

Module 1

SECTION TWO



OPERATING A STRONG FAMILY CHILD CARE BUSINESS Feasibility



Section 2.4 Local County or City Ordinances

Learning Outcomes

After each activity, participants will be able to:

Activity 1

- Define “ordinance”
- Give examples of city ordinances

Activity 2

- Describe common tenant issues related to starting/operating a family child care business
- Understand tenants’ rights related to the use of rental properties as small family child care homes

Activity 3

- Understand California Health & Safety Code regulations pertaining to the zoning of small family child care homes
- Understand California Title 22 regulations regarding alterations to existing buildings or grounds

Handouts

11. Property Regulations - CA Health & Safety code
12. Tenant Issues & Rights
13. Scenarios
14. Licensing regulations - Alterations
15. Zoning - California health & safety code

Key Points

- Ordinances are laws and regulations enacted by governmental authorities.
- A city ordinance is a rule or law enacted by a city government.
- City ordinances vary across the State.
- City ordinances can be found online on a city’s official website in the municipal code.
- Family child care businesses are expected to comply with all current ordinances that apply to them.
- The use of a single-family residence as a small family day care home is considered a residential use of property for the purposes of all local ordinances.
- Local jurisdictions may not impose business license fees or taxes on the operation of a small family day care home.
- Common tenant issues related to starting/operating a family child care business are about consent, rent increases, eviction, security deposits, and communication.
- Zoning ordinances divide a town, city, village, or county into separate residential, commercial, and industrial districts. The goal is to maintain the desirable characteristics of each type of setting.
- Before making alterations or additions to a family child care home or grounds, a family child care licensee must notify Community Care Licensing of the proposed changes and make sure that the changes comply with current ordinances (See Handout 14).

Activity #1

Learning Outcomes

- Define “ordinance”
- Give examples of city ordinances

Materials Needed

None

Methodology: Discussion

Activity

Pose the question: What comes to mind when you hear the word “ordinance”?

As a group, define what an ordinance is, incorporating the participants’ responses and the key talking points.

Then, explain that ordinances vary from city to city. Illustrate this by telling participants the city you are coming from and giving an example of a city ordinance (*e.g., All stores in San Francisco shall provide only recyclable paper bags, and/or compostable plastic bags, and/or reusable bags as checkout bags to customers.*)

Invite participants to think of ordinances that may apply in their cities and share them with the group. Suggest areas that are usually governed by ordinances to facilitate the conversation: landlord/tenant, building/alterations permits, garbage, parking, billboards, zoning, landscaping, recycling, hazardous materials, noise, etc.

Key Points

- Ordinances are laws and regulations enacted by governmental authorities
- A city ordinance is a rule or law enacted by a city government.
- City ordinances are different throughout the State.
- City ordinances can be found online on a city’s official website, in the municipal code.
- Family child care businesses must comply with all applicable city ordinances.

Activity #2

Learning Outcomes

- Describe common tenant issues related to starting/operating a family child care business
- Understand tenants' rights related to the use of rental properties as small family child care homes

Materials Needed

Handout 11: Property Regulations – California Health & Safety Code
Handout 12: Tenant Issues and Rights
Handout 13: Scenarios

Methodology: Reading, teaching others, discussion

Activity

Distribute Handout 13; ask for volunteers to read each scenario as the group follows along.

Distribute Handouts 11 and 12.

Ask participants to work in pairs or small groups to discuss the scenarios and compare what happened with the information found in Handouts 11 and 12.

Point out that they can compare the information by pairing the numbers in parentheses (i.e., (1) and (1)).

Discussion

Open up the discussion to the large group.

- *What landlord/tenant issues did you discover in your conversations?*
- *What did you learn about tenant's rights?*

Key Points

- The use of a single-family residence as a small family day care home is considered a residential use of property for the purposes of all local ordinances.
- Common tenant issues related to starting/operating a family child care business are about consent, rent increases, eviction, security deposits, and communication.

Activity #3

Learning Outcomes

- Understand California Health & Safety Code regulations pertaining to the zoning of small family child care homes
- Understand California Title 22 regulations regarding alterations to existing buildings or grounds

Materials Needed

Handout 14: Licensing Regulations – Alterations

Handout 15: CA Health & Safety Code/Zoning

Methodology: Teaching Others

Activity

Pose the following questions and invite participants to provide answers. Turn the answers into a conversation that incorporates the key talking points and the information in Handouts 14 and 15.

- *What are zoning ordinances?*
- *What are some examples of commercial, residential, and industrial zones?*
- *How are residential zones different from commercial zones?*
- *You operate a licensed family child care business and want to convert your garage into a play room for the children. Can you do it? Why? Why not?*
- *Can cities charge providers business license fees or additional taxes when they decide to open a small family day care home?*

Use the information shared in the conversation to illustrate the key talking points.

