

KNOW THE LAW ABOUT ZONING AND BUSINESS PROTECTIONS FOR FAMILY CHILD CARE HOMES IN CALIFORNIA

Is Your City and County Compliant with California Law for Family Child Care Homes?

1. Can my city or county have special requirements for my family child care home?

No. Cities and counties must treat licensed small and large family child care homes like all other residential homes.¹ If you live in an area that allows for any type of residential home, your local government cannot create special rules that apply only to family child care homes. For example, your city or county cannot require that you get a zoning permit or business license only because you are a licensed family child care provider.²

The law says small and large family child care homes must, "...be considered a residential use of property and a use by right for the purposes of all local ordinances, including, but not limited to, zoning ordinances."³

You still must meet all state health and safety requirements, and fire safety requirements to get and keep your family child care license.⁴ Your local [child care licensing regional office](#) makes sure you meet all the state child care licensing requirements. Your local fire department does a fire inspection and gives you a fire clearance to get your large family child care home license. They also make sure you comply with all the state fire requirements for licensing.

2. What is a zoning permit?

A zoning permit is a paper given to you by your city or county that allows you to use your home or property for a specific reason. To get a zoning permit, cities and counties usually

require you to give them drawings of your property, a description of how your home will be used, and other documents. You must also pay zoning fees.

Your city or county may also call a zoning permit a:

- Conditional use permit
- Administrative use permit
- Minor use permit
- Use permit

Zoning permits also have other names. Your city or county may call a zoning permit by a different name.

A zoning permit is not a fire permit or fire clearance.

If you live in an area that is zoned for any type of residential use, cities and counties **cannot** require you to get a zoning permit for only having a family child care home.⁵

3. What is a business license?

A business license is permission from your city or county to have a business. Your city or county may also call it a:

- Business fee
- Local business tax
- Home occupation permit

Business licenses also have other names. Your city or county may call a business license by a different name.

A business license is not a fire permit or fire clearance.

Cities and counties **cannot** require family child care homes to have a business license.⁶

4. Can my city or county have “reasonable requirements” for my large family child care home?

No. In 2019, [Senate Bill 234](#) was passed and went into effect January 1, 2020. This new law deleted the language in the past law that allowed cities and counties to have “reasonable requirements” just for large family child care homes. Cities and counties can no longer create special requirements for large family child care homes in the areas of spacing & concentration, traffic control, parking, and noise control.⁷ SB 234 became law on January 1, 2020.

5. Can my city or county apply any local requirements to my family child care home?

Yes, but only if the same requirements apply to **all other homes** in your zoned area.⁸ Family child care homes still have to meet the same requirements as homes that do not have family child care programs.

For example, if you are making a physical change to your home, then you need to meet your city’s or county’s zoning or building requirements, just like any other person living in your neighborhood.

6. What requirements do I need to follow to get my family child care home license?

To get your family child care license, you must meet all the state health and safety requirements, and fire safety requirements.⁹

Small and large family child care homes are licensed by the Community Care Licensing Division under the California Department of Social Services, often called Licensing. Your local [child care licensing regional office](#) is responsible for making sure your home meets all the licensing requirements. They also do ongoing inspections for you to keep your family child care license. You can find out how to get licensed at your local Child Care Resource and Referral Agency by going to www.rnetwork.org/provider-services/become-a-licensed-provider or you can find your local regional licensing office by going to www.cdss.ca.gov/inforesources/child-care-licensing. Your first step is to attend an orientation meeting conducted by Community Care Licensing.

Your local fire department oversees and enforces the state fire requirements for large family child care homes. Small family child care homes are not required to get a fire clearance from their local fire department for their child care license.¹⁰

If you have questions about the licensing or fire requirements being applied to your family child care home, you can ask the official to show you the state regulations or codes they are following and to explain them to you. You can also contact the Child Care Law Center with your question by filling out our online form at www.childcarelaw.org/help.

7. Do I need to go to any city or county offices when I'm applying for my large family child care home license?

No. If you are in the process of getting your large family child care home license through Community Care Licensing, you will need a fire inspection and fire clearance from your local fire district.¹¹ You no longer need to go to any other city or county office when you are applying for a large family child care license because of the new law SB 234.

If you are a small family child care home provider or are applying for a small family child care license, you are not required to get a fire inspection and do not need to contact any of your city or county offices when applying for your family child care license.

