



Establishing  
**DAY CARE  
FACILITIES**  
in Sioux Falls, SD

Revised July 5, 2007



<b>I. Introduction .....</b>	<b>1</b>
<b>II. Glossary of Terms.....</b>	<b>2</b>
<b>III. Zoning Districts and Day Care .....</b>	<b>3</b>
Matrix Chart .....	5
<b>IV. General Considerations for Day Care .....</b>	<b>6</b>
Parking.....	6
Signage.....	6
Impact on Adjacent Neighborhood Properties.....	6
Hours of Operation.....	6
Provisions for Fencing or Screening Outdoor Play/Sitting Areas .....	6
Demonstration of Neighborhood Input and Support.....	7
<b>V. Instructions for Special Use Permit Process (Fastest Process) .....</b>	<b>7</b>
<b>VI. Instructions for Conditional Use Permit Process.....</b>	<b>7</b>
Making Application .....	7
Fees .....	8
The Site Plan.....	8
Posting Signs .....	9
Staff Report.....	9
The Planning Commission Meeting.....	9
Appealing a Conditional Use Decision by Planning Commission .....	10
The City Council Meeting .....	10
Appealing a Conditional Use Decision by City Council .....	11
Expiration Date.....	11
Revocation .....	11
Flow Chart.....	12
<b>VII. List of Agencies and Associations.....</b>	<b>13</b>
City of Sioux Falls .....	13
Minnehaha County .....	13
State Day Care Registration and Licensing .....	14
Day Care Associations.....	14
<b>VII. Appendix A</b>	
Conditional Use Permit Information Sheet	
Conditional Use Permit Application	
2007 Hearing Schedule	
What's A Site Plan?	
Building Code Requirements for Day Care Centers	

## **I. Introduction**

This information packet is intended to educate the general public and assist existing and potential child care providers about establishing and maintaining quality day care facilities within the city of Sioux Falls.

For your convenience, this information packet includes:

- A glossary of terms frequently associated with day care facilities in the city.
- A list and matrix chart which identifies the zoning districts which allow certain day care facilities in the city.
- Guidelines for on-site parking and signage.
- A simplified set of instructions to apply for certain day care facilities in the city.
- Necessary application forms, procedure and process information, and current hearing schedules.
- A list of contact persons associated with day care facilities on the state and local government levels and including day care providers' associations.

## II. GLOSSARY OF TERMS

**Note:** The definitions listed below are excerpts from the City's Zoning Ordinance. **These definitions will vary from the definitions for licensing requirements for the State of South Dakota.** Please check with the State Department of Social Services, Child Protection Division, for compliance with state law.

**Conditional Use Permit**—A permit issued by the City or City and County Planning Commissions stating that the conditional use complies with the conditions and standards set forth in this title and authorized by the Planning Commission. [Note: Conditional Use Permits only work for the applying property with the permit applicant. Conditional Use Permits stay with property, not the owner (unless stipulated by the Planning Commission).]

**Conditional Use Permit Standards**—Any approved conditional use shall conform to the standards set forth for such uses. These standards shall be construed to be the minimum requirements for any of the specified Conditional Uses and the Planning Commission—and, if appealed, the City Council can require additional stipulations at their discretion. In all cases, the impact of the proposed use on the adjacent properties is a major consideration.

**Day Care**—The providing of care and supervision of children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

**Day Care Center**—A facility used for providing adult or child day care, and is limited in number over 12 by the square footage of usable space available. The ratio is 35 square feet per person indoors and 50 square feet per person outdoors. [Appendix B, City Zoning Ordinances; Chapter 15.03.020 (190) Definitions]

Any day care center must comply with regulations for fire safety, handicapped accessibility, plumbing, electrical, mechanical, and building codes of the City. Any work to change the plumbing, electrical, mechanical, or building to meet these standards will require construction permits. All day care centers must be inspected by the Building Services Department and the Fire Department in order to receive a certificate of occupancy. The State of South Dakota also has regulations regarding day care providers. These regulations differ considerably from the City regulations. Please contact the State Department of Social Services for further information.

