



**Responding to Child Care Facilities:
A Practical Guide for
City & County Planners**

Acknowledgements:

This guide was developed by a team of highly regarded experts in the field of child care land use planning made up of Gerry Raycraft, Land Use Planning and Child Care Facility Development Consultant; Pam Schmidt, Public Counsel; Ed Bolen, Child Care Law Center; Cindy Gnos, Raney Planning and Management; Kristen Anderson, Child Care Land Use Planning and Facility Development Consultant; and Maria Raff, Low Income Investment Fund (LIIF). Key reviewers included The California Planning Roundtable, members of the California Chapter of the American Planning Association, and Marie Young, LIIF.

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INTRODUCTION

Quality child care is in high demand by parents and employers because it provides a safe environment for the care and development of young children while parents work. Child Care is recognized by policy makers as a community priority because it contributes significantly to job creation and economic development. The child care industry employs about 123,000 people in California and generates approximately \$5.4 billion in revenue statewide, and those funds remain in the communities in which they are generated¹. However, in many communities barriers exist that prevent the child care sector from meeting the demand for expanded services, including navigating challenging land use approval processes.

Planners are also unwillingly put into uncomfortable situations when there is neighbor opposition to child care applications but planners have no discretion regarding these applications or find no negative impacts. While state law may limit a planner's discretion and/or the evidence does not support denial of a use permit, the neighbor may not find that to be a satisfactory conclusion.

The unique nature of child care can make it difficult sometimes for city and county planners to process applications for land use permits. Further, misconceptions and unknowns about the industry have lead to land use regulations (or lack of) that are not relevant or are inconsistent with state law. Unnecessary environmental studies (traffic and noise, most often) and extra public hearings and appeal processes can result in land use application processes for child care facilities that are expensive and lengthy for both planners and child care operators.

This document is intended to demonstrate to city and county planners how child care planning applications can be processed in an objective, impartial and efficient way. We will focus on licensed child care facilities that meet state health and safety requirements, including centers and home-based care. Some types of care arrangements are exempt from state licensure. These include care of children by relatives, as well as many public recreation programs and school-run after school programs.

Unlike public education, child care operates predominantly through the private sector, with limited public subsidies available to help parents pay for the service. Many working parents cannot afford to pay the true cost of child care, especially quality child care. That means that most child care facilities struggle to make ends meet. As a result, developers of new or expanded child care facilities tend to have limited resources for the development process. And those seeking to open or expand a child care facility typically are not professional developers. Often their first and only experience with opening a new business may be the child care project. To complicate matters further, the child care facility development process is complex and often lengthy. In addition to the *local government* planning, building and safety, and fire department approvals, licensed child care must receive final approval and license from the *State*- the California Department of Social Services, Community Care Licensing Division (referred to simply as "Licensing" by most people in the child care world and in this document).

¹ National Economic Development and Law Center. The Economic Impact of the Child Care Industry in California. Oakland, CA: NEDLC, 2001.

Licensing regulates health and safety issues. These issues may resemble those overseen by local government (land use, building, and fire), however the emphasis and objective of Licensing is on the health and safety of children in the context of the day-to-day operations of a child care program; and Licensing's requirements may conflict with local government's requirements. One example is that Licensing stresses operator-control² of all exits, typically through locked doors, or doors that cannot be opened by children. The Fire Department naturally has a different take on this. As another example, Licensing has definite requirements about outdoor space. Local governments, concerned about noise, may want to impose requirements incompatible with the need for the facility to provide ample, useable outdoor space.

Planners who clearly understand how child care is regulated and how operators use space can provide better analysis, suggest appropriate recommendations, make better decisions, and offer better information to neighboring property owners, the community and decision makers. Coupled with this understanding, a streamlined land use approval process specifically geared to child care can ease the burden on planners by establishing realistic, clear, and child care applicable guidelines about what is needed for applications to be approved. This guide will help planners implement such processes.

CHILD CARE DEFINITIONS AND DESCRIPTIONS

Over the years, planners have experienced a changing landscape of cities and counties. They constantly must anticipate population shifts, and work hard to balance the competing demands of environmental protection and economic development. Similarly the child care field has changed and evolved over the years to meet the growing demands brought about by shifts in family dynamics, population growth and economic realities.

Formal or organized child care in the U.S. can be traced back to before the turn of the 20th century when it was primarily available to the destitute through religious and charitable organizations. World War II thrust mothers into the work force and required that they find places to care for their children. In the twenty-first century most mothers work and child care is perceived to be not only a means to permit parents to work but also an educational opportunity for children. Today, child care is in high demand by parents of all economic backgrounds, and research tells us that quality child care can result in children being more successful in school and later on in life.

It is important that language used to describe child care keep pace with its changing reality. As such, planners should use terms to describe child care that are accurate and consistent with terms used by others in this highly regulated field.

The first important distinction to make is between names of programs and the facility types in which they operate. In California, licensed facility types are defined in state law as either Family Child Care Homes or Child Care Centers. Family Child Care exists in an operator's home and

² For purposes of this document and to ensure appropriate identification terminology for planners, the term *operator* refers to the licensee named on a facility license issued by the State of California, Department of Social Services, Community Care Licensing Division.