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

Small and large family child care homes have some different licensing requirements. For example, a licensed **small family child care home** is required to have one child care provider and may enroll up to six children. As a small family child care provider you have an option to enroll and care for one or two additional school-age children, for up to a total of seven or eight children, with no additional adult, if the following four conditions are met:¹²

- The additional two children must be enrolled and attending T-Kindergarten, kindergarten or elementary school, and at least one of them must be at least six years old,
- No more than two infants are in care when more than six children are present,
- You have told the families of all the children enrolled in your program that you are going to care for the additional two school-age children. The [Parent Notification - Additional Children in Care Form](#) must be signed by the parent of each child and filed in each enrolled child's licensing file, and
- If you are renting your home, the property owner/landlord has signed the [Property Owner/Landlord Consent Form](#) giving you permission to care for more than 6 children and up to 8 children.

A licensed **large family child care home** is required to have an assistant anytime that the number of children present is over the capacity of a small family child care license and may enroll up to twelve children. As a large family child care provider you have an option to enroll and care for one or two additional school-age children, for a total of thirteen or fourteen, if the similar following four conditions are met:¹³

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- The additional two children must be enrolled and attending T-Kindergarten, kindergarten or elementary school and at least one of them must be at least six years old,
- No more than three infants are in care when more than twelve children are present,
- You have told the families of all the children enrolled that you are going to care for the additional two school-age children. The [Parent Notification - Additional Children in Care Form](#) must be signed by the parent of each child and filed in each enrolled child's licensing file, and
- If you are renting your home, the property owner/landlord has signed the Property Owner/Landlord Consent Form giving you permission to care for more than 12 and up to fourteen children.

9. Can my family child care home be in an apartment or other type of multi-family home?

Yes. Cities and counties must allow family child care homes in:

- Single-family homes
- Apartments
- Condominiums
- Townhomes
- Duplexes
- All other multi-family buildings¹⁴

You cannot be stopped from opening or running a family child care home just because you live in one of these types of homes.¹⁵

10. Can my city or county apply environmental requirements to my family child care home?

Cities and counties can only apply environmental requirements to your family child care home if the same requirements apply to all the homes in your zoned area.¹⁶ Cities and counties cannot require family child care homes to follow the California Environmental Quality Act (CEQA).¹⁷

11. What do I do if my city or county is violating my rights as a family child care provider?

You can:

- Contact the Child Care Law Center with your question at www.childcarelaw.org/help
- File a complaint with the California Department of Fair Employment & Housing at <https://www.dfeh.ca.gov/complaint-process/file-a-complaint/>.
- Sue whoever is violating your rights as a family child care home provider.¹⁸

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Did you know that family child care providers have more and stronger protections because [Senate Bill 234](#) (2019) became the law on January 1, 2020?¹⁹

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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 January 2020 but the law changes often. If you need legal advice, you should consult an attorney who can specifically advise or represent you.

Endnotes

These endnotes provide legal citations for the information above. Do not hesitate to look up the law and know your rights. Visit your local law library to look up the laws that apply to you, and ask the reference librarian for help if you are having trouble understanding these citations.

¹ Cal. Health & Safety Code §§ 1597.42, 1597.45. Cities and Counties include incorporated and unincorporated areas.

² 1597.45(a), 1597.45(a)-(b).

³ Cal. Health & Safety Code § 1597.45(e).

⁴ Cal. Health & Safety Code §§ 1597.455, 1597.46.

⁵ Cal. Health & Safety Code §§ 1597.42, 1597.45(a).

⁶ Cal. Health & Safety Code § 1597.45(b).

⁷ S.B. 234, 2019-2020 Leg., Reg. Sess. (Cal. 2019).

⁸ Cal. Health & Safety Code § 1597.45(e).

⁹ Cal. Health & Safety Code §§ 1597.455, 1597.46,

¹⁰ Cal. Code Regs., tit. 22, § 102371(b).

¹¹ Cal. Code Regs., tit. 22, § 102371(a).

¹² Cal. Health & Safety Code § 1597.44.

¹³ Cal. Health & Safety Code § 1597.465.

¹⁴ Cal. Health & Safety Code § 1596.78(d).

¹⁵ Cal. Health & Safety Code § 1597.41(b)-(c).

¹⁶ Cal. Health & Safety Code § 1597.45(e).

¹⁷ Cal. Health & Safety Code § 1597.45(d).

¹⁸ Cal. Health & Safety Code § 1597.41(e).

¹⁹ S.B. 234, 2019 Leg., 2019–2020 Reg. Sess., (Cal. 2019).