**Home Day Care**—Care is provided in a dwelling and the number of persons cared for is limited to a maximum of six adults or six children under the age of 14 years. Included in the number of children are the provider's own children six years and under. The dwelling shall be used as the principle use, and the day care use be accessory. [Appendix B, City Zoning Ordinances; Chapter 15.03.020 (193) Definitions]

**Family Day Care**—Care is provided in a dwelling. The number of persons cared for is 7 to 12 adults or children under the age of 14 years including the provider's own children 6 years and under. The dwelling shall be used as the principle use, and the day care use be accessory. [Appendix B, City Zoning Ordinances; Chapter 15.03.020 (196) Definitions]

**Permitted Uses**—Any permissive, permitted special, or conditional use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Permitted Special Use**—A use allowed in a zoning district subject to the applicable restrictions of that zoning district and additionally subject to certain restrictions for that specific use.

### III. Zoning Districts and Day Care

The City of Sioux Falls is divided into a number of zoning districts. Each of these districts has various land uses that are allowed. The various land uses in each zoning district, including those associated with day care facilities, are categorized as follows: permissive use, permitted special use, or conditional use.

A permissive use is one that is allowed in specific zoning districts without a public hearing. There is no time schedule requirement to meet.

A permitted special use is allowed in specific zoning districts if it complies with certain listed conditions. There is no time schedule requirement to meet. However, if the proposed land use does not meet the specified conditions, a conditional use must be applied for and granted by the City.

A conditional use requires a public hearing prior to establishing the land use on a particular property. The hearing is before the City Planning Commission. They may impose specific conditional use permit standards or conditions of approval as deemed necessary and appropriate to protect the health, safety, and general welfare of the public. There is approximately a one- (1) to two- (2) month time period involved with the public hearing process for a conditional use permit. Application forms and public hearing schedules for a conditional use can be obtained from the Planning Office of the Planning and Building Services Department.

[Note: It is important to keep in mind that regardless of the land use, prior to any new building construction or building remodeling for the proposed land use, a zoning/building permit and possibly a certificate of occupancy must be obtained from the City.]

**Home Day Care** uses are permitted uses in residential areas. This means they are allowed in a single-family home. Home day care uses are allowed in the following zoning districts: AG, Agricultural District; RR, RS-1, RS-2, RD, RA-1, RA-2,

Residential Districts; O, Office District; S, Institutional District; C-2 and C-3 Commercial Districts.

**Family Day Care** uses are either permitted special uses or conditional uses in residential, office, institutional, or commercial areas and are subject to the following listed conditions:

- A. City's Health Department day care registration;
- B. Written documentation that the owner/renter will occupy the home as a primary residence and the day care use will be a secondary use, and of hours of operation;
- C. A petition of support signed by 75 percent of registered property owners within 250 feet of the subject property for the day care use;
- D. Site plan submittal depicting outdoor play area(s), protected by a fence, wall, berm, or shrubbery of sufficient height and of a character necessary to provide adequate visual screening, and a safe driveway area for children drop-off and pickup.

Family Day Care uses are allowed in the following zoning districts: AG, Agricultural District; RR, RS-1, RS-2, RD, RA-1, RA-2, MH, Residential Districts; O, Office District; S, Institutional District; C-2, C-3, Commercial Districts.

**Day Care Center** uses are conditional uses in residential, office, institutional, commercial, and industrial areas. A conditional use permit is required and entails a public hearing process just like applying for a conditional use. Day care center uses are allowed as a conditional use in the following zoning districts: RS-1, RS-2, RD, RA-1, RA-2, and MH, Residential Districts; O, Office District; S, Institutional District; C-1, C-2, C-3, and C-3, Commercial Districts; I-1, Industrial District.

## Day Care Types and Allowable Zoning Districts

Key:
Permissive Use = P
Permitted Special Use = PS
Conditional Use = CU

\* - Allows Permissive use only in dwelling units

		Home Day Care	Family Day Care	Day Care Center
AG	Agricultural District	P	CU	
RR	Rural Residential District	P	CU	
RS-1	Residential District	P	PS	CU
RS-2	Residential District	P	PS	CU
RD	Residential District	P	PS	CU
RA-1	Residential District	P	PS	CU
RA-2	Residential District	P	PS	CU
MH	Residential District	P	PS	CU
O	Office District	*	PS	CU
S	Institutional District	*	PS	CU
C-1	Neighborhood Commercial District			CU
C-2	General Commercial District	*	PS	CU
C-3	Central Business District	*	PS	CU
C-4	Planned Commercial District			CU
I-1	Light Industrial District			CU
I-2	General Industrial District			
RC	Recreation/Conservation District			