Child Care Centers are facilities other than an operator’s home. Planners should use *Family Child Care Home* and *Child Care Center* to describe licensed child care facilities and should insure that local ordinances refer to them in a manner consistent with state law.

An example of a program that takes place in either type facility is Head Start, a part-day preschool program funded by the federal government. There also are infant programs, toddler programs, preschool, school readiness, latchkey, Montessori, after school, and a host of other programs that can take place in either type of facility. The table on the right illustrates how various types of programs can be administered in either Family Child Care Homes or Child Care Centers. It is important to remember that these various programs do not describe the facility type.

PROGRAMS & FACILITY TYPES		
<u>Program</u>	<u>Child Care Center</u>	<u>Family Child Care Home</u>
Day Care	✓	✓
Head Start and Early Head Start	✓	✓
Infant Program	✓	✓
Montessori	✓	✓
Nursery School	✓	✓
Preschool	✓	✓
Reggio Emilia	✓	✓
State Subsidy Contractor (Title V)	✓	

For land use planning purposes, the facility type is relevant, while the program is not. The table below contains Licensing’s definitions for both facility types.

Child care homes are further distinguished by Licensing as large or small Family Child Care Homes. We highly recommended that for definitional purposes and specifically within zoning ordinances, the following three terms be used for child care facility types:

LICENSING FACILITY DEFINITIONS

Child Care Center

California Health and Safety Code § 1596.76

Child Care Center (a.k.a. “Day Care Center”) means any child day care facility other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

Family Child Care Home

California Health and Safety Code § 1596.78

Family Child Care Home (a.k.a. “Family Day Care Home”) means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the operator’s (a.k.a. “provider’s”) home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

- Family Child Care Home, Small
- Family Child Care Home, Large
- Child Care Center

Some child care programs not subject to licensing, i.e., “Exempt,” could occur in either Child Care Centers or Family Child Care Homes. This guide does not address these Exempt programs.

Descriptions and technical information related to these categories are contained in the following tables.

FAMILY CHILD CARE HOME

Family child care is operated in single- or multi-family housing. The make up of a family child care program often includes children of varying age groups. Within family child care environments children need adequate space to engage in different age-appropriate activities at the same time. State law preempts some local land use regulations for family child care, outlined in this chart.

<u>Local Land Use Requirements</u>
<i>Small Family Child Care Homes are allowable by right in residential zones for single-family residences. Business licenses, fees or taxes may not be imposed.</i>
<i>Large Family Child Care Homes are allowed by right, unless the jurisdiction chooses to require either a non-discretionary permit or a special/conditional use permit.</i>
<i>If a Large Family Child Care home is subject to a permit, local land use considerations are limited to traffic, parking, spacing and concentration, and noise.</i>

<u>Community Care Licensing Regulatory Requirements</u>
<i>Family child care is a residential use: Cal. Health & Safety Code § 1597.43.</i>
<i>Small Family Child Care Homes are licensed for up to 8 children with restriction on age make up of children.</i>
<i>Large Family Child Care Homes are licensed for up to 14 children with restriction on age make up of children.</i>
<i>Large Family Child Care Homes must pass inspection by the local Fire Authority.</i>
<i>The licensed facility is the operator’s primary residence.</i>

CHILD CARE CENTER

A Child Care Center can be a stand alone facility, a facility co-located with a housing development, on a school campus, or at a church, medical facility, or other commercial/retail development. Child Care Centers are operated by public agencies, proprietary/small businesses, non-profits, and faith-based organizations. State law does not preempt local land use considerations.

<u>Local Land Use Considerations</u>
<i>“By right” for a specific zone varies by jurisdiction; special/conditional use permit may be required; public notification and hearing processes vary by jurisdiction.</i>
<i>The most prevalent issues include parking, traffic, and noise; most jurisdictions lack suitable child care policies for these three issues.</i>
<i>Some jurisdictions require at least one designated parking space.</i>

<u>Community Care Licensing Regulatory Requirement</u>
<i>Facility must comply with state and local fire and building codes. Facility must pass inspection by the local Fire Authority.</i>
<i>A minimum of 35 square feet of usable indoor space is required per child; square footage does not include separate sleeping areas for infants, toilets, built-in furnishings/cabinets and storage. Most quality facilities are 75-100 square feet per child.</i>
<i>A minimum of 75 square feet of outdoor space per child is required, surrounded by a minimum 4’ high fence. There must be separate outdoor space for preschoolers (ages 3-5) and infants/toddlers (ages birth -2).</i>
<i>Facilities are licensed by age group for any number of children and include age-specific classrooms.</i>
<i>Licensing regulates a host of other issues related to child safety including type of flooring, materials used in play yards, location of diaper changing tables, ratio of toilets and sinks to number of children, and more.</i>

REVIEWING CHILD CARE PLANNING APPLICATIONS

This section is intended to give planners a guide to reviewing planning applications for **licensed** child care³. Though we will discuss most considerations, and explain the relationships among the different types of child care as they apply to various facility types, we acknowledge that we cannot cover every circumstance planners will encounter. We hope this guide will supplement planners' experience and result in simplified and streamlined processes for review of child care facility applications.

