ARTICLE V. CHILD CARE FACILITIES

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Sec. 62-131. Definitions.

For the purpose of this article, the following terms shall have the meaning indicated in this section:

Adult: A person 18 years of age or older.

Child: A person less than 18 years of age.

Child Care: The care, protection, and supervision of a Child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the Child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

Child Care Facility: Any building or shelter where five or more Children, not related by blood or marriage to the Operator, under the age of six, and school-age Children after school hours, are cared for at the same time away from their own home and for which a payment, fee or grant is received for any of the Children receiving care, whether or not operated for profit, except that the following are not included: public schools and nonpublic schools which are in compliance with the compulsory school attendance law, F.S. ch. 232; summer camps having Children in full-time residence; Summer Day Camps and Bible schools normally conducted during vacation periods; clubs such as the YMCA, Boys Club, Scouts and similar civic youth organizations, which only have Children over six years of age.

County Health Director: The Administrator of the Sarasota County Health Department or his authorized representative.

Department: The Sarasota County Health Department.

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Family Child Care Homes: An occupied residence in which child care is regularly provided for Children from at least two unrelated families and which receives a payment, fee, or grant for any of the Children receiving care, whether or not operated for profit. A family child care home shall be allowed to provide care for one of the following groups of Children, which shall include those Children under 13 years of age who are related to the caregiver:

- (1) A maximum of four Children from birth to 12 months of age.
- (2) A maximum of three Children from birth to 12 months of age, and other Children, for a maximum total of six Children.
- (3) A maximum of six preschool Children if all are older than 12 months of age.
- (4) A maximum of ten Children if no more than five are preschool age and, of those five, no more than two are under 12 months of age.

Group Size The children assigned to a staff member or team of staff members, occupying an individual classroom or a well defined physical space within a larger room.

Infant: A Child less than 12 months of age.

Operator: Is defined as any on-site person in charge of and responsible for the complete operation of a Child Care Facility, whether or not he or she is the Owner or administrator of such facility.

Owner: The person or persons who own the Child Care Facility proper.

Parent: The Child's Parent, guardian or custodian.

Staff Members: Any person, whether an employee or volunteer, whose duties include direct care, protection or supervision of Children in a Child Care Facility.

Substitute: Any person providing care for Children in the absence of regular staff persons.

Summer Day Camp: Means recreational, educational, and other enrichment programs operated during summer vacations for Children which operate on grounds other than that operated as a Child Care Facility.

Useable space: Refers to that space available for play space, excluding permanent fixtures. In indoor areas, Useable Space is calculated by deleting space for stairways, toilet and bath facilities, kitchens, hallways, storage, permanent fixtures and non-moveable furniture.

(Ord. No. 98-027, § 1, 6-23-1998; Ord. No. 2004-064, § 1, 6-15-2004)

Sec. 62-132. Personnel.

- (a) General requirements. No person shall be an Operator of, nor be employed in, a Child Care Facility who has been convicted of a crime involving Child neglect or Child abuse, who is a habitually excessive user of alcohol, who illegally uses narcotics or other impairing drugs, or who is not of good moral character based upon screening. This screening shall be conducted as provided in F.S. ch. 435, using the Level 2 standards for screening set forth in that chapter.
- (b) *Substitutes.* There shall be a written, posted list of qualified Substitutes to be utilized by the facility in the absence of regular Staff Members. The list must include the name, address, telephone number and the hours the person is available to work.
- (c) *Volunteers.* Volunteers who meet the age requirements of Staff Members may be counted in the staff ratio.
- (d) Minimum age requirements.

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- (1) *Operator.* The Operator of a Child Care Facility must be a minimum of 21 years of age. In the absence of the Operator there must be a person a minimum of 21 years of age in charge of the facility and on the premises at all times.
- (2) *Staff.* Other staff must be at least 16 years of age. Any staff under 18 years of age shall not be in charge of a group or class.
- (e) Ratios of personnel to children; general.
 - (1) Effective July 1, 2005, the minimum standards for the care of children based on rations and group size are:

Age of Children	Ratio	Group Size
Under 1 year of age	1 person for 4 Children	8
1 year of age	1 person for 6 Children	12
2 years of age	1 person for 9 Children	18
3 years of age	1 person for 13 Children	
4 years of age	1 person for 18 Children	
5 years of age or older	1 person for 22 Children	

- (2) In mixed age groups where Infants are not included, the staff ratio shall be based on the age of the majority of Children in the group(s).
- (3) If special needs children are served, the Department may require additional staffing to insure adequate and proper care of the special needs Children.
- (f) *CPR and First Aid training.* There must be a minimum of two staff members who are present at all times who hold a current CPR and First Aid certificate when more than 22 children are present at the facility.