## IV. General Considerations for Day Care

### Parking

The ordinances of the City of Sioux Falls also regulate the parking requirements for day care uses. No additional parking is required for a **home day care** or **family day care**. However, a **day care center** requires parking is calculated by accommodating two (2) stalls for every three (3) staff on the maximum shift, plus one (1) stall for each eight (8) persons the facility is licensed for. A typical parking stall measures nine (9) feet wide by twenty (20) feet in length. However, stall measurements may vary depending upon the proposed parking arrangement. Please check with the Zoning Division of the Department of Planning and Building Services to determine what the parking requirements would be for the subject property. The Engineering Department can also provide design information for various parking lot arrangements and traffic circulation.

### Signage

The ordinances of the City of Sioux Falls also regulate the signage requirements for day care uses. **Day care centers** in residential districts are allowed restricted signage; restrictions can be clarified by Planning staff at 605.367.8888. For a **home day care** or **family day care** located in a residential zoning district, a one- (1) square foot wall sign is allowed. Please check with the Zoning Division of the Department of Planning and Building Services to determine what the sign permit requirements would be for the subject property.

### Impact on Adjacent Neighborhood Properties

In all cases, the impact of the proposed day care use on adjacent properties is a major consideration. The most frequent complaints received from residential neighbors about day care uses include concerns about increased traffic, inadequate parking, unsafe pickup and drop-off areas, and noise. In some instances, concerns have been expressed about the high concentration of several day care facilities within a neighborhood.

### Hours of Operation

It is important to consider and address the hours of operation for a day care use. In some instances, a residential neighborhood will have more concern about a 24-hour day care operation rather than a “daytime” or “nighttime” operation.

### Provisions for Fencing or Screening Outdoor Play/Sitting Areas

It is imperative that an adequate and safe playground/sitting area with sufficient green areas can be provided. A safe, healthy environment for the person is of primary importance.

At some public hearings, adjoining neighbors have expressed a preference for the day care provider to provide an opaque fence rather than an open-wire fence to effectively screen the outdoor play/sitting area. In several conditional use permit cases, this has been required as a condition of approval.

### **Demonstration of Neighborhood Input and Support**

It is highly recommended that your neighborhood be informed by YOU about your proposed day care operation. Please visit with your neighbors about establishing a day care use on your property prior to beginning operation or submitting an application. A frequent comment heard during the public hearing process is that "My neighbor did not talk to me about it." As a result, neighborhood animosity develops toward the potential day care provider. Find out what concerns, if any, the neighbors may have and if there is going to be any strong opposition to your day care. Your neighbors may surprise you by signing a petition of support or suggesting ideas which may help prevent any negative impacts to the neighborhood.

## **V. Instructions for Permitted Special Use Permit Process (Expedited Process)**

**Family Day Care** can use a permitted special use permit process. There is no public hearing required (although we recommend conducting meeting with the neighbors prior to applying) or application fee with the permitted special use permit. An application is required and can be obtained from the City Planning Office at City Hall, Second Floor, 224 West Ninth Street, Sioux Falls, South Dakota, or by access our website at: [http://www.siouxfalls.org/Business/daycare/6\\_less/application\\_instructions.aspx](http://www.siouxfalls.org/Business/daycare/6_less/application_instructions.aspx). As part of the application, a petition requiring 75 percent or more of the property owners' (not tenants) signatures is needed, and a handout showing a 250-foot radius of the address will be provided for easy identification of needed property owners' signatures. Finally, along with the application there needs to be a site plan submitted that shows outdoor fenced play areas, streets, driveways, parking, etc.

## **VI. Instructions for Conditional Use Permit Process**

**Family Day Care** is considered a permitted special use and is allowed in specific zoning districts if it complies with certain listed conditions. There is no application to the Planning Commission, time schedule, or fee required. However, if the proposed land use does not meet the specified conditions, a **conditional use permit** must be applied for to the planning commission. In most single-family residential neighborhoods, a permitted special use permit is adequate.

