

**CHAPTER 819 THE DAY CARE HOME LICENSING CODE
OF ST. LOUIS COUNTY**

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SUBCHAPTER A. SHORT TITLE, SCOPE, PURPOSE AND DEFINITIONS

819.010 Short Title. -- This chapter may be cited and shall be known as the "Day Care Home Licensing Code." (O. No. 14947, 4-19-90)

819.020 Scope. -- The provisions of this chapter shall be applicable in that portion of St. Louis County located outside of the incorporated cities, towns and villages. (O. No. 14947, 4-19-90)

819.030 Definitions. -- As used in this chapter, and unless the context clearly requires a different meaning, references to one gender include references to the other gender, singular references include the plural and plural references include the singular; statements including the word "shall" are mandatory and not directory. The following specific definitions apply to this chapter:

1. Adult day care home means a family home, occupied as a permanent residence by the adult day care home provider, in which care is given to no more than eight (8) adults for any part of the twenty-four-hour day.
2. Child day care home means a family home occupied as a permanent residence by the child day care home provider in which care is given to no more than ten (10) children, including children related to the day care provider for any part of a twenty-four-hour period.
3. Director means the Director of the Department of Planning unless otherwise specified, and the employees and agents of the Department of Planning designated by the Director to perform functions delegated to the Director by this Chapter. (O. No. 21003, 7-16-02)

SUBCHAPTER B. OPERATION OF DAY CARE HOMES

819.040 Licenses required. -- No person shall operate a child or adult day care home on premises for which such person does not have a current and valid child or adult day care home license issued by the Director. Although a child or adult day care home license may be issued by St. Louis County prior to the issuance of a child or adult day care home licensed by the State of Missouri, no person shall operate a child or adult day care home without a valid and current child or adult day care home license issued by the State of Missouri pursuant to Section 210.211 RSMo or Section 660.403 RSMo., as appropriate. (O. No. 21003, 7-16-02)

819.050 Exemption from requirement for licensing. -- Notwithstanding any other provision of this chapter, no person who operates a child day care home with four (4) or fewer children who are in attendance at any one time but who do not live on the premises shall be required to obtain a child day care home license nor shall such person be subject to review of the Director nor subject to conditions under this Chapter for operation placed on the child day care home. (O. No. 23346, 9-11-07)

819.060 Limitations on Operation. -- No child or adult day care home shall be operated:

- (1) By a person who does not personally provide day care service to the children or adults in attendance at the child or adult day care home.
- (2) By a person who does not reside in the residence where the child or adult day care home is located.
- (3) In a structure which may not lawfully be occupied as a residence under the zoning ordinance.
- (4) Where care is being provided for more children or adults at one time than such operator is licensed under this chapter or state law to care for on the specified premises.

- (5) Where there is less than 750 square feet of contiguous, compact outside play area on the premises available for outside recreation of the children, regardless of the number of children that are in attendance at the child day care home at any one time. The property used in calculating whether the minimum outside play area is satisfied cannot be common ground, public property, or any other property where possession is in fact shared with other residents or where other residents have the right to use the property. The play area shall be fenced if the premises are less than three (3) acres in size.
- (6) Where the operation of the child or adult day care home is in violation of any County ordinance affecting health and safety. (O. No. 21003, 7-16-02)

819.065 Other Limitations Pertaining to Fitness of Applicant and Others. -- No license shall be issued where the operator, an employee, or any person regularly present on the premises has committed an act demonstrating a lack of fitness to care for children or adults, including molestation or abuse, theft, fraud, or any other act of moral turpitude unless the Director finds the conduct of such person subsequent to such act has been such as to demonstrate fitness to care for children or functionally impaired adults. (O. No. 21003, 7-16-02)

819.070 Limitation on number of children or adults. -- No person shall be issued a license to operate a child day care home for more than ten (10) children at any one time including the operator's children under the age of thirteen (13) or adult day care home for more than eight (8) adults at any one time. (O. No. 21003, 7-16-02)

819.080 Overlap. -- There may be occasions when, due to a change of shifts or because of before-and after-school care, the number of children in a child day care home would exceed for a short period of time the number of children permitted by this code. The number in care, in these overlap situations, shall never be more than one-third (1/3) over the number of children that is otherwise allowed under this code for a period of time not to exceed two (2) hours total in any child-care day. (O. No. 21003, 7-16-02)

