one-year term upon payment of the annual permit fee and submission of proof of insurance, and provide proof of background checks for the owner, operator, director, and each employee conducted within the previous 24 months. If such background checks are not current, no renewal shall be issued until such background checks are submitted.

§ 110.29 ISSUANCE OF PERMIT; INSPECTIONS.

(A) The City Manager, or his/her designated representative, is authorized to issue a permit when he/she finds that the permit applicant has complied with the requirements of this subchapter and other applicable sections of this Code. The permit shall be refused in the event the applicant has not complied with the requirements of this subchapter or any other applicable section of this Code, or if it is determined that any false statement has been made in the permit application.

(B) The permitted premises shall be inspected not less frequently than semiannually to assure that the facilities, grounds and equipment are maintained in compliance with this subchapter, with the minimum standards adopted hereby, and in a safe and sanitary condition for the welfare of the occupants and patrons. Reports of the inspections shall be kept on file with the

city and copies issued to the permit holder, along with appropriate directives to resolve any deficiencies observed in the inspection. The City Manager, or his/her designated representative, shall have authority to enforce all provisions of this subchapter and to issue citations for any violation of any of its provisions.

(C) It shall be unlawful and an offense for any permit holder to operate any facility permitted under the provisions of this subchapter in violation with any of the provisions hereof, the minimum standards adopted hereby or any other applicable section of this Code, or to fail to respond to any noted deficiency or violation within the time specified by the Inspector for correction.

(D) *Plan review and standards.*

(1) Whenever a child-care center or before and after-school facility is constructed or extensively remodeled and whenever an existing structure is converted to use as a child-care center or before and after-school facility, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling, or conversion has begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas and the type and model of proposed fixed equipment in centers. The regulatory authority shall approve the plans and specifications if they meet the requirements of the State of Texas, the regulatory authority, and city ordinances. A plan review fee will be charged per the City of Mansfield Department of Regulatory Compliance fee schedule.

(2) Whenever plans and specifications are required to be submitted to the regulatory authority, the regulatory authority shall inspect the child-care center or before and after-school facility prior to beginning its operation to determine compliance with the approved plans and specifications and with the requirement of these rules.

(3) Free-standing diaper changing stations in infant and toddler areas shall have a hand sink, plumbed with hot (100 to 120 degrees Fahrenheit) and cold running water, located at the diapering station. Hot water must be available within 20 seconds.

(4) Child-care centers providing overnight care shall provide bathtubs and/or showers.

(5) Stairs and porches more than two feet above the ground shall have railings the children can reach.

(6) Outside play areas shall be surrounded by a fence with a minimum height of four feet (4') and shall be immediately adjacent to the center and located away from heavy traffic areas. Such fences shall be of a design to prevent entrapment hazards. Any child-care center

operating a before and after-school program in a public school building pursuant to a contract with any independent school district shall be exempt from the fence requirements of this subchapter.

(7) Outdoor play equipment shall be away from busy areas in the yard and securely anchored, unless portable by design.

(8) Swimming pools shall be constructed, maintained, and comply with the Code of Mansfield, Texas, Chapter 92 "Health and Sanitation" standards regarding swimming pools and spas.

(9) An isolation area must be available in the facility for children who are not feeling well, and must be comfortable and supervised away from other children.

§ 110.30 PERMIT SUSPENSION AND REVOCATION.

(A) *Powers of the regulatory authority.*

(1) The regulatory authority shall have the authority to regularly inspect or visit all child-care centers and before and after-school programs in the city, whether permitted or unpermitted, at any and all times necessary to ascertain if child-care centers or before and after-school program operations are being operated in conformity with this subchapter or if any conditions exist therein which require correction.

(2) The regulatory authority shall have the authority to give written notice, on the premises, to the operators of permitted or unpermitted child-care centers and before and after-school program programs, pertaining to violation of and/or requirement to comply with the provisions of this subchapter.

(3) If unpermitted child-care centers or before and after-school programs are found in operation, the regulatory authority shall have the authority to give written notice to the operator of said facility to cease child-care immediately.

(B) *Authority to suspend permit – written notice required.*

(1) The regulatory authority, after giving written notice, may suspend any permit if it s finds any of the following: violations of immediate danger regarding construction of facility or on-premises buildings; toilet facility violations; sanitation violations; food preparation violations; improper storage and handling of chemicals or any harmful solution; lack of proper supervision; child neglect; child-care staff criminal history; potential for injury or death; infectious diseases; hazards with outdoor play areas; failure to pay required fees; and failure to comply with all fire, zoning, building, and health codes, at the child-care center or before and after-school program care facility.

(2) The written notice from the regulatory authority shall call to the attention of the permit holder the regulations of this subchapter in which he/she or the child-care center or before and after-school program failed to comply with, and shall specify a reasonable time, not to exceed 30 days, to come into compliance. Suspension of the permit shall require the operator to cease all activities immediately and to bring the child-care center or before and after-school program facility into compliance with directives from the regulatory authority within a prescribed time period.