### **Making Application**

An application for a conditional use permit may be obtained from the City Planning Office at City Hall, Second Floor, 224 West Ninth Street, Sioux Falls, South Dakota,

or online at: [http://www.siouxfalls.org/Business/daycare/6\\_less/application\\_instructions.aspx](http://www.siouxfalls.org/Business/daycare/6_less/application_instructions.aspx). The application will require you to provide the following information:

- Address and legal description of the subject property
- Parcel size
- The type of day care (group day care or day care center)
- The surrounding land uses
- Site plan and floor plan

You will also be required to pay a filing fee for processing your application. Before an application for a conditional use permit is presented to the Planning Department, it is advisable that you talk to the neighboring property owners to determine if there is either support or opposition to the proposed day care facility. Any neighborhood letters or petitions of support from the surrounding property owners for the day care use should accompany your application for a conditional use permit. Once you have completed your petition, paid your filing fee, and provided the site and floor plans, you will be scheduled for the next Planning Commission meeting and given a set of signs to be posted on the four corners of the subject property. Deadline for filing a conditional use permit is the second Monday of the month. Permits submitted on time will go to the Planning Commission on the following first Wednesday of the month. Permits submitted after the deadline will automatically count for the following deadline and go to Planning Commission in accordance with that date.

## **Fees**

The current filing fee for a conditional use is \$200. It is a one-time nonrefundable fee. If the fee is to be paid by check, make the check out to "City of Sioux Falls." [Note: Under permissive uses and permitted special uses, there is no fee.]

## **The Site Plan**

No application for a conditional use will be considered complete until a site plan has been provided. At the very least, a site plan shall show the following:

- A complete rendering, to scale, of the parcel under consideration for conditional use, indicating all proposed uses, lot boundaries and dimensions, and building dimensions.
- The location, dimensions, and number of parking spaces, along with an indication of all curb cuts and access points from a public right-of-way. Any required loading spaces should also be shown.

- All landscape setback distances from the property lines; trees, including height, and type; location of any required fencing/screening; the location of trash receptacles, and any utility and drainage easements that might exist on the property should be shown.
- Although hand-drawn site plans may be acceptable, the Planning Office has the right to require that the site plan be prepared by a registered engineer or land surveyor.

## **Posting Signs**

City statutes require that four (4) signs announcing a possible conditional use permit be posted on the property seven (7) days before the Planning Commission meeting. In addition, if the Planning Commission decision is appealed, the application goes to City Council, and at that time the City would require four (4) new signs be posted on the property seven (7) days before the City Council meeting. The signs for meetings will be filled out by Planning staff and the first set will be given to you when you file your application; the second will be given if the application is appealed.

Approximately one week prior to public hearings, you will need to either mail or deliver in person an “affidavit of posting.” You will receive the “certificate of posting” when you file your application. If the Planning Commission defers your application, a second set of signs and a second “certificate of sign posting” will be given to you by the Planning Office. Note: No action can be taken by either the Planning Commission or the City Council if you fail to return the certificate of sign posting prior to their meeting in at the City Planning Office.

## **Staff Report**

Various City agencies will review your conditional use request and make comments to the Planning Department. The Planning Department staff will then write a staff report, which includes an explanation of the request; any comments from the City agencies; and recommendation to defer, approve, or deny the request based on the information submitted by the petitioner and the findings of fact for the case. Approximately five (5) days prior to the City Planning Commission meeting, the staff report is sent to the applicant and members of the City Planning Commission for review and consideration.

## **The Planning Commission Meeting**

The Planning Commission is a group of nine citizens appointed by the City Council to make recommendations to them regarding land use changes, including conditional use permits.

The Planning Commission meeting is held on the first Wednesday of each month at 7 p.m. in the City Council Chambers in Carnegie Town Hall. Please refer to the

current public hearing schedule for conditional uses. A copy of the schedule is included in this information packet.

At the Planning Commission meeting, the chairperson will announce each agenda item in turn and then ask the Planning staff to present the staff recommendation. The chairperson will then ask the applicant to explain the request. This is when you would state your name and address, explain your request, and state your reasons for the conditional use. The chairperson will also ask if there is anyone present who wishes to speak for or against the conditional use, and they may do so at this time.

After the Planning Commission has heard from all interested parties present and discussed the petition, it will vote to either defer, deny, or approve the request, along with any stipulations that might be required. Generally, the Planning Commission bases its decision on a number of things:

- Conformance with the comprehensive plan.
- The potential negative impacts on adjacent land uses.
- The steps taken on the site to offset any negative effects of the uses on adjacent property.
- The effect such use would have on traffic and circulation in the area.