819.090 Emergency School Closings. -- There may be occasions when schools are closed due to emergencies such as inclement weather. On those days, in order to accommodate enrolled school-age children needing day care due to the unscheduled school closing, the child day care home shall be permitted to exceed for the day its licensed capacity by one-third (1/3). This one-third (1/3) excess attendance for emergency school closing shall not be in addition to the one-third (1/3) excess allowed for overlap care, so that at no time may the total number in care be more than one-third (1/3) over the licensed capacity. This emergency school closing overlap shall not be permitted for scheduled days of school closing. (O. No. 21003, 7-16-02)

819.100 Control of Children. -- The operator of the child day care home shall operate the child day care home in such a manner that the residential character of the neighborhood is not disturbed. This means that the operator shall not permit:

- (1) Excessive noise in connection with the child day care home which would annoy a person of ordinary sensibilities;
- (2) Children to trespass on property where there is no permission for the children to enter, or to play outside in areas other than the required play area;
- (3) Operation of the child day care home to damage property of others;
- (4) Operation of the child day care home to cause the property on which the day care home is operated to deteriorate the property. (O. No. 21003, 7-16-02)

819.110 Proof of State License to be Shown Upon Request. -- No person operating a child or adult day care home shall fail to show to the Director or the Director of Public Works or their designated agents upon request, during normal business hours, a copy of the operator's day care home license issued pursuant to Section 210.211 RSMo. or Section 660.403 RSMo. (O. No. 23346, 9-11-07)

819.120 Day Care Home to be Operated in Conformity with Conditions. -- No child or adult day care home which has been issued a license under this chapter with conditions shall operate the child or adult day care home in violation of the conditions. (O. No. 21003, 7-16-02)

819.125 Inspections. -- Inspections of child or adult Day Care Homes shall be made as often as deemed necessary by the Director. The Director shall have the authority to enter at any reasonable time any structure or premises for which a permit has been issued. For all other structures or premises, when the Director has reasonable cause to believe that a violation exists, the Director is authorized to enter the structure or premises at reasonable times to inspect. Prior to entering into a space not otherwise open to the general public, the Director shall make a reasonable effort to locate the owner or other person having charge or control of the structure or premises, present proper identification and request entry. If requested entry is refused or not obtained, the Director shall pursue entry as provided by law. (O. No. 23346, 9-11-07)

SUBCHAPTER C. ANNUAL APPLICATION FOR A HOME DAY CARE LICENSE

819.130 To Whom Made. -- Annual applications for a child or adult day care home license shall be made to the Director. (O. No. 21003, 7-16-02)

819.140 Contents of Initial Application. -- The initial application shall be filed on forms provided by the Director and shall contain the following:

- (1) The name of the person desiring to operate a child or adult day care home.
- (2) The address where the person intends to operate the child or adult day care home.
- (3) The maximum number of children, including the children of the applicant under the age of thirteen (13) who will be in attendance at the child day care home at any one time or the maximum number of adults who will be in attendance at the adult day care home at any one time.
- (4) A copy of the application made to the State of Missouri for a state child or adult day care home license.
- (5) The number of square feet on the premises available for outside recreation of the children at the child day care home.
- (6) A site plan drawn to scale showing:
 - a. Outboundary dimensions of the lot;
 - b. Any off-street parking;
 - c. Structures on the lot including dimensions of the structure, fences (indicating the height and construction material of the fence);
 - d. The location of any bodies of water on the premises or on lots abutting the premises, whether such bodies of water are natural or man-made;
 - e. The location of the play area satisfying the minimum play area space requirements at the child day care home;
 - f. cliffs, retaining walls, or other abrupt changes in grade on the premises or on abutting lots;
 - g. High tension wires on the premises or abutting lots; and
 - h. Other man-made features of the premises affecting the suitability of the premises for a child or adult day care home.
- (7) The names, addresses, and social security numbers of the applicant, all proposed employees, and all adults who reside or will be present on the premises on a regular basis. Each such person shall execute an authorization for the Director to request the Superintendent of Police of St. Louis County to conduct a complete record check of each such person. (O. No. 21003, 7-16-02)