A. SMALL FAMILY CHILD CARE HOME

“Small Family Child Care Home” is defined in the California Health and Safety Code as a facility licensed to provide non-medical care in the operator’s home for 8 or fewer children. Licensing has a strong interest in making child care available and accordingly allows, with few restrictions, home-based options that have a limited local impact. Specifically, California Health and Safety Code §1597.43 states:

The Legislature finds and declares all of the following:

- (a) Family day care homes operating under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.

In order to comply, then, with state law, jurisdictions must treat Small Family Child Care Homes as residential uses. Local zoning ordinances may include a definition (which is recommended) and a provision specifying that Small Family Child Care Homes are a permitted use in single family residential zones, but local governments cannot impose additional restrictions or any discretionary approval process for Small Family Child Care Homes.

If neighbors are concerned about impacts from a Small Family Child Care Home, planners should encourage the concerned neighbor to talk directly with the Family Child Care Home operator to try to resolve the problem. However, state law does not allow typical “neighbor” issues to be addressed through zoning or other local land use regulation. Planners also may refer to Appendix J, *Being a Good Neighbor- Tips for Family Child Care Providers*, in Kristen Anderson’s book, “Planning for Child Care in California.” (See the Resource section of this document.) Keep in mind that the state requires licensed child care to comply with health and safety requirements, so if the neighbor is concerned with the number of children on the site, the adequacy of the supervision or other conduct or activity, they should be referred to Licensing for assistance in resolving the problem. (See the Resource section of this document to find the appropriate Licensing Regional Office.)

³ Facilities which are issued a license by the State’s Community Care Licensing Division.

B. LARGE FAMILY CHILD CARE HOME

“Large Family Child Care Home” is defined in the California Health and Safety Code as a facility licensed to provide non-medical care in the operator’s home for 9 to 14 children. Pursuant to Health and Safety Code §1597.46 a jurisdiction must do one of the following with respect to Large Family Child Care Homes on lots zoned for single family residences:

- Classify a Large Family Child Care Home as a permitted use and allowed by right; or
- Grant a nondiscretionary, administrative permit when Large Family Child Care Homes comply with “local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control” and “any regulations adopted by the State Fire Marshall”⁴; or
- Require a use permit process, which must be approved if the Large Family Child Care Home complies with “local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control” and “any regulations adopted by the State Fire Marshall.” A public hearing may be conducted **only if**, under the use permit requirement, the applicant or any affected party requests a hearing (Health and Safety Code §1597.46(a)).

If a jurisdiction’s zoning ordinance does not contain language specifying either an administrative permit or a use permit process, the jurisdiction must allow Large Family Child Care Homes as a permitted use on lots zoned for single family residences, similar to Small Family Child Care Homes.

Assuming a jurisdiction elects to adopt a use permit process for Large Family Child Care Homes, that process should be relatively straightforward since the issues that can be raised are limited in scope. The jurisdiction, for example, may not require that the applicant demonstrate that the use is necessary and desirable. Also, because the city or county cannot deny an application due to the size of the home, there should be no requirement for a detailed site plan.

Consistent with the limitations imposed by state law⁵ on the scope of Large Family Child Care Homes, local jurisdictions should facilitate efficient permit review by designing a separate application for Large Family Child Care Homes that will save time and expense for both the jurisdiction and the applicant.

Finally, it is important to remember that there is a limited allowable notice and hearing process for Large Family Child Care permits. Notice may only be given to owners of property within a 100-foot radius of the proposed Large Family Child Care Home. A hearing may only be held on the application if the applicant or any affected person requests a hearing.

⁴ Normally planners do not impose fire regulations- the State Fire Marshall has that responsibility, and local fire departments interpret those regulations. Thus, Fire Regulations are not discussed in this document. However, coordination between planners and fire inspectors is strongly encouraged to ensure consistent regulations and streamlined processes are enforced.

⁵State law requires that applications for Large Family Child Homes be processed “as economically as possible” (Health & Safety Code § 1597.46(d)).

The Health and Safety Code limits the areas in which a jurisdiction may condition the issuance of a permit for Large Family Child Care Homes to “spacing and concentration, traffic control, parking, and noise control” as specified in local ordinances. In addition, consideration of signage and play equipment location may be relevant. State law dictates that requirements placed on Large Family Child Care Homes regarding signage and play equipment be consistent with the jurisdiction’s zoning ordinance as it relates to similarly zoned properties. As fire regulations are not the purview of planning, this topic will not be discussed, but be aware that Large Family Child Care Homes have to pass an inspection by the local fire authority.

1. Spacing and Concentration

If the concern of local governments relating to spacing and concentration is that a particular neighborhood, but more precisely, a street or block, may be negatively impacted by numerous Large Family Child Care Homes, it is recommended, based on the experience of the authors that jurisdictions consider the following restrictions:

- Two Large Family Child Care Homes should not be located on adjacent parcels unless the adjacency exists on properties fronting different streets.
- No more than three Large Family Child Care Homes are allowed on the same side of the street of any residential block.
- Large Family Child Care Homes are not allowed on the same street when located either immediately across the street from one another or across the street and within one parcel of one another.
- Only one Large Family Child Care Home is allowed on a court or cul de sac with four or fewer homes.

