

§141.0606 Child Care Facilities

- (a) This section regulates the following *child care facilities*:
- (1) Family child care homes: Any *child care facility* licensed by the State of California to provide regular care, protection and supervision of children in the child care provider's home, for periods of less than 24 hours per day, while the parents or authorized representatives are away.
 - (2) Child care centers: Any *child care facility*, other than a small or large family child care home, that is licensed by the State of California to provide child care: child care centers may be infant centers, preschools, or school-age, extended day care facilities.

(b) Family Child Care Homes

Large and small family child care homes are a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Large Family Child Care Homes
 - (A) A large family child care home may provide care for up to 12 children (no more than 4 of whom may be infants), or for up to 14 children as stated in Section 141.0606(b)(1)(B). Maximum capacity shall not exceed the capacity specified on the provider's license and shall include children under the age of 10 who reside at the licensee's home and the assistant provider's children under the age of 10.
 - (B) A large family child care home may provide care for a total of 13 or 14 children if all of the following conditions are met in accordance with Health and Safety Code Section 1597.465:
 - (i) At least two of the children are at least 6 years of age, one of whom may be less than 6 years of age if enrolled in kindergarten;
 - (ii) No more than 3 infants are cared for during any time when more than 12 children are being cared for;

- (iii) The licensee notifies parents or authorized representatives that the facility is caring for two additional school age children, and that there may be 13 or 14 children in the home at one time; and
 - (iv) The licensee obtains written consent of the property owner when the family day care home is operated on property that is leased or rented.
 - (C) The child care provider shall comply with all state licensing requirements for large family day care homes.
 - (D) The day care provider shall comply with standards adopted by the State Fire Marshal pursuant to the California Health and Safety Code relating to large family child care homes.
- (2) Small Family Child Care Homes
 - (A) A small family child care home may provide care for up to 6 children (including 4 infants total or up to 3 infants where cared for in combination with other children), or for up to 8 children as stated in Section 141.0606(b)(2)(B). Maximum capacity shall not exceed the capacity specified on the provider's license and shall include children under the age of 10 who reside at the licensee's home.
 - (B) A small family child care home may provide care for a total of 7 or 8 children if all of the following conditions are met in accordance with Health and Safety Code Section 1597.44:
 - (i) At least two of the children are at least 6 years of age, one of whom may be less than 6 years of age if enrolled in kindergarten; and
 - (ii) No more than 2 infants are cared for during any time when more than 6 children are being cared for; and
 - (iii) The licensee notifies parents or authorized representatives that the facility is caring for two additional school age children, and that there may be 7 or 8 children in the home at one time; and

- (iv) The licensee obtains written consent of the property owner when the family day care home is operated on property that is leased or rented.
 - (C) The child care provider shall comply with all state licensing requirements for small family child care homes.
- (c) Child Care Centers

Child care centers are permitted as a limited use in the zones indicated with an “L” and may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Child care centers are not permitted within 1,000 feet of any known business that:
 - (A) Has or is required to have a permit from the County of San Diego Hazardous Materials Division, excluding underground fuel storage tanks, and handles regulated substances above the Threshold Quantity as listed in the California Code of Regulations, Title 19 Section 2770.5;
 - (B) Handles compressed flammable gases in excess of 1,500 pounds; or
 - (C) Handles flammable liquids in excess of 10,000 gallons.
- (2) The 1,000-foot separation distance shall be measured from the *property line* of the proposed *child care facility* to the use, storage, or handling areas for the regulated substances. Businesses may satisfy the separation requirements on-site. The child care center operator has the burden of proof of demonstrating compliance with the separation requirement.
- (3) Before beginning operation, the child care center operator shall obtain and shall maintain on file on the *premises* a “Hazardous Materials Substance Approval Form” executed by the County of San Diego Hazardous Materials Division.

- (4) Deviations from the hazardous materials separation requirements may be permitted with a Conditional Use Permit decided in accordance with Process Three. Issuance of the permit will be based in part on a “Health Risk Assessment Study” to be submitted by the *applicant*.
- (5) Drop-off and pick-up of children from vehicles shall be permitted only on the driveways, in approved parking areas, or in the *street* directly in front of the facility.
- (6) All outdoor play and activity areas shall be enclosed with a *fence* that is at least 4 feet and no more than 6 feet in height. If an outdoor play or activity area is located adjacent to a public *street* with a right-of-way width of 64 feet or more, the *fence* shall be solid.
- (7) All outdoor play and activity areas shall be separated from vehicular circulation, parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas.
- (8) Child care centers shall be designed to attenuate significant outside noise sources. Surrounding uses shall also be protected from noise emanating from child care centers. The following measures are required to accomplish noise attenuation.
 - (A) A *solid fence* that is at least 4 feet and no more than 6 feet in height shall be constructed between the child care center and abutting residential uses, or all windows facing abutting residential uses shall be double-glazed with 1/4-inch thick glass.
 - (B) A *solid fence* that is at least 4 feet and no more than 6 feet in height shall be constructed between the child care center and a *public right-of-way* of 64 feet or more wide, or all windows facing a *public right-of-way* of 64 feet or more wide shall be double-glazed with 1/4-inch thick glass.
- (9) Child care centers proposed to be located on public or private *school* sites are permitted as follows:
 - (A) Child care centers proposed as an *accessory use* on the *premises* of a *school* are exempt from the provisions of this section. The child care center may be either school-operated or privately operated.

- (B) Child care centers proposed for location on private *school premises* in a zone where *schools* are a permitted use, are permitted as a limited use subject to the regulations of Section 141.0606(c).
 - (C) Child care centers proposed for location on private *school premises* in a zone where *schools* are required to obtain a Conditional Use Permit shall also be required to obtain a Conditional Use Permit subject to the regulations in Section 141.0606(c).
- (10) Within the Coastal Overlay Zone, a child care center shall be permitted only on previously-developed sites that are not developed with open space or agricultural uses as identified in Section 131.0112.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 11-13-08 by O-19799 N.S.; effective 12-13-2008.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

§141.0607 Eating and Drinking Establishments with Drive-in or Drive-through Service

Eating and drinking establishments that offer drive-in or drive-through service are permitted in zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Eating and drinking establishments that offer drive-in or drive-through service may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the regulations in this Section. The Conditional Use Permit decision maker shall consider whether the proposed use minimizes adverse impacts on adjacent properties and surrounding neighborhoods. The decision maker may impose conditions in the Conditional Use Permit in addition to requiring compliance with the following:

- (a) A pedestrian and vehicular circulation plan shall be provided to ensure public safety.
- (b) Space for vehicle queuing for the drive-in or drive-through service shall be provided as follows: