

CITY COUNCIL MEETING

FEBRUARY 3, 1982

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COMMUNICATIONS
CITY CLERK

SYNOPSIS OF CHAPTER
1162, 1982 STATS.
PRESENTED TO
COUNCIL

A Synopsis of Chapter 1162, 1982 Stats. regarding Family
Day Care Homes was presented for Council's perusal.

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MEMORANDUM

January 12, 1982

TO: Bob Ching, Deputy Director of Planning
Attn: Frank Alford, Senior Planner

FROM: Janet K Gladfelter, Deputy City Attorney

CHAPTER 1162, 1982 STATS. (FAMILY DAY CARE HOMES)

This is to confirm our discussion of January 5, 1982, concerning AB 1670 which was enacted as Chapter 1162 of the Statutes of 1981, concerning Family Day Care Homes for children.

The above-reference legislation adds Section 1597.501 to the Health and Safety Code, declaring that this amendment is a matter of statewide concern with the purpose to occupy the field to the exclusion of municipal zoning regulations regulating the use or occupancy of family day care homes for children as other than residential use or occupancy and to prohibit any restrictions relating to use of property for family day care homes for children under this chapter. Specifically, no conditional use permit may be required for such residences.

Stockton Municipal Code Section 16-031.1.D, expressly provides for day care centers in residential zones within the City of Stockton provided a Use Permit is secured, and minimum standards are complied with. Upon a casual reading, Chapter 1162 would seem to prohibit City regulation by Use Permit of any day care centers, regardless of the number of children served. However, upon further research, and discussions with the Bay Area Child Care Law Project, which is deeply involved in this legislation, it is clear that the legislation was sloppily drafted and contains several important omissions:

a. The number of children which may be served by the Family Day Care Home pursuant to Chapter 1162 is not unlimited. The proposed regulations which will appear in 22 Cal. Administrative Code, specify that the facilities licensed by the State under AB 1670 will be limited to 12 children. The City of Stockton retains its existing authority to control, through Use Permits, day care centers serving more than 12 children.

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b. Family Day Care Homes has not been defined by AB 1670, another omission which will be corrected by subsequent legislation or regulations.

c. The preemption by the State of control over Family Day Care Homes serving 12 or fewer children does not render ineffective the whole range of local controls concerning fire and building regulations and zoning requirements having to do with set-backs and parking. The simple effect is to prohibit the requirement of local use permits for the Family Day Care Homes licensed by authority of AB 1670.

Therefore, for our purposes it is probably sufficient to read existing SMC Section 16-031.1.C. as: "Day Care Homes--limited to those licensed by the State or County and accommodating not more than twelve (12) children... ." and to read subparagraph D.4, "Day-Care Centers subject to the following minimum standards," as applicable to only those centers serving more than 12 children.

JKG:jb