(3) If the permit holder fails to comply with the provisions of this subchapter within the time specified, the regulatory authority may revoke the permit in accordance with this subchapter.

(C) *Authority to revoke permit – written notice required.* The regulatory authority may, upon written notice by personal service or by certified or registered mail, sent to the address provided on the permit holder's application, revoke a permit in the event of any of the following:

(1) Entry of the regulatory authority into a permitted facility has been denied or delayed;

(2) A statement of fact contained in the application was false or materially misleading;

(3) The permit holder fails to comply with the requirements of subsection (B)(2) hereof; or

(4) The permit holder has caused, suffered or permitted the commission of an aggravated violation of any provision of this subchapter.

(D) *Appeal – notice required.*

(1) The notice of revocation or denial of a permit shall become a final revocation after the expiration of ten days from the date of service upon the permit holder, operator, manager, or other person in charge of the child-care center or before and after-school program facility in question, unless on or before the expiration of 10 calendar days the permit holder shall file with the regulatory authority a written appeal signed by such permit holder addressed to the City Manager setting out the basis for such appeal and in which it is requested that the City Manager grant a hearing upon the questions of whether or not the permit shall be revoked.

(2) The revocation shall be stayed or postponed until such time as the City Manager shall grant a hearing and make a final adjudication.

(3) The hearing shall be held within 10 calendar days after the date of filing the appeal and the action of the City Manager after hearing all the evidence and facts shall be

final and conclusive as to all parties. Following revocation or denial, the permittee or applicant shall not be eligible to apply or reapply for a permit for a period of 1 calendar year from the date of the revocation or denial. Any such revocation or denial shall be reported to the Texas Department of Protective and Regulatory Services. The city shall also report any violation notices or illegal operations to the department.

§ 110.31 OPERATION OF A CHILD-CARE CENTER.

(A) The child-care center permit shall be conspicuously posted on an inside wall of the main facility and shall be continuously displayed for public view.

(B) A child-care center shall be operated in accordance with all ordinances of the city and state and federal statutes where applicable.

(C) Health records maintained by the facility shall be available for inspection at all times by the regulatory authority. Records of the facility shall include immunization schedules and emergency care permission slips from a parent and guardian for emergency medical treatment of children.

(D) The child-care staff, employees and/or drivers shall not be permitted to work while afflicted with infectious diseases or other illnesses which would adversely affect their work or the health of the children. Any child ill with a communicable disease shall be isolated from other children at the child-care center. Persons shall not be permitted in the child-care center whose health status or behavior suggests a hazard to the health, safety, and welfare of others, including symptoms of a contagious illness, a dangerous mental or physical condition, or symptoms of drug or alcohol intoxication.

(E) Unanchored mobile homes and upstairs apartments shall not be eligible sites for child-care centers.

(F) Child-care centers may not be used in connection with any other operation when the other operation is using the same space concurrently. The child-care center shall not have an interrupted food schedule if a common kitchen is used.

(G) The child-care center shall maintain adequate toilet facilities for the children, including tissue, paper towels, clean cloths or mounted, approved hand dryer blowers and soap. A child-care center shall also maintain an adequate amount of first-aid supplies including, but not limited to, soap, antiseptic solutions, absorbent cotton, cotton-tip applicators, tweezers, magnifying glass, sterile gauze, adhesive tape, and adhesive bandages. One medium-sized package or container of each of these first-aid supplies shall be maintained in an unopened reserve at all times. First-aid procedures and supplies shall be applied, including cleaning and bandaging, for any cut or bleeding abrasion of the skin.

(H) Each child-care center shall have a fire evacuation plan posted in each room used by the children. The first priority in the event of fire shall be immediate evacuation of the children. Each child-care center shall have an annual fire inspection with a written report submitted to the permittee and the city. Any corrections or deficiencies noted shall be promptly corrected by the permittee. All child-care staff members shall be instructed in emergency procedures as well as the fire evacuation plan. Fire drills shall be held quarterly at different times of the day to test the fire evacuation plan. The building shall be constructed so as to permit fast and safe exit within three minutes in any emergency. The facility shall have at least two exits to the outside located on different sides of the building. Doors opening into a fenced yard shall be able to be easily opened from the inside by the children. Doors between rooms shall not be locked while children are present. Doors and pathways shall not be blocked. Heating devices and their nearby areas shall not be allowed to present any fire hazards. Gas appliances shall have metal tubing and connections unless otherwise approved by the Fire Marshal. Open flame space heaters are prohibited. All gas heaters are to be vented to the outside. Gas pipes shall be tested annually for leaks. Floor furnaces shall be enclosed to keep children away. A copy of the test report shall be available at the child-care center. Smoke detectors shall be installed to provide an effective warning to the building occupants of a fire. The detectors shall be placed as required by the Fire Marshal. Stand alone single station smoke detectors are permitted in mothers day out programs that operate less than three days per week and in facilities that have less than 50 children in care. Before and after-school care programs providing care for students at a school after normal school hours are not required to provide smoke detectors under this subchapter.