(Ord. No. 98-027, § 2, 6-23-1998; Ord. No. 2004-064, § 2, 6-15-2004)

Sec. 62-133. Physical facilities.

- (a) General.
 - (1) The building or shelter shall meet the requirements of Sarasota County as to zoning, building, plumbing, electrical, fire prevention and life safety requirements, and meet the minimum standards herein prescribed.

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- (2) No construction, extension, or alteration of a Child Care Facility shall take place before the complete plan for said establishment showing existing and proposed facilities has received written approval by the Health Department.
- (3) Floors shall be cleaned or mopped when necessary, but at least daily. If mopped, an approved sanitizing agent shall be used. If floors are carpeted, they shall be vacuumed and cleaned daily and shampooed as needed.
- (4) All exit doors shall open outward and shall be kept unlocked while Children are being cared for on the premises.
- (5) All floors above the ground floor used for a Child Care Facility shall be provided with fireproof escapes.
- (6) Electrical outlets in rooms used for Children shall be 48 inches above floor level or fitted with an approved safety device.
- (7) Kitchen areas shall be separated in such a manner as to prevent access to Children during preparation of meals, as a safety precaution.
- (8) In rooms occupied by Children over one year of age, an inside temperature of 68 to 82 degrees Fahrenheit shall be maintained. In rooms occupied by children under one year of age an inside temperature of 72 to 82 degrees Fahrenheit shall be maintained. Heating facilities shall be installed and maintained in a safe condition and in accordance with applicable laws, ordinances and regulations. No unvented or open flame fuel heater shall be permitted. A reliable thermometer shall be provided in each major area of the facility.
- (9) All medicines, poisons, stimulants and other drugs shall be plainly labeled and stored in an orderly fashion in a locked cupboard, box or cabinet. Poisons and medications for external use only, or for cleaning, shall be kept in a separate area of the locked cabinet.
- (10) On all new establishments and those to be extensively remodeled, a floor plan indicating exits, windows and essential equipment is to be submitted with the application to operate or expand the facility. The scale should be one-fourth inch to a foot. The plans shall show the location of the property, legal description and location of the buildings thereon. On any transfer of a license, a floor plan and plot plan must be submitted with the new application form.
- (11) Current training opportunities and the current codes, rules and statutes governing childcare must be posted and available for staff to review.
- (12) There must be a hand washing sink with running water for hand washing in all newly constructed classrooms, extensively remodeled classrooms and in all classrooms in newly licensed facilities after July 1, 2004.
- (b) Indoor play.
 - (1) Child Care Facilities that did not hold a valid license on October 1, 1992, and seek regulatory approval to operate as a Child Care Facility must have a minimum of 35 square feet of useable floor space for each Child. Currently licensed facilities that were approved for 30 square feet shall not be required to meet the new 35 square feet indoor play space requirement. This standard applies as long as the Child Care Facility remains licensed at the site occupied on October 1, 1992, and shall not be affected by any change in the ownership of the site. Shelves or storage for toys and other materials shall be considered as useable floor space if accessible to Children.
 - (2) Currently licensed facilities which were approved for 20 square feet shall not be required to meet the new 35 square feet indoor play space requirements of this article provided that such requirements shall be met upon any major remodeling or expansion of the nonconforming facility, increase in the number of Children permitted for, or change of ownership of the facility.

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(c) Outdoor play.