2. Traffic

Child care poses a challenge to planners who normally want to review specific traffic (trip) generation information related to the land use, but this information normally is not available for Large Family Child Care Homes. This type of facility, however, has characteristics that may help reduce traffic and parking impacts in many cases. These characteristics are:

- Children under the age of 10 who are cared for in a Large Family Child Care Home in which they live are counted towards license capacity.
- Parents who enroll more than one child in a Large Family Child Care Home normally are bringing or picking up those children at the same time.
- Operators of Large Family Child Care Homes who serve only children under the age of 5 cannot serve more than 12 children at a time, reducing the maximum capacity from 14 to 12.
- Large Family Child Care Home assistants who live in the home, or are neighbors within walking distance, don't normally drive to the home.
- Large Family Child Care Homes in close proximity to elementary schools have the advantage of caring for children who can walk to child care directly from the school.
- Generally, trips to/from Large Family Child Care Homes are shared with a primary trip to work, school or some other activity. So often a trip to/from a Large Family Child Care Home is a “pass-by trip.”

A Large Family Child Care Home is a “neighborhood business” and, as such, can be considered a neighborhood service. One of the criteria parents use when selecting care is how close the child care facility is to their family’s home. Family child care conveniently located near a family’s home can result in reduced vehicle trips.

The Institute of Traffic Engineers (ITE) Trip Generation Manual has a category for “Child Care Center” (see Section III.C. below) but not for Family Child Care Home. This is because of the residential character of Family Child Care Homes. Planners, therefore, must rely on professional experience and common sense by offering operational strategies that will help reduce traffic impacts. The mitigations below are offered as ways to reduce or avoid neighborhood traffic impacts.

- Require the operator to inform parents and guardians dropping-off or picking-up children about neighborhood traffic conditions.
- Require the operator to create a “traffic circulation plan” that parents and guardians would follow in order make traffic flow smoothly. (Asking parents not to use driveways to turnaround but rather travel “through” the neighborhood is one example.)
- Require the operator to provide parents and guardians with regular reminders (for example, a newsletter) about speed limits, circulation issues and recommended procedures.

3. Parking

Often parking related to Large Family Child Care Homes is an issue raised by neighbors opposed to the use. Child care operators have a number of strategies available to minimize parking impact. In those rare instances when a potential problem is identified, ways to mitigate the potential problem can be found. Furthermore, experience shows that in cases where Large Family Child Care Homes were formerly Small Family Child Care Homes, which is common, the relative increase in parking demand is quite small.

One issue related to parking and Large Family Child Care Homes is that of employee parking. A Large Family Child Care Home requires at least one (1) additional caregiver in addition to the operator. If the additional caregiver lives in the operator’s home there is no need for employee parking. Employee parking for a Large Family Child Care Home should only be required off-street if the additional employee does not reside at or within close proximity to the location where child care is being provided and there is a limited amount of on-street parking.

Another parking issue may be that of parent parking. Normally, parents are at a Large Family Child Care Home to pick-up or drop-off their children, in most cases for not more than 10 minutes at a time. Further, this drop-off/pick-up activity is generally staggered as all parents do not arrive at the same time. For these reasons, on-street parking should be allowed to be counted for drop-off and pick-up activity.

In summary, then, the following should apply to a Large Family Child Care Home:

- “Employee” parking: One designated off-street parking space for a non-resident caregiver (employee) if sufficient on-street parking is not available. An employee who resides within walking distance should be classified as a “resident.”
- Parent parking: Allowed on-street given the short-term nature of the need. Consideration should be given to allowing the Large Family Child Care Home operator to paint the curb adjacent to his/her property as “passenger loading” during designated hours.
- Operators can establish policies, enforced through contracts, for parents to follow, identifying appropriate drop-off locations and setting schedules that stagger the typical drop off and pick up times.

4. Noise

Health & Safety Code § 1597.46 provides that “Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children.” This means planners rarely have to impose special noise standards for a Large Family Child Care Home. It is sufficient simply to require that the Large Family Child Care Home comply with the noise ordinance applicable to residential uses. Even in those rare cases in which a special noise standard might be needed (for example, if a particular residential area has unique noise sensitivity), any such standard should reflect the fact that Family Child Care Homes are a residential use, that children will be outside for parts of the day and that those children will make some amount of noise. Thus, reasonable limits on outside play time might be appropriate in exceptional circumstances only.

We recognize that some neighbors might be concerned about noise, imagining 14 children in the back yard all day playing as loudly as they can. Common sense and experience tells us that this scenario simply does not happen. Large Family Child Care Homes provide care to children varying in age from infant to pre-teen. Children of differing age groups have different interests and schedules throughout the day. Accordingly, the number of children who occupy the outdoor space at the same time is usually much less than the licensed capacity.

Since most cities use 60 or 65 dBA as an outdoor noise level standard, noise should not be an impact with respect to Large Family Child Care Homes. Studies done on child care noise levels show that “normalized” sound levels for a group of ten children, 2-3 year olds at 30 feet from the center of the play area was 65 dBA and for a group of ten children, 4-5 years old also at 30 feet from the center of the play area was 67dBA. Sound levels of infants and toddlers are even lower⁶.

⁶ Unpublished article by Jeffrey K. Pack, Edward L. Pack Associates, Inc., Acoustical Consultant, San Jose, CA (2003).

Planners can offer mitigations for potential noise impacts, such as:

- Requiring an operator to limit the number of children of specific ages who play outside at any one time, as long as reasonable indoor and outdoor supervision of children is not jeopardized.
- Consider moving outside play equipment to an area of the yard where noise might be attenuated by buildings or vegetation.
- Requiring an operator to plant noise attenuating vegetation.

