

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: FDCH-01 (Family Day Care Homes)
Effective Date: 11/16/04
Originally Issued: 03/15/05

Question

How are Family Day Care Homes defined? Under the State preemption, how does the County address regulating Family Child Care Homes?

Applicable Ordinance Section(s)

§13.10. 312
§13.10. 322
§13.10. 332
§13.10. 342
§13.10. 352
§13.10. 362
§13.10. 372
§13.10.700-D

INTERPRETATION:

1. How are Family Day Care Homes defined?

Up to 14 children shall be allowed in a Family Day Care Home, although County Code specifies up to 12.

2. Under the State preemption, how does the County address regulating Family Day Care Homes?

- The County will allow SMALL Family Day Care Homes without permits where residential uses are allowed. (Up to 8 children)
- The County will not regulate LARGE Family Day Care Homes in any Residential zones (RA, RR, R-1, RB, RM and in the SU zone with a residential General Plan designation) and allow them to operate without a permit. (Up to 14 children)
- Large Family Day Care Homes are NOT allowed in non-residential zones.

Reason

The Board of Supervisors addressed this issue on November 16, 2004. This policy interpretation reflects their action at that hearing.

The County Code conflicts with State law in its definition of Family Day Care Homes.

The County Code is defines “Day Care Home, Family” as “a dwelling whose occupant provides care, protection, and supervision of not more than twelve persons at any time, for periods of less than 24 hours a day.”¹

Whereas, State Law defines two types of Family Day Care Homes for children:

- Small- up to 8 children
- Large- up to 14 children

The County's ordinance does not currently reflect the distinction between Small and Large Family Day Care Homes for children. State Law preempts the County Code as to the number of children allowed in Family Day Care Homes and, therefore, up to 14 children should be allowed with a State issued license for a Large Family Day Care home, even though the County Code specifies 12 as the maximum number of children. This will be fixed in a future Code revision

State Law preempts the County's ability to regulate these uses in the following ways:

- State Law requires that SMALL Family Day Care Homes are allowed on all parcels where Residential uses are allowed without any County permit. Therefore, the County will allow SMALL Family Day Care Homes without permits where residential uses are allowed.
- State Law limits the County's ability to regulate LARGE Family Day Care Homes located in the Residential zone. It has been determined that State Law allows the County to regulate Large Family Day Care Homes on NON-Residential parcels. Currently, Large Family Day Care Homes are NOT allowed in non-residential zones. However, ordinance amendments are being prepared which, if approved, will allow them in the future in some zones under certain circumstances. There are two existing facilities which will be allowed to continue to operate while the ordinance is being amended.

Tom Burns, Planning Director

Date

¹ The County Code does not distinguish between Day Care Homes for children providing child care, and Day Care Homes for adults with disabilities or illnesses.