



## **Dougherty County Zoning Requirements for Family Child Care (FCC)**

### **Narrative Explanation for FCC Applicants and Applicant Support Organizations**

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For Family Child Care Marathon Project

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*Note: This paper is intended to increase the supply of high-quality, affordable family child care in Georgia. The paper assists individuals interested in providing family child care, (aka Family Child Care Learning Homes), comply with zoning law in their county/city. Whenever possible, the authors quote from the law and include the specific section(s) which apply. Individuals using this document are requested to notify the authors (see email above) if there are errors or misstatements in the paper.*

### **BACKGROUND: DEPARTMENT OF EARLY CARE AND LEARNING (DECAL) LICENSING REQUIREMENTS**

If you are interested in obtaining a FCCLH license, the Department of Early Care and Learning (DECAL) requires you to show proof you meet several requirements for businesses of the local government (city or county) where you live. Three requirements, zoning permit, business permit, and fire department inspections, are common to all applicants\*. The DECAL publication, [Applicant's Guide to Licensing for Family Child Care Learning Homes \(Revised July 2020\)](#), Link: <http://www.dec.al.ga.gov/documents/attachments/FCCLHApplicantGuide.pdf> describes the three as follows:

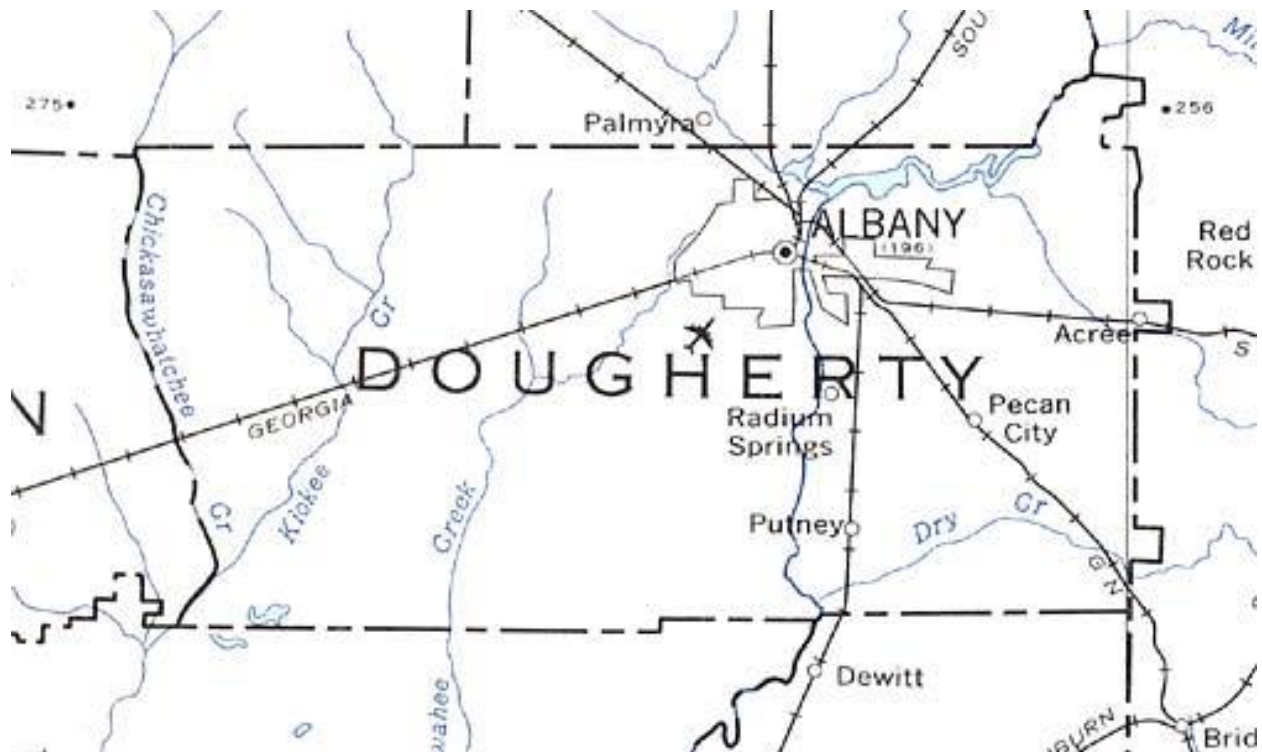
“Contact the local Fire Marshall to determine if there are local ordinances that apply to operating a Family Child Care Learning Home in your area.

Submit with the application a letter from the local zoning department indicating your residence is zoned for a Family Child Care or a letter stating there are no zoning regulations.

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Submit with the application a valid business license with the facility address or a letter stating a business license is not required/or will be issued upon completion of the Bright from the Start licensing process.”

\*Source of water supply (Rules and Regulations Family Child Care Learning Homes 290-2-3.13 (1) (h) “Water supply and sewage disposal systems, if other than approved county or city systems, shall be approved by the proper authority having jurisdiction.