- (1) Playgrounds must be inspected daily by staff for safety and health concerns prior to children being allowed onto the playground.
- (2) Sand or sawdust boxes used in the outdoor play area shall be constructed to allow for drainage and maintained in a safe and sanitary condition.
- (3) Any swimming pool or wading pool used by a Child Care Facility must be constructed and operated in compliance with F.A.C. ch. 64E-9, which relates to public swimming pools and bathing places.
- (4) No pets or animals shall be permitted in the outside fenced-in play area, except for educational programs, provided they do not cause an odor or nuisance. Animals shall have appropriate immunizations. Birds, iguanas, snakes and turtles are not permitted in any room or space used for Children.
- (5) If staff is required to have a Water Safety Certificate for supervision during water activities this certificate must be renewed every five years.
- (6) During inclement weather, opportunities for indoor gross motor activities must be provided.
- (d) Toilet and bath facilities. All toilet seats shall be of the open front type. Bar soap is prohibited.
- (e) Health and sanitation.
 - (1) All Child Care Facilities shall conform to State and local water and sewage disposal standards.
 - (2) All buildings must be adequately screened to prevent entrance of insects and rodents when windows or doors are open. Open air classrooms and picnic areas are permitted.
 - (3) Safe drinking water shall be freely available to Children of all ages. If disposable cups are used, they must be discarded after each use.
 - (4) Children's wet or soiled clothing and crib sheets shall be changed promptly.
 - (5) Written documentation authorizing the administration of medication to be given as needed (PRN) must be updated at least every six months. The documentation shall include the child's name, the name of the medication, the most recent date, frequency of dose, dosage to be given, and the signature of the custodial parent or legal guardian. A log shall be maintained to record when medication is administered. This record shall be initiated or signed and dated by the adult who administered the medication. The log and authorization form shall be maintained by the child care facility operator.
 - (6) Children's heads shall not be covered with bedding by staff while napping or sleeping.
- (f) *Equipment.* Equipment shall be available for a minimum of five activities in each of the following six areas: gross and fine motor, communications, sensory, creative dramatics, creative art and thinking.

(Ord. No. 98-027, § 3, 6-23-1998; Ord. No. 2004-064, § 3, 6-15-2004)

Sec. 62-134. Nutrition.

(a) Meals. Facilities shall provide meals and snacks of a quantity and quality to supplement food served at home so that the daily nutritional needs of the Children are met according to recognized nutritional standards. (The standards most widely accepted are the National Research Council's Recommended Dietary Allowances). Recommended meal patterns to meet these standards shall be furnished by the Department.

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- (b) Alternate nutrition plan. If meals and/or snacks are furnished by the Child's Parent, there shall be a written agreement signed by the Parent and kept on file at the facility with a copy given to the Parent. The agreement shall define the responsibilities of the Parent and the Operator for meeting the Child's nutritional needs.
- (c) *Snacks.* All facilities shall assure that each Child is provided with a mid-morning and mid-afternoon snack in addition to the number of meals necessary to meet the Child's nutritional needs as stated above.

(Ord. No. 98-027, § 4, 6-23-1998; Ord. No. 2004-064, § 4, 6-15-2004)

Sec. 62-135. Food preparation and food service requirements—Reference to other authorities.

- (a) The sanitary practices, regulatory standards, certification requirements and fees set forth in Chapter 64E-11, Florida Administrative Code (F.A.C.), are hereby adopted and incorporated by reference as applied to child care facilities to the same extent and effect as if the applicable provisions were set out in full.
- (b) Where any provision of this Ordinance [article] refers to another provision, ordinance, statute, policy reference, manual, rule, regulation, or other authority, it refers to the most current version, incorporating any amendments thereto or redesignation thereof.

(Ord. No. 98-027, § 5, 6-23-1998; Ord. No. 2004-064, § 5, 6-15-2004; Ord. No. 2010-073, § 2, 10-13-2010)

Sec. 62-136. Admission and recordkeeping.

