

RCW 64.38.140 Licensed family home child care or licensed child day care center—Regulations—Liability. (Effective until January 1, 2028.)

(1) A homeowners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a lot as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2) (a) Nothing in this section prohibits a homeowners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other lots within the same association as the family home child care or the child day care center.

(b) An association may require that only a lot with direct access may be used as a family home child care or child day care center. Direct access must be through publicly accessible common areas.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a lot within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common areas that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A homeowners' association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed \$1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010. [2023 c 203 s 3.]

Effective date—2023 c 203: See note following RCW 64.32.310.