### **Appealing a Conditional Use Decision by Planning Commission**

If anyone is opposed to the decision of the Planning Commission, it can be appealed to the City Council. If a written appeal is filed with the Planning Office within five (5) working days, your permit will be on the City Council meeting agenda on the first Monday of the following month. At the meeting, Planning staff will present the Planning Commission recommendation on your permit. If you have any remarks to make to the City Council, do so at that time. They will vote to either defer, deny, or approve the request. If they vote to approve your permit, the Conditional Use Permit will be effective. If the City Council should vote to deny your permit, you would have to submit a new application if you want your request to be reconsidered. If a reapplication is either entirely or substantially the same, it cannot be reviewed until six (6) months from the date of final action by the City Council.

Protest petition information and forms are available from the City Planning Office at City Hall, Second Floor, 224 West Ninth Street, Sioux Falls, South Dakota.

### **The City Council Meeting**

The City Council meeting is only needed if the Planning Commission decision has been appealed. City Council will hear an appeal on the first Monday of the following month. The City Council is a group of nine (9) officials, eight council

people and the Mayor, elected by the public. The City Council meeting is held at 7 p.m. in the City Council Chambers in Carnegie Town Hall. Please refer to the current public hearing schedule for conditional uses. A copy of the schedule is included in this information packet. At the meeting, the Planning staff will present the Planning Commission recommendation on your application. If you have any remarks to make to the City Council, do so at that time. If they vote to approve your petition, the conditional use permit will take effect immediately. If the City Council should vote to deny your request, you would have to submit a new application if you want your request to be reconsidered. If the request is either entirely or substantially the same, a new petition cannot be reviewed until six (6) months from the date of final action by the City Council or Planning Commission, whichever is later. After the final meeting, the Planning Department will send you a letter which describes the final action taken by the City Council or Planning Commission on your conditional use request.

### **Appealing a City Council Conditional Use Decision**

If you or another person are opposed to the Council's vote, you may petition a circuit court or any other appropriate court. Petitions would need to be turned in in accordance with South Dakota state law.

### **Expiration Date**

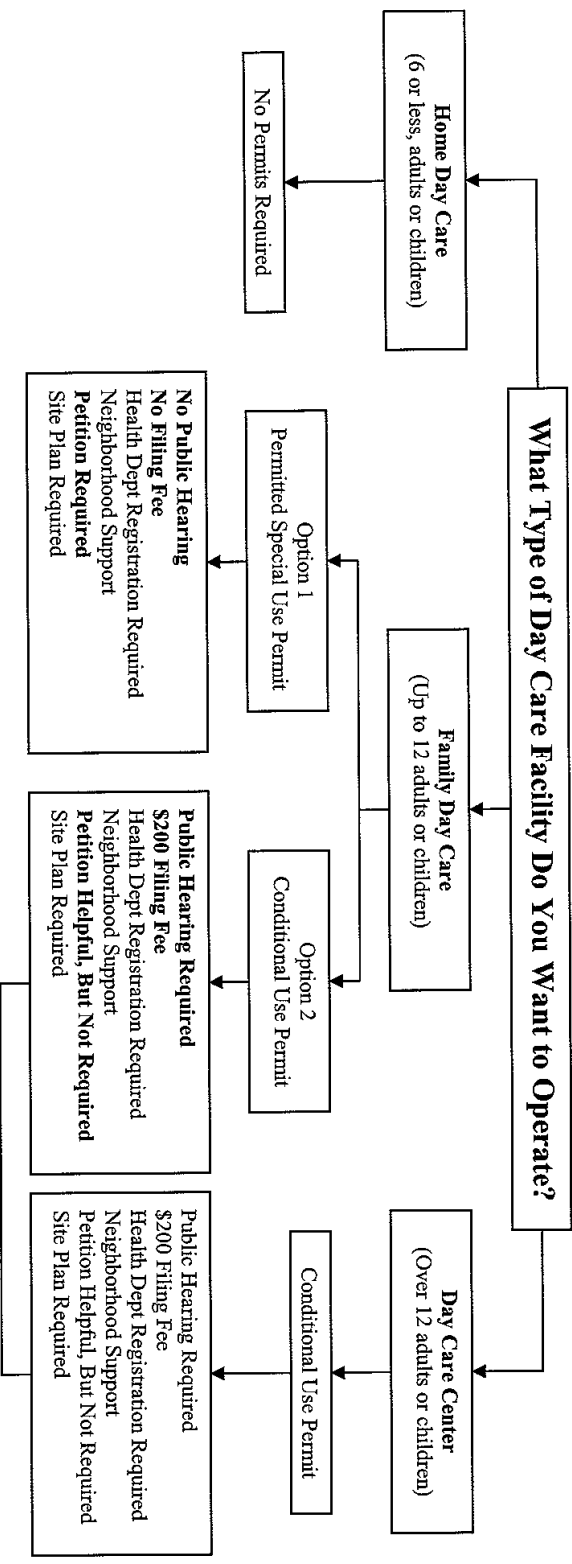
A conditional use permit will expire one year from the date it becomes effective, if the day care use or work has not commenced. Prior to expiration, a time extension may be requested in writing and must be approved by the Planning Director.