819.145 Renewal Application. -- Renewal applications shall be filed on forms provided by the Director, shall contain the information set forth in subsections (1) through (4) and subsection (7) of Section 819.140, and shall state in what manner, if any, the matters described in subsections (5) and (6) of Section 819.140 have changed. (O. No. 21003, 7-16-02)

819.150 Review of Application. -- The application or renewal application shall be investigated by the Director if the Director believes it is necessary to determine the truth and correctness of the application. (O. No. 14947, 4-19-90)

819.160 Standards for Issuance of Initial License. -- No license shall be issued where:

- (1) The Director believes any statement in the application is false.
- (2) The application is not completed.
- (3) The operation of the child or adult day care home will not satisfy the requirements of this chapter. (O. No. 21003, 7-16-02)

819.170 Standard for Imposition of Conditions. -- The Director may impose conditions upon the granting of an initial or renewal license, if the Director believes such conditions are necessary to preserve the residential character of the neighborhood. The Director may not impose conditions which would make the operation of the child or adult day care home violative of federal or state laws and regulations or any other County ordinance or regulation. (O. No. 21003, 7-16-02)

819.180 Permissible Conditions on License. -- By way of example, and not limiting the lawful conditions which may be imposed under Section 819.170, the following are conditions which may lawfully be imposed by the Director:

- (1) The requirement for the construction of a fence of sufficient height and construction to contain the children or adults within the premises of the child or adult day care home.
- (2) The requirement that the hours of operation of the child or adult day care home be limited.
- (3) The requirement that any assistant or assistants working at the child or adult day care home use available off street parking so as not to congest neighborhood streets.
- (4) In the event that the Director determines that there is inadequate parking space to permit the picking up or dropping off of children or adults at the child or adult day care home without congesting traffic or endangering public safety, then the Director may require that the operator provide an off street paved unobstructed pickup space with adequate stacking area.
- (5) In the event that the lot on which the child or adult day care home is to be operated contains less than 10,000 square feet, the Director may limit the number of children or adults permitted at the child or adult day care home to less than the maximum otherwise permitted by law. (O. No. 21003, 7-16-02)

819.190 Fee; Grant or Denial of Annual License. -- The Director shall notify the applicant and inform the applicant whether the application has been approved, approved with conditions or denied. If the application is approved or approved with conditions, the Director will issue a license upon payment of a licensing fee of fifty dollars (\$50.00). (O. No. 23346, 9-11-07)

819.200 Notification of Neighbors within Three Hundred Feet. -- Upon receipt of the initial application for a child or adult day care home license, the Director shall cause the persons at residences within three hundred (300) feet of the premises to be notified of the pending application. The notice given by the Director shall state:

- (1) That a child or adult day care home license has been applied for;
- (2) The name of the applicant;
- (3) The address of the applicant, which is the address of the proposed child or adult day care home;
- (4) That the license may be issued with conditions;
- (5) The address of the Director and the desire of the Director to receive written comments pertaining to the granting of the license, or the imposition of conditions in connection with the licensing of the premises.
- (6) That the license will not be granted for at least thirty days following the mailing of the notice of the Director to permit time for response from the addressees.
(O. No. 21003, 7-16-02)

SUBCHAPTER D. REVIEW OF LICENSE BY PETITION

819.210 Minimum Waiting Period for Review by Petition. -- No day care home license shall be reviewed under the provisions of this subchapter until the day care home shall have been licensed by the County for at least ninety (90) days (O. No. 14947, 4-19-90)

819.220 Contents of Petition. -- The petition shall contain:

- (1) the name and address of each petitioner;
- (2) the signature of each petitioner and the date the signature was placed on the petition; no signature shall be counted as a valid signature unless it is made more than seventy-five (75) days following the issuance of the original license for the day care home;
- (3) the location of the residence of the petitioner with respect to the licensed premises;
- (4) the reason or reasons that the signatories are aggrieved; board statements that the Director failed to comply with the ordinance in issuing the license do not satisfy this requirement.
(O. No. 14947, 4-19-90)

819.230 Signatures Required on Petition. -- The petition shall contain signatures of residents of at least fifty (50) percent of the dwelling units on all lots or parcels of land which are wholly or partially within three hundred (300) feet of the premises. (O. No. 14947, 4-19-90)