5. Signage

State law does not provide special protection to family child care for signage. Family Child Care Homes must comply with any signage requirements that apply to similarly zoned residences. Note that many family child care operators do not want signage for safety reasons.

6. Play Equipment

The location of play equipment is regulated by Licensing for health and safety reasons. Local residential zoning ordinances address the location of “accessory buildings” or structures such as sheds, garages and patio covers. If a play structure meets the local definition of accessory building or structure, it would be subject to the same requirements that apply to any residence. However, play equipment might be located in an area where noise could be a consideration, and in this case the possibility of relocating the play equipment should be explored. (See the Noise discussion above.)

C. CHILD CARE CENTER

“Child Care Center” is defined in the California Health and Safety Code as a facility other than a child care home. Thus, a Child Care Center is a non-residential land use and has more extensive and restrictive licensing requirements. Normally, Child Care Centers can be located in a number of different zoning districts, such as Commercial and High Density Residential districts. Though not required to do so, Child Care Centers typically accommodate more children than Large and Small Family Child Care Homes.

Jurisdictions normally require a use permit process for Child Care Centers, although permits are not required by the Health and Safety Code. In fact, there are examples in which jurisdictions allow Child Care Centers by right. The City of Los Angeles, allows Child Care Centers with less than 50 children to be located within multi-family or commercial zones so long as all requirements of Licensing are met. The City of San Diego allows Child Care Centers in Industrial zones so long as clearance is received from the County verifying that no hazardous substances are used within 1000 feet of the site. While these examples might not seem applicable to smaller cities, every jurisdiction has similar zones and land uses (e.g., Multi-family, Commercial, Industrial) and so there is relevance to all jurisdictions.

While requiring a use permit process is acceptable, jurisdictions should consider the possibility of either “by right” permitting or simplifying the use permit process in certain zones and under specified conditions. In particular, Commercial zones, which normally can accommodate the parking and traffic associated with a Child Care Center, may be appropriate for “by right” designation.

Regardless of the process established by jurisdictions, guidance is provided to jurisdictions relating to spacing and concentration, traffic, parking, and noise. Since Fire Regulations are the purview of both Licensing and the local Fire Marshall, they are not addressed in this document.

1. Spacing and Concentration

Child Care Centers are market driven making it extremely unlikely multiple centers will be proposed within a small geographical area. In the unlikely case that two Child Care Centers are located in close proximity, a jurisdiction should consider spacing and concentration an issue only if traffic generation and parking affecting the same street system and intersections is projected to be a problem.

2. Traffic

Staff and parents generate traffic to and from a Child Care Center. For example, a center serving 80 children and employing 12 staff will generate traffic of up to 92 individuals. If these individuals are coming and going from the center each day this center would generate a maximum of about 184 trips. According to the Institute of Traffic Engineers (ITE) Trip Generation Manual, a Child Care Center, including employee trips, generates an average of 0.8 trips per student in the a.m. peak hour and 0.82 trips per student in the p.m. peak hour. Thus, the 80 child center, according to the ITE, is likely to generate 64 trips occurring in the a.m. peak and approximately 66 occurring in the p.m. peak, as other trips are staggered throughout the day.

Similar to Large Family Child Care Homes, there are characteristics of Child Care Centers that may reduce perceived impacts on traffic (and parking, in many cases). These characteristics are:

- Many trips to/from a Child Care Center are incidental to a primary trip to work or school.
- Locations can offer self-mitigating conditions, such as:
 - Near churches and schools where additional traffic resulting from a Child Care Center may simply go unnoticed, especially if only one or two classrooms are being utilized for child care.
 - Within or in close proximity to residential areas, where parents may be able to walk their children to the Child Care Center and avoid vehicle trips altogether.
 - At an employment center or individual business, i.e. employer-based, where the vehicle trip to the Child Care Center is the same as that to work.

3. Parking

Child Care Centers need parking for employees and parents. However, parking needs can be easily over estimated resulting in Child Care Centers dedicating space to parking that goes unused. Given the high demand for child care services, the land allocated to unused parking could serve the community better if designated for more child care spaces. Additionally, in downtown areas and dense neighborhoods, designated drop off/pick up street parking is common, practical, safe and adequate for Child Care Centers.

One parking space should be designated on-site for each employee, based on the maximum number on-site at one time (accounting for overlapping shifts). Considerations for reduction in requirements should be made when transit usage, carpooling or other mitigating conditions exist. Off-site or shared parking arrangements may be necessary in some cases.

A real parking issue is where parents will park when dropping off or picking up their children. Similar to Large Family Child Care Homes, parents normally stop at Child Care Centers for no more than 10 minutes at a time. This drop-off/pick-up activity is generally staggered as all parents do not arrive at the same time. Even with programs that have designated class times, parents are arriving within 5-15 minutes of each other. For these reasons, for smaller Child Care Centers, (those with fewer than 40 children), on-street loading and unloading area should be allowed for drop-off and pick-up activity.

For larger Child Care Centers (more than 40 children) in addition to on-street loading and unloading areas, appropriate off-street loading and unloading areas (rather than individual parking spaces) should be considered.