- (a) Health examination and health maintenance. Prior to the first day of attendance, each Child shall have on file and keep current a completed DH Form 680. Florida Certification of Immunization Part A-1. B. or C (July 2001), or DH Form 681, Religious Exemption from Immunization (May 1999). DH forms 680 and 681 can be obtained from the local county health department. The DH Form 680, Florida Certification of Immunization Parts A-1. Certificate of Immunization for K-12 Excluding 7th Grade Requirements or Part B Temporary Medical Exemption, shall be signed by a physician or authorized personnel licensed under the provisions of F.S. ch. 458, 459, or 460, and shall document vaccination for the prevention of diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, mumps, and Haemophilus influenza type B (HIB), and effective July 1, 2001, completion of the varicella vaccination. The DH Form 680, Florida Certification of Immunization Part C, Permanent Medical Exemption, shall be dated and signed by a physician licensed under the provisions of F.S. ch. 458 or 459. Immunizations received out of state are acceptable, however, immunizations must be documented on DH Form 680 and signed by a practicing physician in the State of Florida. Within 15 calendar days of the first day of attendance, unless statutorily exempt, each Child must have on file at the facility a completed DH Form 3040, June 2002, Student Health Examination, which is incorporated by reference. Certification that a health examination has been completed may be documented on the State of Florida, Department of Health, DH Form 3040, or a signed statement by authorized professionals that indicates the results of the components included in the health examination. The Student Health Examination shall be completed by a person given statutory authority to perform health examinations. No Infant under six months of age shall be admitted without proof of a general health examination by a licensed physician or by a person given statutory authority to perform health exams.
- (b) *Enrollment information.* The Operator shall obtain and keep current the following enrollment information from the Child's Parent:
 - (1) The Child's full legal name, birth date, current address, and preferred name(s).

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- (2) The name and address of the Parents.
- (3) Telephone numbers or instructions as to how the Parent(s) may be reached during the hours the Child is in the facility.
- (4) Names, addresses, and telephone numbers of a minimum of two persons who can assume responsibility for the Child if for some reason the Parent(s) cannot be reached immediately in an emergency.
- (5) Names and addresses of persons authorized to take the Child from the Child Care Facility.
- (6) The name, address, and telephone number of a physician or health resource that can be called in case of emergency, and the Parent's written permission to consult that physician or health resource if the Parent cannot be reached.
- (7) If the Child's condition requires it, a written plan shall be on file at the Child Care Facility. The plan shall be developed on a cooperative basis between the Child's Parent, the Operator, and the supervising physician and/or other specialists. The plan shall specify the handicapping condition and the special provisions which will be made to meet the needs of the disabled Child.
- (8) Alternate nutrition plan. Written agreement to provide the bag lunch or the Child's food shall be signed by the Parent and kept on file.
- (c) *Personnel records.* Personnel records shall be maintained for the Owner/Operator, each employee of the facility, regular volunteers, and household members in a Child Care Facility being operated in a private house. These shall include:
 - (1) Name, address, and telephone numbers.
 - (2) Person to contact in an emergency.
- (d) Other records.
 - (1) Records of menus served shall be placed on file and kept for a minimum of 60 days.
 - (2) Daily attendance of Children shall be taken and recorded by the Child Care Facility personnel, documenting when each Child enters and departs a Child Care Facility or program. Such records shall be maintained for a minimum of one year. Program personnel must notify a Parent, guardian, or other authorized contact personnel responsible for the Child's welfare as set forth in subsection (b) of this section should a Child be unexpectedly absent from a before-school or after-school program. Upon making diligent effort to contact the persons listed above, the Child Care Facility shall have fulfilled its obligations pursuant to this article.

(Ord. No. 98-027, § 6, 6-23-1998; Ord. No. 2004-064, § 6, 6-15-2004)

Sec. 62-137. Care for Children during nighttime hours.

The minimum standards for Child Care Facilities apply to Child Care Facilities which provide care during nighttime hours with the inclusion of the following standards as set forth in this section. Any Child Care Facility caring for Children at night but for less than 24 hours must follow the same requirements for personnel standards as previously stated. In addition, for such facilities the following standards shall apply:

- (1) A Child Care Facility shall have approval of the licensing agency prior to instituting nighttime care on a regular basis.
- (2) Meals must be served to Children who are in the facility at ordinary meal times and who have not been served an evening meal before arrival or who remain through the time for serving breakfast.
- (3) Each Child shall have a separate bed or cot with his or her own linens covering the bedding. Private bedrooms shall not be used.

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(Ord. No. 98-027, § 7, 6-23-1998; Ord. No. 2004-064, § 7, 6-15-2004)

Sec. 62-138. Transportation.

