



CHILD CARE LAW CENTER

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Know the Law About Business Licenses and Zoning Permits for Family Child Care Homes in California

California law recognizes that family child care is an important resource for to the state's families. To support this resource the law says that regulations governing family child care should ensure that children are protected and supervised but should "not plac[e] undue burdens on the providers."¹ Any regulation of family child care must be "cost effective, streamlined, and simple to administer."²

Sometimes local government policies seem at odds with this state policy when cities or counties treat family child care homes like businesses and require them to pay for business licenses or zoning permits. However, state law that protects family child care prevails over local law, and local governments have very limited authority to regulate family child care and impose fees.

May cities and counties ever regulate family child care homes?

Yes, but only *large* family child care homes. If you operate a small family child care home your city or county may not "impose any business license, fee, or tax."³ Because state law says that a small family child care home "shall be considered a residential use of property for the purposes of all local ordinances," the city or county may not require you to get a zoning permit either.⁴

What's the difference between small and large family child care homes?

A **small family child care home** usually has a single adult caregiver and may enroll six children. The program may enroll one or two additional children, up to a total of eight, with no additional adult, if four conditions are met.⁵ A **large family child care home** usually has two caregivers and may enroll 12 children. It may enroll one or two additional children, for a total of 14, if the similar four conditions are met.⁶

These conditions are:

- At least one of the eight children attends school and a second is at least six years old;
- No more than two infants are cared for when more than six children are in the program;
- Parents of all the children are notified that one or two more children may be in care;
- If the child care home is in rental property, the landlord has given written consent.

What fees might I have to pay as a large family child care provider?

If you operate a large family child care home the city or county can require you to get a **business license** or a **zoning permit**. You will also have to have a **fire inspection** of your program. If you operate a small family child care home and are thinking about expanding to a large family child care home, you should check

with your city or county business or finance department to find out what is required of large family child care home providers and the related costs. This information will give you a more complete understanding of the cost of expanding your child care program.

What's a business license? Do I have to have one?

A business license is issued by a local government and allows you to conduct business. If you are a small family child care provider, state law says that your city or county may *not* require you to get a business license. If you are a large family child care provider, the city or county may require you to have a business license. To get the license you must meet local requirements and pay an annual fee.

When I apply for a business license, do I have to give a social security number?

The city will probably require it on a business license or zoning application. However, at your request, most cities will either not insist that you give a social security number or will allow you to substitute a federal tax identification number. If the city insists that you give your social security number, you can ask why the city needs it, how it will be used, what law requires you to give your number and what would happen if you don't give it. You can decide what to do depending on the city's answer to your questions.⁷

What's a zoning permit?

A zoning permit, also called a "land use permit" or "use permit," gives permission to use land for a different purpose than the purpose for which the land is zoned. In the case of child care, the permit would allow you to use a home

zoned for single-family residences as a large family child care.

Do I have to get a zoning permit?

First, remember that a *small* family child care program does *not* need a zoning permit under State law, but must still comply with same zoning laws that all other single-family homes are required to follow.

If you operate a *large* family child care program, the city *may* require you to get a zoning permit. First, you must comply with the same zoning laws that all other single-family homes that don't have a child care are required to follow. State law also gives three options to cities that want to require large family child care homes to get zoning permits. The city's options are to:

1. Make large family child care a *permitted use* of residential property.⁸ It means that large family child care providers do not have to pay for a zoning permit
2. Issue a *nondiscretionary* permit.⁹ The child care provider must purchase a zoning permit. The city may make reasonable rules that apply to large family child care homes in four areas:
 - spacing and concentration
 - traffic control
 - parking
 - noise control.

As long as the home follows reasonable rules in these four areas, the city must grant the permit. Neighbors or others do not have a chance to argue that the permit should not be granted.