Visitor parking needs are limited at Child Care Centers. While prospective parents and others will occasionally visit a Child Care Center, it is not a routine situation. Thus, no more than 1 or 2 parking spaces should be required for visitors.

Some jurisdictions, like San Francisco, recognize that existing commercial space may already have deficit parking and if child care creates equivalent deficit parking, no additional parking spaces may be required. For example, if the planning code requires two parking spaces at an existing commercial facility which currently has no parking spaces and the new Child Care Center's parking requirements are two parking spaces, the local jurisdiction may conclude that the new Child Care Center's deficit parking is equivalent to the existing current condition and no additional parking spaces would be required.

The following recommendations are provided for parking related to Child Care Centers:

- One off-street space per employee, including the Child Care Center operator and/or administrator.
- Parent Parking: provided on-street, off-street or in a shared situation, as follows:

1-25 Children	=	1-3 Spaces
25-49 Children	=	4 Spaces
50-99 Children	=	6 Spaces
>100 Children	=	10 Spaces

4. Noise

It is rare that Child Care Centers will generate adverse noise impacts. In most Child Care Centers, play times are staggered, and play is supervised more closely than it is in other venues (for example, parks, or malls) and thus extreme noise is rare. Extensive child care playground noise level data collected by Bollard & Brennan, Inc. in recent years indicates that *average* noise levels associated with playground usage can be expected to range from 55 to 60 dB L_{eq} at a distance of approximately 100 feet from the central play area.

In particular, Child Care Centers proposed in commercial areas should not be considered to have noise impacts. External noise (primarily vehicular in nature) should effectively ameliorate or reduce any significant noise impacts associated with child care.

Child Care Centers proposed in residential areas (usually Multifamily) may pose some concern, especially if the play areas are near residential living areas. However, where there is a concern that the play area may be too close to the residential living areas, planners can consider any or all of the following:

- The actual noise impact in light of the ambient noise level in the area;
- Moving the location of the outdoor play area, if possible;
- Requiring the Child Care Center to develop limitations on the use of the play area, either in terms of the outside hours of play or the number of children in the play area at any one time, as long as the supervision of children and children's access to outdoor playtime are not unreasonably jeopardized.; or
- Requiring vegetation or other noise attenuation material, such as acoustical fencing.

5. Signage

Signage for a Child Care Center should be subject to the jurisdiction's sign ordinance or the development's sign program if one exists.

6. Play Equipment

The type and location of play equipment is not specified by any regulatory entity, but Licensing and governmental playground safety standards require large fall zones around play structures and resilient surfacing underneath. These regulations often limit the location of such structures. In any zone, play equipment can be screened with landscaping and/or fencing to address visual impact, privacy, noise and safety concerns.

Licensing requires that child care playgrounds be secured by four-foot fences. Most Child Care Centers, however, build higher fences for safety reasons, at least in high traffic areas.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Compliance with the California Environmental Quality Act (CEQA) is related to all land use applications. The table below summarizes CEQA’s applicability to the three major categories of child care- Small Family Child Care Homes, Large Family Child Care Homes, and Child Care Centers. In summary, CEQA’s applicability reflects the variability of planners to review child care facilities, from no discretion with a Small Family Child Care Home (categorical exemption), to limited discretion with a Large Family Child Care Home (statutory exemption), to full discretion with a Child Care Center (Negative Declaration /Mitigated Negative Declaration /Environmental Impact Report).

How Does CEQA Apply to Child Care Facilities?

Child Care Facility Type	CEQA Applicability	Reference	Options for Addressing Land Use Impacts or Neighbor-Generated Complaints
Small Family Child Care Home	Statutory exemption	Health and Safety Code §1597.45(a).	Recommend or facilitate neighbor-to-neighbor discussion. A complainant should be directed to Licensing if the concerns are not related to zoning.
Large Family Child Care Home	Statutory exemption	Health and Safety Code §1597.46(b)	Zoning code must specify standards related to traffic, parking, noise & spacing, if a non-discretionary or modified use permit is required. Recommend or facilitate neighbor-to-neighbor discussion. A complainant should be directed to Licensing if the concerns are not related to zoning.
Child Care Center	CEQA applies to any discretionary permit	Public Resources Code section 21000	Conform to standards contained in zoning ordinance and/or conditions of approval

SUPPORTING CHILD CARE FACILITIES THROUGH POLICY

Child care is a land use that while necessitating regulation in some instances, also warrants support as an integral element of planning and developing communities. Planners can play an important role in balancing regulation and support. This section provides language based on earlier information in this guide that can be incorporated into jurisdictions' general plans (policy level) and zoning ordinances (regulatory level) to streamline the child care land use planning process.

GENERAL PLAN

General plans represent jurisdictions' long-term goals and policies to guide development decisions. Because child care is an integral part of planning and development, it should warrant specific policy statements in the Land Use, Housing, Circulation and Open Space Elements. In addition, jurisdictions increasingly are opting to include Economic Development and Public Facilities and Services elements. If this is the case, child care is well suited for these elements as well.

The following are offered as suggested objectives to be integrated into general plans.

LAND USE ELEMENT:

Objective: Encourage the inclusion of Child Care Centers at major job centers to serve the employees of those centers, as well as those to whom the location provides convenient access.