When private passenger automobiles or station wagons are used for transportation of Children by a Child Care Facility:

- (1) The driver must be at least 18 years of age.
- (2) A Child 12 years of age and younger shall not sit in the front seat of a vehicle.

(Ord. No. 98-027, § 8, 6-23-1998; Ord. No. 2004-064, § 8, 6-15-2004)

Sec. 62-139. Licensing procedure.

- (a) General.
 - (1) The owner or designated representative must take Part I of the State mandated childcare class or pass the competency test before a license can be issued.
 - (2) Application for a license or for renewal of license to operate a Child Care Facility shall be made in the manner and on the forms prescribed by the Department. A license will be issued only after the payment of such fees as may be authorized and required by the Board.
 - (3) The license certificate for a Child Care Facility shall be issued for a specific address and for operation by specific individuals or a designated organization.
 - (4) A license shall be issued on the basis of an agreement between the facility and the Department as to the maximum number of Children, based upon facilities available, which the facility may care for.
 - (5) Licenses shall not be transferable from one person, firm or corporation to another or from one physical location to another physical location and shall automatically expire on December 31 each year.
 - (6) When there is a change in the Operator of a Child Care Facility, a new license shall be required. The fee shall be one-half of the established fee.
 - (7) Prior to the renewal of a license, the Department shall reexamine the Child Care Facility. Included in that process is the examination of the premises and records of the facility to determine that minimum standards for licensing continue to be met.
 - (8) All standards established under this article shall be in accordance with the appropriate life, safety and fire prevention requirements for Child Care Facilities.
 - (9) The Department shall coordinate all inspections of Child Care Facilities. A Child Care Facility shall not be required to implement a recommendation of another agency if such conflict arises due to uncoordinated inspections. The County Commission or its representatives shall resolve any conflict in recommendations within 15 days after written notice that such conflict exists.
 - (10) The Department shall issue a license or renew a license upon being satisfied that all standards required by this article have been met.
 - (11) The license and all current inspection forms shall be displayed in a conspicuous place in the main part of the building or near the front door area.
- (b) Provisional license.

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- (1) The Department may issue a provisional license to applicants for a license who are unable to conform to all the standards as provided for in this article.
- (2) No provisional license may be issued unless the Operator makes adequate provisions for the health and safety of the Child and unless the County Health Department finds that a need exists for the service offered by the Child Care Facility.
- (3) The provisional license shall in no event be issued for a period in excess of 12 months and shall not be subject to renewal.
- (4) The provisional license may be suspended if periodic inspections made by the Department indicates that insufficient progress has been made toward compliance.
- (c) *License required.* The operation of a Child Care Facility without a license from the Department is prohibited. The Board of County Commissioners or its representative is empowered to seek an injunction in the Circuit Court against the continuing operation of a Child Care Facility for the following reasons:
 - (1) When there is any violation of the standards applied under this article which threatens harm to any Child in the Child Care Facility.
 - (2) When a licensee has repeatedly violated the standards provided for under this article.
 - (3) If a Child Care Facility continues to have Children in attendance and does not possess a valid license from the Department.
- (d) Inspection. A licensed Child Care Facility shall accord to the Department the privilege of inspection, including access to facilities, staff and records at reasonable times during regular business hours, to insure compliance with the provisions of this article. An Operator shall have the right to obtain a ruling from the County Health Director or his designee as to interpretations of this article.
- (e) Hearings upon denial or revocation of license.
 - (1) When the Department has reasonable cause to believe that grounds for the denial or revocation of a license exist, it shall notify the applicant or the licensee in writing stating the grounds upon which the license is being denied or revoked. If the applicant or licensee makes no written request for a hearing to the Department within 15 days from receipt of such notice, the license shall be deemed denied or revoked.
 - (2) If a request for a hearing is made to the Department, a hearing shall be held within 30 days and shall be conducted by the Board of County Commissioners or a hearing master designated by the Board of County Commissioners.
 - (3) An applicant or licensee shall have the right to appeal a decision of the Board of County Commissioners to the Circuit Court by writ of certiorari.
- (f) *Powers and duties.* The Board of County Commissioners, or a hearing master designated by the Board, shall have the authority to:
 - (1) Administer oaths and affirmations;
 - (2) Issue subpoenas and subpoenas for the production of documentary evidence for any public hearing authorized under this article, which subpoenas may be served by any officer authorized by law to do so, who shall be paid the same fee as is allowed by law for similar services in civil actions;
 - (3) Rule upon offers of proof and receive relevant evidence;
 - (4) Take or cause depositions to be taken whenever the ends of justice would be served thereby;
 - (5) Regulate the course of the hearing;