3. Issue a *conditional use* permit.¹⁰ Like a nondiscretionary permit, the city can regulate large family child care homes in

the four areas listed above. Additionally, the zoning administrator must give notice of the permit application to property owners within 100 feet of the large family child care home property line. These neighbors may ask for a hearing to discuss whether the city should grant the permit.

Do these local government requirements have anything to do with Community Care Licensing?

No, they are entirely separate from child care licensing regulations. Community Care Licensing is a state agency that regulates health and safety standards for family child care homes; only cities and counties issue business licenses and zoning permits.

How do I know if I need a business license or zoning permit?

If you are a large family child care home provider, you need to ask your city or county whether you need a business license or zoning permit. You can also often find the information you need on the city's or county's website. Your local R&R (Resource and Referral) program probably has information as well.

The finance department issues business licenses; the planning department issues zoning permits. State law requires either department to give you full information about *all* required permits and fees, including those required by

other agencies or departments upon your request.¹¹ (And remember – the city or county may not require *small* family child care home providers to get a business license or zoning permit.)

How much do business licenses and zoning permits cost?

The costs are set by local government and vary across the state. Business licenses are usually in the range of \$80 to a couple of hundred dollars per year. The first time you pay may be more expensive due to the extra cost of processing your application. If you have to get a conditional use permit, the city cannot charge fees that are more than “the costs of the review and permit process” and you are entitled to a breakdown of fees charged.¹²

What if I have been operating my large family child care home for a while and now the city wants me to pay for a license or permit?

Once you are aware that your city requires a license or permit you will have to pay the fees going forward. However, if city employees told you in the past that you did not need a business license or zoning permit, you should not have to pay retroactive charges or penalties because you didn't have a license or permit. If the city tries to make you pay retroactive charges, contact the Child Care Law Center to discuss your situation.

This publication is intended to provide general information about the topic covered. It is made available with the understanding that the Child Care Law Center is not engaged in rendering legal or other professional advice. We believe it is current as of June 2014 but the law changes often. If you need legal advice, you should seek help from a competent attorney.

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Endnotes

¹ [Cal. Health & Safety Code §1597.30\(f\).](#)

¹ Id.

¹ [Cal. Health & Safety Code § 1597.45\(b\).](#)

¹ [Cal. Health & Safety Code § 1597.45\(a\).](#)

¹ [Cal. Health & Safety Code § 1597.44.](#)

¹ [Cal. Health & Safety Code § 1597.465.](#)

¹ Official Social Security Website, “Must I provide a Social Security number to any business or government agency that asks?,” <https://faq.ssa.gov>.

¹ [Cal. Health & Safety Code § 1597.46\(a\)\(1\).](#)

¹ [Cal. Health & Safety Code § 1597.46\(a\)\(2\).](#)

¹ [Cal. Health & Safety Code § 1597.46\(a\)\(3\).](#)

¹ [Cal. Health & Safety Code § 1597.46\(b\)\(1\).](#)

¹ [Cal. Health & Safety Code § 1597.46\(a\)\(3\) & \(b\)\(2\).](#)

¹ [Cal. Health & Safety Code §1597.30\(f\).](#)

² Id.

³ [Cal. Health & Safety Code § 1597.45\(b\).](#)

⁴ [Cal. Health & Safety Code § 1597.45\(a\).](#)

⁵ [Cal. Health & Safety Code § 1597.44.](#)

⁶ [Cal. Health & Safety Code § 1597.465.](#)

⁷ Official Social Security Website, “Must I provide a Social Security number to any business or government agency that asks?,” <https://faq.ssa.gov>.

⁸ [Cal. Health & Safety Code § 1597.46\(a\)\(1\).](#)

⁹ [Cal. Health & Safety Code § 1597.46\(a\)\(2\).](#)

¹⁰ [Cal. Health & Safety Code § 1597.46\(a\)\(3\).](#)

¹¹ [Cal. Health & Safety Code § 1597.46\(b\)\(1\).](#)

¹² [Cal. Health & Safety Code § 1597.46\(a\)\(3\) & \(b\)\(2\).](#)