Objective: Support the integration of Child Care Centers within residential and commercial zoning districts to provide viable options for parents to find child care either close to home or close to work.

Objective: Support Child Care Centers in all zoning districts, at appropriate locations and with adequate safeguards, in order to provide a needed service for working parents and a benefit to the community.

Objective: Streamline the permit process to the extent practical to promote and support the development of Family Child Care Homes and Child Care Centers.

HOUSING ELEMENT:

Objective: Support the siting of Child Care Centers in all residential zones, but in particular multifamily residential zones, to enable working parents to find child care in close proximity to where they live.

Objective: Work proactively with all housing developers to incorporate, where feasible, child care that serves families of all incomes and children of all ages.

CIRCULATION ELEMENT:

Objective: Allow and encourage the siting of child care within or near transit centers or along major transportation corridors.

Objective: Include child care as an appropriate use within overlay zones created around major transportation nodes.

OPEN SPACE ELEMENT:

Objective: Maximize the use and productivity of parks and recreation facilities by encouraging child care facilities to be located adjacent to or nearby to allow children who are under care and supervision to utilize the public space.

ECONOMIC DEVELOPMENT ELEMENT:

Objective: Encourage the siting of Child Care Centers within or in close proximity to job centers, recognizing that child care near a parent’s place of employment reduces absenteeism, improves employee morale, and allow parents to retain their jobs.

PUBLIC FACILITIES AND SERVICES ELEMENT:

Objective: Support the designation of land zoned for child care either adjacent to or in close proximity to elementary and middle school sites, libraries and recreation centers to take advantage of complimentary or supportive land uses.

Objective: Encourage and support the use of public and faith-based facilities for child care, in particular at those facilities where the connection with child care is significant, such as schools and community and recreation centers.

ZONING ORDINANCE

A zoning ordinance is a regulatory document that provides specific standards relating to parcelization, land use, and buildings in order to promote orderly growth and maintain appropriate and desired community values as they pertain to the built environment. Zoning can be thought of as a quality-of-life tool.

Child care is a quality-of-life issue for families as well. For some families access to quality child care is a vital educational service that supports children’s development and prepares children to enter kindergarten. Additionally, the availability of quality, affordable child care may be the determining factor in a parent’s ability to seek or retain a job instead of seeking public assistance. For this reason, zoning ordinances should represent a practical and supportive approach to child care. The following standards are suggested for incorporation into zoning ordinances.

DEFINITIONS

Include the following definitions:

- Family Child Care Home, Small: A home in which care, protection, and supervision is provided by the full-time resident of the home for 8 or fewer children for periods of less than 24 hours per day.
- Family Child Care Home, Large: A home in which care, protection, and supervision is provided by the full-time resident of the home for 14 or fewer children for periods of less than 24 hours per day.
- Child Care Center: A facility other than a Family Child Care Home in which care, protection, and supervision is provided for children for periods of less than 24 hours per day.

USE PERMIT, LARGE FAMILY CHILD CARE HOME

If a jurisdiction elects to require a use permit process for Large Family Child Care Homes, it is recommended that the process be administrative in nature; that is, considered at the staff level only. The following procedures should apply:

- Noticing: A public hearing notice is required to be sent to only those property owners within 100 feet.
- Public Hearing: A public hearing shall only be held if requested by the applicant or any affected party.

Appeals:

It is recommended that the appeal process for the applicant or any affected party be the following:

- If an Administrative process, to the Zoning Administrator
- If non-Administrative, to the Planning Commission first and then the City Council or County Board of Supervisors

It is recommended the following standards be incorporated into zoning ordinances and be used to evaluate applications for Large Family Child Care:

Spacing and Concentration:

When spacing and concentration concerns exist consider one or more of the following options that are based on the authors' experience in this area.

Large Family Child Care Homes are allowed on adjacent properties when the adjacency exists on properties fronting different streets, for example a corner parcel fronting Street "A" and the adjacent parcel fronting Street "B."

No more than three Large Family Child Care Homes are allowed on the same side of the street of any residential block.

Large Family Child Care Homes are not allowed on the same street when located either immediately across the street from one another or across the street and within one parcel of one another.

Only one Large Family Child Care Home will be allowed on a court or cul de sac with four or fewer homes.

Traffic:

Except in exceptional circumstances, Large Family Child Care Homes in residential zones are determined to be an accessory use of residentially zoned and occupied property and do not fundamentally alter the nature of the underlying residential use.

Where necessary or desired, a Large Family Child Care Home operator will provide a drop-off/pick-up schedule, a copy of which will be prepared and distributed to parents or guardians of the children for whom care is being provided. The schedule may include a circulation plan for the neighborhood if deemed necessary.

Parking:

Non-resident caregiver (employee): One designated off-street parking space for a non-resident caregiver (employee) should be provided if it is determined that insufficient on-street parking is available. An employee who resides within walking distance should be classified as a “resident.”

Parent Parking: On-street parking for drop-off/pick-up is allowed. Consideration should be given to allowing the Large Family Child Care Home operator to paint a street curb for “Passenger Loading” during select times of the day.

Noise:

Due to the residential character of Large Family Child Care Homes, it is determined that noise will not exceed the city’s/county’s noise standard applicable to similarly zoned parcels.