### **Revocation**

If the Planning Director finds at any time that the terms, conditions, and requirements of the Conditional Use Permit have not been complied with, the Director shall report this fact to the permittee and to the Planning Commission. The Planning Commission may, after conducting a public hearing (of which the permittee shall be notified), revoke such Conditional Use Permit for failure to comply with such terms, conditions, and requirements, or take such other action as it may deem necessary to obtain compliance.

**If you have any further questions regarding conditional use permits, contact the Planning Office at 367-8888, or stop in the office located on the second floor of City Hall.**

# Establishing a Day-Care Facility in a Residential Zoning District



**Contact City Planning Office**  
 City Hall 2<sup>nd</sup> Floor  
 224 W. 9<sup>th</sup> Street  
 P.O. Box 7402  
 Sioux Falls, SD 57117-7402  
 (605) 367 – 8888  
<http://www.siouxfalls.org/Business/daycare.asp>

1. Obtain Conditional Use Permit application and public schedule
2. Complete and return application, filing fee, site plan, health department Day Care Certification, and any other documents to Planning Office
3. Applicant appears at Planning Commission's Public Hearing. Applicant and neighbors provide input.
4. Planning Commission makes a decision based on Planning staff recommendation and public input.
5. If Planning Commission's decision is appealed, then City Council would consider Conditional Use Permit application at their next possible regular meeting.

Planning 7 - 2007

## VII. List of Agencies and Associations

### Local Day Care Permits Registration and Licensing

#### City of Sioux Falls

##### *City Planning and Building Services Department*

Planning Office (367-8888)  
City Hall, Second Floor  
224 West Ninth Street  
P.O. Box 7402  
Sioux Falls, SD 57117-7402

Zoning Office (367-8254)  
City Hall, Ground Floor  
224 West Ninth Street  
P.O. Box 7402  
Sioux Falls, SD 57117-7402

Building Services Office (367-8670)  
City Hall, Ground Floor  
224 West Ninth Street  
P.O. Box 7402  
Sioux Falls, SD 57117-7402

##### *City Health Department*

Environmental Division (367-8276)  
1203 North Western Avenue  
Sioux Falls, SD 57104-1201

##### *City Fire Department*

Sioux Falls Fire Rescue  
Fire Prevention Division (367-8093)  
2820 South Minnesota Avenue  
Sioux Falls, SD 57105

#### Minnehaha County (Rural area only)

##### *Minnehaha County Planning Department*

Planning and Zoning Department (367-4204)  
County Courthouse  
415 North Dakota Avenue  
Sioux Falls, SD 57104

Building Inspection Services (367-4204)  
County Courthouse  
415 North Dakota Avenue  
Sioux Falls, SD 57104

**Lincoln County (Rural area only)**

***Lincoln County Planning Department***

Planning and Zoning Department (764-2938)  
100 East Fifth Street  
Canton, SD 57013

**State Day Care Registration and Licensing**

State Department of Social Services (367-7604)  
Child Care Services  
817 West Russell Street  
Suite 202  
Sioux Falls, SD 57104  
(Day Care Centers)

Volunteer and Information Center (334-6646)  
1000 North West Avenue  
Suite 310  
Sioux Falls, SD 57104  
(Family and Group Day Care)

**Day Care Associations**

KidKare – Family Daycare Association (338-7328)  
Current contact: Patty  
1700 North Ellis Road  
Sioux Falls, SD 57107

Providers United (339-3101)  
229 Pam Road (334-3821)  
Sioux Falls, SD 57105

United Way (336-2095)  
1000 North West Avenue  
Sioux Falls, SD 57104