819.240 Filing of Petition With Director. -- The petition shall be filed with the Director.
(O. No. 14947, 4-19-90)

819.250 Notice of Hearing. -- Following a determination by the Director that the petition is sufficient, the Director shall give notice by mail of the hearing to the persons indicated on the petition, to the licensee, and as otherwise provided by law. (O. No. 14947, 4-19-90)

819.260 Hearing on Petition. -- The Director shall conduct the hearing at the time and place specified in the notice of hearing. (O. No. 23346, 9-11-07)

SUBCHAPTER E. SUSPENSION OR REVOCATION OF LICENSE

819.270 Suspension or Revocation Initiated by the Director. -- If the Director believes that the child or adult day care home is being operated in violation of any County ordinance or conditions imposed upon the license, he may suspend a child or adult day care home license until he believes the conditions giving rise to the violation abated, or he may revoke the license. The revocation of the license shall not be effective for five (5) weekdays following actual delivery of the notice to the licensee. If the licensee believes that such suspension or revocation is made in error, then the licensee may appeal within the five (5) day period to the Director as provided below. (O. No. 23346, 9-11-07)

SUBCHAPTER F. APPEALS

819.290 Appeals.

1. The Director shall hear and decide appeals as provided in Section 819.300 of this Code.
2. A final decision of the Director may be appealed in accordance with law.
(O. No. 23346, 9-11-07)

819.300 Procedure on Appeals.

1. An appeal to the Director may be made by (a) the applicant or licensee from any decision of the Director, or (b) other persons in the manner described in Sections 819.210 through 819.260. An appeal made pursuant to Section 819.270 shall be made within the time period prescribed in that section. All other appeals shall be made within fifteen (15) days of the decision appealed from.
2. Appeals shall be filed with the Director upon such forms as are approved for such purpose. Each appeal shall be accompanied by a fee of sixty dollars (\$60.00). Appeals shall be instituted by filing a notice of appeal within fifteen (15) days after mailing or delivery of the Director's final decision or other applicable time period.
3. Before making its decision on any appeal, the Director shall hold a public hearing thereon. At least five (5) days' notice of the time and place of such hearing shall be sent by certified mail to the appellant and each other person known to the Director to have any interest in the appeal. Such notice shall contain the name of the appellant, the date, time and place fixed for the hearing, and a brief statement of the subject of the appeal. In addition, notice of the hearing shall be published in one (1) newspaper of general circulation in St. Louis County not less than five (5) days prior to the hearing.
4. Hearings may be adjourned from time to time; and if the time and place of the continued hearing be publicly announced at the time of the adjournment, no further notice of such continued hearing shall be required.
5. The Director may adopt rules of procedure not inconsistent with law.
6. The Director may administer oaths and compel the attendance of necessary witnesses at hearings or meetings.

7. The Director shall cause adequate minutes of the proceedings to be kept and shall record or otherwise provide for the ability to prepare a transcript of all evidence and testimony presented in any hearing.
8. All decisions of the Director shall contain findings of fact and conclusions of law.
9. An appeal shall operate as a stay of an order denying a permit or suspending or revoking a permit or denying renewal of a license, unless the Director specifically determines that a stay would produce an immediate and irreversible threat to the public health and welfare.
10. No issue pertaining to a specific party which has been previously specifically decided by the Director shall be subject to rehearing unless a substantial change of conditions is alleged in the notice of appeal. An issue which has been previously decided by the Director shall not be modified by a subsequent decision of the Director unless a substantial change in fact has been shown to exist.
(O. No. 23346, 9-11-07)

SUBCHAPTER G. PENALTIES AND ENFORCEMENT

819.310 Penalties and Enforcement. –

1. Every person who shall be convicted of any of the provisions of this chapter shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned in the St. Louis County Jail for not more than one (1) year, or punished by both such fine and imprisonment. Each day a violation continues shall constitute a separate offense.
2. In addition to the penalties hereinabove authorized and established, the County Counselor shall take such other actions at law or in equity as may be required to halt, terminate, remove or otherwise eliminate any violations of this chapter.
3. Except as otherwise specified in this chapter, investigation and enforcement of this chapter and of conditions imposed on licenses shall be the responsibility of the Director of Public Works, but the participation or lack thereof by the Director of Public Works shall not be a defense to any action under this chapter. (O. No. 14947, 4-19-90)

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