Where appropriate, Large Family Child Care Home operators may be required to do one or more of the following:

- limit the number of children of specific ages who may play outside at any one time;
- locate play equipment where noise may be attenuated by buildings or vegetation; and
- plant noise attenuation vegetation.

Signage:

Regulate by sign ordinance that applies to all similarly zoned parcels.

Play Equipment:

Play equipment is regulated by Community Care Licensing for health and safety reasons.

Regulate accordingly play structures that meet the definition of an auxiliary building or structure.

Play equipment may be relocated for noise considerations to the extent that its new location does not violate Licensing requirements.

USE PERMIT, CHILD CARE CENTER

A Child Care Center is a non-residential use and, as such, a special or conditional use permit may be required. It is recommended the following zoning standards and/or language be used to evaluate Child Care Centers and incorporated into zoning ordinances:

Spacing and Concentration:

No standards need be established but an application should be evaluated based on traffic, parking, and noise.

Traffic:

Estimate a maximum of one trip each way for each staff and student. Following the Child Care Center traffic impact estimates, as determined by the Institute of Traffic Engineers and contained in the Trip Generation Manual, is deemed acceptable.

Trips per day per student, including employee trips-

.8 AM Peak Hour trips

.82 PM Peak Hour trips

Parking:

Employee: One off-street space per employee

Operator/administrator: One off-street space.

Parent Parking: Available on-site or shared spaces as follows for loading and unloading of children:

1-25 Children	=	1-3 Spaces
25-49 Children	=	4 Spaces
50-99 Children	=	6 Spaces
>100 Children	=	10 Spaces

Parking for parents can be provided in any of the following categories or in a combination of the three:

- Off-street parking
- On-street parking
- Shared parking

In the case of on-street parking, parking on the opposite side of a street from the Child Care Center will not be counted towards the required parking.

In the case of on-street and shared parking, not more than 50% of the total spaces available should be allocated to the Child Care Center to meet its requirement.

Noise:

Noise impacts are a function of the number of children who will utilize the play area at any one time and the location of the outdoor play area.

The following standards apply to Child Care Centers:

≤ 24 children utilizing outdoor play area at any one time:

*No significant noise impact

Play area > 100 feet from any public or private gathering place:

*No significant noise impact regardless of number of children

> 24 children utilizing outdoor play area at any one time and play area within 100 feet of any public or private gathering place:

*Possible noise impacts; screening or noise attenuation required.

Signage:

Comply with city/county Sign Ordinance.

Play Equipment:

Comply with city/county requirements related to fences and screening of equipment/storage material.

RESOURCES

Pertinent Laws and Regulations:

California Health & Safety Code (www.leginfo.ca.gov)

Definitions of child care types §1596.750-1597.621

Preemption of local regulation of Family Child Care Homes §1597.40-1597.47

§1596.750. "**Child day care facility**" means a facility that provides non-medical **care** to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. **Child day care facility** includes day **care** centers, employer-sponsored **child care** centers, and family day **care** homes.

1596.76. "Day **care center**" means any **child day care facility** other than a family day **care home**, and includes infant centers, preschools, and extended day **care facilities**.

1596.78. (a) "Family day **care home**" means a home that regularly provides **care**, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day **care home** or a small family day **care home**.

(b) "Large family day **care home**" means a home that provides family day **care** for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family day **care home**" means a home that provides family day **care** for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

Community Care Licensing, CA Dept. of Social Services website

http://ccl.dss.cahwnet.gov/ChildCareL_1728.htm

List of District Offices: <http://www.ccl.dss.ca.gov/res/pdf/CCListingMaster.pdf>

Regulations (Title 22, Division 12): www.dss.cahwnet.gov/ord/CCRTitle22_715.htm

Regulation highlights (separate for centers and homes)

<http://ccl.dss.ca.gov/res/pdf/CCCRegulationHighlights.pdf>

Legal Assistance related to Child Care Issues

Child Care Law Center

221 Pine Street, 3rd Floor, San Francisco, CA 94104

(415) 394-7144 www.childcarelaw.org

Public Counsel Law Center/Child Care Law Project

601 So. Ardmore Ave., Los Angeles, CA 90005

(213) 385-2977 www.publiccounsel.org

Public Law Center

Community Organizations Legal Assistance Project

601 Civic Center Dr. W., Santa Ana, CA 92701

(714) 541.1010 www.publiclawcenter.org

Publications

Anderson, Kristen. *Planning for Child Care in California*. Point Arena, Calif.: Solano Press Books, 2006.

Child Care Law Center. *A Child Care Advocacy Guide to Land Use Principles*. San Francisco, Calif.: Child Care Law Center, 2003.

Karpilow, Kate. *Understanding Child Care—A Primer for Policy Makers*. Sacramento, Calif.: California Working Families Project, A Partnership of the California Commission on the Status of Women and the Institute for Research on Women and Families, Calif. State University-Sacramento, 1999. (www.ccrwf.org/publications/childcare.pdf). Note: While this publication is dated, it provides a useful comprehensive explanation of the child care and early education system.

Development Assistance

Low Income Investment Fund
100 Pine Street, Suite 1800, San Francisco, CA 94111
(415) 772-9094 www.liifund.org

Other Resources

Building Child Care: A clearinghouse of materials designed to support the child care field with facility development, www.buildingchildcare.org