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- (6) Hold conferences for the settlement or simplification of the issues by consent of the parties;
- (7) Dispose of procedural requests or similar matters; and
- (8) Enter any order to carry out the purposes of this article or, as to a hearing master, make recommended orders to the Board, which orders shall include findings of fact.
- (g) *Procedure for due process.* The Board, or the hearing master designated by the Board, shall afford each party in a hearing authorized under the provisions of this article the right to:
 - (1) Receive 20 days' notice of the time, place and nature of the hearing, and the matters of fact and law asserted;
 - (2) Present his case of defense by oral and documentary evidence;
 - (3) Submit rebuttal evidence and conduct such cross examination as may be required for a full and true disclosure of the facts;
 - (4) Submit for the consideration of the hearing master, or the Board if it receives the evidence, proposed findings and conclusions and supporting reasons therefore;
 - (5) Submit exceptions to a recommended order, if one is made, and make oral arguments in support of any such exceptions;
 - (6) Make offers of settlement or proposals of adjustment;
 - (7) Be accompanied, represented and advised by counsel, or represent himself; and
 - (8) Be promptly notified of the denial in whole or in part of any written application or other request.
- (h) Evidence. The Board, or its hearing master, shall give probative effect to evidence which would be admissible in civil proceedings in the courts of this State, but in receiving evidence the exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial probative effect. Otherwise, effect shall be given to the rules of evidence recognized by law in this State.

(Ord. No. 98-027, § 9, 6-23-1998; Ord. No. 2004-064, § 9, 6-15-2004)

Sec. 62-140. Penalty for violations.

The violation of this article shall be a misdemeanor, and any persons found guilty of violating same shall, upon conviction thereof, be punished by a fine not to exceed \$500.00 and/or by imprisonment in the County jail not to exceed 60 days. Each day or fraction thereof the violation continues shall be considered as a separate offense.

(Ord. No. 98-027, § 10, 6-23-1998; Ord. No. 2004-064, § 10, 6-15-2004)

Sec. 62-141. Territorial scope.

This article shall not be effective within any municipality which has adopted and is enforcing an ordinance on this subject establishing protective standards equal to or greater than those provided or required herein.

(Ord. No. 98-027, § 11, 6-23-1998; Ord. No. 2004-064, § 11, 6-15-2004)

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Sec. 62-142. Severability clause.

Should any section, sentence, clause, part or provision of this article be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this article as a whole, or any portion thereof other than the portion declared to be invalid.

(Ord. No. 98-027, § 12, 6-23-1998; Ord. No. 2004-064, § 12, 6-15-2004)

Sec. 62-143. Designation pursuant to Chapter 74-113, 1974 Laws of Florida.

The Sarasota County Health Department is hereby designated as the local licensing agency to license Child Care Facilities in Sarasota County as authorized by Laws of Fla. ch. 74-113.

(Ord. No. 98-027, § 13, 6-23-1998; Ord. No. 2004-064, § 13, 6-15-2004)

Sec. 62-144. Adoption of State standards.

The provisions of F.S. § 402.301 et seq. and F.A.C. ch. 65C-22, as the same may be amended from time to time, are hereby adopted by reference in this article. A copy of F.S. § 402.301 et seq. and F.A.C. ch. 65C-22 (Child Care Standards) is attached to Ordinance No. 98-027 and is available for inspection in the office of the County Clerk.

(Ord. No. 98-027, § 14, 6-23-1998; Ord. No. 2004-064, § 14, 6-15-2004)

Sec. 62-145. Repeal.

This Ordinance shall be automatically repealed on June 30, 2017, unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida.

(Ord. No. 98-027, § 15, 6-23-1998; Ord. No. 2004-064, § 15, 6-15-2004; Ord. No. 2009-022, § 2, 5-12-2009)

Secs. 62-146-62-170. Reserved.