(I) The child-care center shall have an annual sanitation inspection. A written report shall be submitted to the city and a copy furnished to the permittee. Any corrections called for in the report shall be made promptly by the permittee.

(J) The buildings, grounds and equipment of the child-care center shall be kept in repair and maintained to protect the health and safety of the children. Electrical outlets accessible to children shall be protected with childproof covers or safety outlets when not being used. Playgrounds shall be supervised at all times by a teacher or child-care staff in the same ratio required to be maintained in classrooms. Play areas shall be surrounded by a fence with a minimum height of four feet. The playground area, including all play equipment, shall be maintained in a safe condition. No sharp edges, dangerous protrusions, or other obvious hazards shall be allowed in the play area. Any pool, pond or other body of water greater than ten inches in depth shall be separated from the playground by a fence with a minimum height of four feet. Permittee shall keep all toxic substances, both indoors and outdoors, secure from access by the children. All emergency telephone numbers required by the minimum standards shall be posted by a telephone which is accessible to all child-care staff.

(K) Animals are prohibited at all times from food preparation areas, as well as child-care areas and child play areas when children are present or when the animal may present a danger to the children.

(L) Bathtubs or showers shall be made available for children staying overnight in a child-care center. Bathtubs or showers used by preschool children shall be supervised at all times

when in use. Privacy shall be assured for school age children. Tubs or showers shall be cleaned out after each use. Children shall be provided fresh wash cloths and towels.

(1) Toilet fixtures and facilities shall be provided in accordance with the city Plumbing Code.

(2) The temperature of any water available to the occupants or patrons of a child-care center shall reach no higher than 120 degrees Fahrenheit.

(3) Each lavatory shall be provided with both hot water and cold water.

(4) All handwashing lavatories installed after the effective date of this chapter shall be provided with hot and cold water under pressure, tempered by means of a mixing valve or combination faucet. The child-care center must ensure that the temperature of hot water available to children is no higher than 120°F. Self closing or metering faucets shall provide a flow of water for at least 15 seconds without having to be reactivated. Soap and a handdrying device or disposable towels shall be provided for use by both child-care staff and children.

(M) An enrollment agreement shall be obtained for each child prior to admission, filed at the child-care center or before and after-school facility, and the director shall be responsible for assuring that the terms of the agreement related to items (M)(1)-(M)(5) below are met. The agreement signed by the parents shall contain:

(1) Hours the child shall be in care (not to exceed 12 hours except in an emergency).

(2) Notarized emergency medical authorization.

(3) Any unique security code or child tracking method.

(4) A statement that the child will be released only to a parent or a person named by the parent.

(5) In any instance when the person(s) listed above cannot pick up the child, the procedures described herein shall be followed.

(a) The parent or guardian shall phone the child-care center or before and after-school facility, shall identify themselves by using any unique identification code, and shall designate who will pick the child up. The director or child-care staff member shall check the child's enrollment record to verify the code.

(b) The person who picks up the child must identify themselves as follows:

1. Shall present photo identification.

2. Shall present the parent's unique security code or child tracking method.

3. The unlisted person shall sign the child out.

4. The director or child-care staff shall copy the valid photo identification card or photograph the person before they leave the child-care center or before and after-school facility. The child-care center must provide an operational camera to take necessary photographs.

(c) The procedure to release children to unlisted persons as required by the City of Mansfield shall be posted so that it is readily accessible to all child-care staff.

(d) In the event that a child is found to be missing from a child-care center, the operator of the child-care center shall report such fact to the City of Mansfield Police regulatory authority immediately.

(N) In an emergency occurrence, such as any circumstance that renders all or part of the center unsafe or unsanitary for a child-care center or before and after-school facility (for example, but without limitation, flood, fire, water outage, lack of hot water (120 °F), power outage, or sewage backup), the person in charge shall immediately notify the regulatory authority.

§ 110.32 FOOD SERVICE.

A child-care center in which food is prepared for human consumption shall comply with Chapter 94 "Food Establishment Regulations" of the Code of Mansfield, Texas. Child-care centers that are presently using residential type refrigeration or cooking equipment must upgrade to commercial refrigeration when the unit fails or is replaced, or if there is a change of ownership.

§ 110.33 PERMIT FEES.

(A) *Requirement.* It shall be unlawful for any person to operate a child-care food service establishment within the City of Mansfield unless they possess a current and valid health permit issued by the City of Mansfield Regulatory Compliance Department.

(B) *Fees.* Permit fees are set forth in the City of Mansfield Regulatory Compliance Department fee schedule.

§ 110.34 DISCLAIMER OF LIABILITY.

All of the regulations provided in this subchapter are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any city official or employee charged with the enforcement of this subchapter, acting for the city

in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties.

§ 110.35 ENFORCEMENT.

The City Manager, or his/her designated representative, shall have authority to enforce all provisions of this subchapter together with other applicable laws regarding child-care centers. The authority shall include the authority for inspection or visitation of all facilities required to be permitted under the provisions of this subchapter at all reasonable times.