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## **IF YOU WANT TO BE A FAMILY CHILD CARE PROVIDER CARING FOR YOUNG CHILDREN WHILE THEIR PARENTS WORK, WHY DOES ZONING MATTER?**

In each county and often large cities, zoning laws are put in place to maintain a certain harmony to the community by limiting the uses of the land. For instance, you would not want there to be a massive coal mining operation in the middle of a large suburban neighborhood. These laws divide the county into “districts” or “zones” and determine in each district, what and where certain buildings may be built, what occupations may use those buildings, how much space they can take up, how far apart they have to be, how far from the road they need to be and so on.

According to the Child Care Law Center, “Within each district, certain activities are allowed as a matter of right, meaning that property owners do not need to get permission from the local government to use their property in a particular ‘pre-approved manner’”<sup>\*</sup> In a few Georgia counties/cities, (e.g., Clarkston, Roswell) Family Child Care (FCC) is permitted as a matter of right, although, even in these cities, a few conditions apply.

In most counties/cities, FCC is a use that must be explicitly allowed within a district. The property owner must apply for permission to use the property in the specified manner and agree to meet any “conditions” (aka conditional use requirements) stated in the law for that particular use. However, because each city/county establishes their own zoning law, there is wide variation in how FCC is treated. The differences may show up in how FCC is defined, in which districts it is permitted or not permitted, what conditions an applicant must comply with, and what is the cost, time, and process involved in obtaining permission to use your home as a FCC business.

This paper aims to answer the following questions for Dougherty County based on the *Zoning Ordinances of the City of Albany & Dougherty County, Georgia*:

- ❖ How is *family child care* defined within Dougherty County?
- ❖ What sort of conditions are put in place for *family child care*?
- ❖ How would I locate what district I live in to determine if I qualify?
- ❖ Within what district(s) is *family child care* allowed?
- ❖ If I do qualify, what do I need to do?
- ❖ Does it cost anything?

It should be noted that, at the time of this publication is written, the same Code of Ordinances are used for the City of Albany as well as surrounding Dougherty County, so many of the same resources are shared between the two, including the departments in charge of Planning and Development. In the future, many links and resources will be from the City of Albany website or say they are for Albany and Dougherty County.

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Note: While the paper speaks directly to FCC applicants and applicant support organizations in Dougherty County, we hope it serves as an example to applicants in other Georgia cities-counties of how to research the zoning law in their community

## HOW IS FAMILY CHILD CARE DEFINED WITHIN DOUGHERTY COUNTY?

Within Dougherty County, Georgia, family child care as a use is defined as a *family day care* in Title I, Article 5 of the *Zoning Ordinance of the City of Albany and Dougherty County*. Specifically, *family day care* falls under the *day care facility* use as a facility that enrolls six or fewer children. The definition is stated as follows:

“A Day Care Facility:

A Day Care Facility includes Nursery/Kindergarten Schools and includes facilities whose primary purpose is the care and/or training of children or adults, regardless of age, outside of their home for less than twenty-four (24) hours a day, while parent or guardian is absent from home. Such facility may or may not be operated for profit...

*FAMILY DAY CARE* shall enroll six (6) or fewer persons.

*GROUP DAY CARE CENTER* shall enroll seven (7) through eighteen (18) persons.

*GENERAL DAY CARE* shall enroll more than eighteen (18) persons.”

It is also important to understand that a family day care facility falls under the **home occupation** section of the law which be definition:

“*Home Occupation*:

Any occupation or activity carried on within a dwelling by a member of the family residing on the premises.”

## WHAT SORT OF CONDITIONS ARE PUT IN PLACE FOR FAMILY CHILD CARE?

There are no supplemental regulations specific to *family day care* as a use, but there are regulations in place for home occupations. These are:

“1. There is no group instruction, assembly, or activity of more than two (2) persons (except up to six (6) persons for a family day care operation).

2. No display is permitted, including merchandise commodity, other articles of any kind that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling or advertise services or merchandise.

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3. No signage is permitted to identify the home occupation unless required by state or federal licensing requirements, in which case the sign shall be limited to one (1) square foot in size.
4. No use of chemicals, matter or energy that may create or cause to be created noises, dust or noxious odors; or hazards beyond the immediate premises; or that endanger the health, safety or welfare of the community is permitted.
5. No person shall be employed other than a member of the immediate family residing on the premises.
6. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The floor area used in the conduct of the home occupation shall not exceed the lesser of either one-third (1/3) of the total square feet of floor area of the dwelling unit, or two thousand (2,000) square feet.
7. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood (not to exceed ten (10) trips per day, or as defined in the latest edition of Trip Generation published by the Institute of Transportation Engineers).
8. Permitted home occupation uses include an office, studio or workshop. Uses shall not include catering services; morticians; schools such as a dance studio or nursery school; animal services such as an animal hospital or boarding kennel; any eating or drinking establishment including restaurants and tea rooms; medical services such as clinics, nursing homes, and medical offices including the office of a physician, dentist or chiropractor; retail or trade business including displays or promotional events; or personal services such as barbershops and beauty shops.”