Key Points

- Zoning ordinances divide a town, city, village, or county into separate residential, commercial, and industrial districts. The goal is to maintain the desirable characteristics of each type of setting.
- Prior to making alterations or additions to a family child care home or grounds, the licensee must notify Community Care Licensing of the proposed changes and make sure that the changes comply with current ordinances (see Handout 14).



HANDOUT #11: PROPERTY REGULATIONS - CA HEALTH & SAFETY CODE

REGULATION		HIGHLIGHT
1597.40.(b)	(3)	It is not legal to forbid or restrict the leasing or mortgaging of real property for use as a family day care home for children.
1597.40.(d)(1)	(1)	Prospective family child care providers who reside in a rental property must provide 30 days' written notice to the landlord or owner of the rental property prior to starting to operate.
1597.40.(d) (4)	(7)	Landlords or property owners may require the family day care home provider to pay an increased security deposit for operation of the family day care home, as long as the total security deposit charged does not exceed the maximum allowable under existing law.
1597.44(d)	(5)	A provider that operates a small family child care home in a rental property must obtain the written consent of the property owner prior to providing care for more than six and up to eight children.

Further details and complete text about the regulations mentioned in Handout 11 can be found in Chapter 3.6 of the CA Health & Safety Code, Section 1597.40 at http://www.leginfo.ca.gov/.html/hsc_table_of_contents.html



HANDOUT #12: TENANT ISSUES & RIGHTS

ISSUE	TENANT RIGHT
Eviction	(4) It is illegal for a landlord to evict a tenant if the only reason is having or planning to start a family child care home.
Rent Increase	A landlord may not charge more rent just because it is a FCCH. Rent increases must follow the state and local rent control laws.
Security Deposit	(8) A landlord may charge a family child care provider a deposit equivalent to up to two months' rent (if place is unfurnished) or up to three months' rent (if the place is furnished).
	(7) A landlord must notify a family child care provider of an increase in security deposit ahead of time (at least 30 days if renting month-to-month).
	(7) A landlord may not increase a security deposit if there is a lease (longer than one month) until the lease is renewed.
Operation	(3) Homeowners' associations may not bar individuals from starting or operating a family child care home.
Communication	(6) (2) All requests from a landlord and all the responses from the tenant regarding eviction or rent raises should be put in writing. All correspondence and notices should be saved.

Further details and complete text about the regulations mentioned in Handout 12 can be found in the document prepared by the Child Care Law Center Legal issues for family child care providers in *California: Housing and property* at <http://www.childcarelaw.org/docs/housingandproperty.pdf>



HANDOUT #13: SCENARIOS

Carla Padilla has been living in a rented house for the past five years. Last month she decided to open a licensed family child care business, so she told the landlord about her plans (1). A week later, and without any other warning, the landlord came over to her house and announced (2) that he was no longer able to rent the house to her (3), and told her that she would have to move at the end of the month (4).

Marie Ivanova operates a small licensed family child care business in her rented apartment. She is currently caring for six preschoolers but is planning to take care of two school-age children to maximize the legal capacity of her family child care program. Last week, she told her landlord and he gave her his consent to do so (5). The following week, Marie received a letter indicating that her rent and security deposit were going to be increased (6) as soon as the number of children in her care goes from six to eight (7).

Susan Oh just moved to a new apartment, where she is now operating her licensed family child care business. She had to pay a security deposit equivalent to two months' rent (8). Last week she learned from her neighbor, who moved into an identical apartment at the same time she did, that their monthly rents are not the same. In fact, the rent Susan pays is \$200 more! (9) Susan is not happy about this. Is there anything she can do about this situation?



HANDOUT #14: LICENSING REGULATIONS - ALTERATIONS

SECTION

REGULATION

102416.3 Alterations to existing building or grounds

102416.3 (a)

Prior to making alterations or additions to a family child care home or grounds, the licensee shall notify the Department of the proposed changes, including, but not limited to, the following:

1. Conversion of a garage (either attached or detached) into a “child care” room.
2. Room additions to the family child care home.
3. Installation of in-ground or above-ground swimming pools, spas, fish ponds, decorative water feature, fountains or other bodies of water.
4. Construction of exterior decks or porches.
5. Construction of play equipment including swing sets/climbing structures.
6. Any change from an area of the family child care home previously identified as “off limits” to an area where care and supervision will be provided to children in care.

102416.3 (b)

The licensee shall provide the Department with a copy of an inspection report when an inspection is required by the local building inspector as a result of the alteration, addition or construction.

Department of Social Services. Manual of Policies and Procedures, Community Care Licensing Division, Family Child Care Homes, Title 22, Division 12, Chapter 3

http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/FCCHREGS_SP.pdf



HANDOUT #15: ZONING - CALIFORNIA HEALTH & SAFETY CODE

REGULATION

1597.45.(a)

The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

1597.45.(b)

No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

HIGHLIGHT

Further details and complete text about the regulations mentioned in Handout 15 can be found in the document prepared by the Child Care Law Center, *Legal issues for family child care providers in California: Housing and property* at <http://www.childcarelaw.org/docs/housingandproperty.pdf>