### **HOW WOULD I LOCATE WHAT DISTRICT I LIVE IN TO DETERMINE IF I QUALIFY?**

All districts except for Mobile Home Parks allow for family day care as a Permitted Use. Given this, it is not as strong of a requirement to know exactly what district the applicant lives in.

Normally, an applicant would be able to locate what district they reside in by referring to a county's Geographic Information System Map. However, at the time of writing this bulletin, the one provided for the City of Albany / Dougherty County is not currently fully functional, so it will be required to contact the Planning & Development committee to obtain this information, if necessary.

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This can be done with the following contact information:

P.O. Box 447  
240 Pine Avenue/Suite 300  
Albany, GA 31702  
Phone: (229) 438-3901  
Fax: (229) 438-3965

## **WHAT DISTRICT(S) ALLOW FAMILY CHILD CARE AND ARE THERE CONDITIONAL REQUIREMENTS?**

In Dougherty County each use falls under one of the four use cases: Permitted, City/County Commissioner Special Approval, Administrative Review Approval, or Prohibited. The uses are described under Title II, Article 2, Section 2.01 of the code of ordinances. The classification of each district's user type is described by *TABLE II.2.01 Permitted Uses Table* directly following the following Section.

If the applicant lives in a district where family day care homes are a Permitted Use, this means that this use is allowed in the district as a matter of right. The only necessary requirements are set out for home occupations, but there are no additional permits/approval from a zoning perspective. In view of this information, it should be possible to request a letter "from the local zoning department indicating your residence is zoned for a Family Child Care." See also the information below about a business license.

If the applicant lives in a district where family day care homes are a Prohibited Use, ( i.e., Mobile Home Park) then the use is not allowed in the district and will not be allowed under most any circumstance, and the applicant would have to request a "Variance" which is a complicated process.

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TABLE II.2.01 Permitted Uses. The chart below confirms that “Family Day Care” as a home occupation is a permitted use in all districts except “R-MHP” Mobile Home Park.

Abbr	District Type	Status
R-E		Permitted
R-G		Permitted
R-1		Permitted
R-2		Permitted
R-3		Permitted
R-MHS		Permitted
R-MHP		Prohibited
C-R		Permitted
C-1		Permitted
C-5		Permitted
C-6		Permitted
C-7		Permitted
C-2		Permitted
C-3		Permitted
C-8		Permitted
M-1		Permitted
M-2		Permitted
FH		Permitted
AG		Permitted

**IF I DO QUALIFY, WHAT DO I NEED TO DO?**

Business License. An applicant will need to fill out a *Home-Based Business* application, which can be found by visiting the City of Albany government website and following these links:

<https://www.albanyga.gov/home> → How Do I ... → Apply for a Business License → Applications → *Home-Based Business Application*

or through the following link: <https://www.albanyga.gov/home/showdocument?id=1936>

The following documents will be required:

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Copy of identification (driver's license)  
Affidavit for City Public Benefit Application (included)  
Home Occupation Affidavit (included)  
Private Employer Affidavit (included)  
DECAL FCCLH License  
Federal Employer Identification Number (EIN)  
\$150.00 Application Fee

Note: As in this case, there is a problem of DECAL requiring proof of having a business license before issuing a FCCLH license, while the city or county requires proof of a DECAL FCCLH license before issuing a business license. DECAL is aware of this problem. You may need to contact DECAL Applicant Services Unit 404-657-5562 or email [ChildCareServices@decalfga.gov](mailto:ChildCareServices@decalfga.gov) for help in resolving the problem.

After filling out the forms, affidavits and acquiring the necessary documents, they are to be sent by:

- 1.Email: [kaldridge@albanyga.gov](mailto:kaldridge@albanyga.gov)
- 2.Fax:229-432-8160
- 3.Mail to: City of Albany, P.O.Box 447, Albany, Georgia 31702.

As described, a county clerk should be in contact with you about the approval process.

Fire Inspection / Certificate Of Occupancy. Explicitly for *commercial businesses*, a fire inspection and acquiring of a Certificate of Occupancy is a requirement that will be scheduled and conducted on behalf of the Licensing Division upon submission of the application. It is unclear if this will apply to *family day care*, but overall, home-based businesses appear to be exempt from this requirement.

Zoning Letter of Approval. As per the DECAL requirement, a Letter of Zoning Approval is required as well. Request such a document from the City Of Albany's Planning and Development Board through the following contact:

Mary Teter, Planning Manager  
mteter@albanyga.gov  
240 Pine Avenue, Suite 300  
Albany, Georgia 31702  
Phone: (229) 438-3901 (Main)  
Fax: (229) 438-3965 (Planning)

### **DOES IT COST ANYTHING?**

The only cost that appeared explicitly for the process is the \$150.00 Business Licenses Application Fee.

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