



**Council Meeting: October 22, 2013**

**SUBJECT: 2013-7140 Discussion and Possible Action to Introduce an Ordinance to Amend Chapter 19.58 of Title 19 of the Sunnyvale Municipal Code to Modify the Regulations and Procedural Requirements Regarding Large Family Child Care Homes (Study Issue) and to Find that the Project is Exempt from the California Environmental Quality Act**

**REPORT IN BRIEF**

On September 11, 2012, the City Council heard an appeal of a request for a large family child care home (LFCCH) on Cordilleras Avenue. During the discussion relating to the public comments the Council sponsored a study issue on the topic of LFCCH Locational Requirements (Attachment A). This report, research and recommendation focus on LFCCHs and do not address other types of care facilities (child or adult).

LFCCH is predominately regulated by the State of California and cities are not granted much oversight on the topic. The State of California considers family child care homes a residential use that does not change the character of a residential property. Local municipalities are not allowed to restrict small family child care homes and can regulate LFCCHs only on the following factors: spacing and concentration, traffic control, parking and noise.

In order to address the issue, staff recommends that the Council introduce an ordinance to modify procedural requirements and add operational and application standards for new LFCCHs (Attachment B). The ordinance is based on the following:

- Continue to encourage a use that is necessary for the community by simplifying processing requirements;
- Require a non-discretionary approval for all new LFCCHs;
- Add operational standards to help protect the integrity of the residential neighborhoods; and
- Create a standard distance requirement of 300 ft. for all LFCCHs to avoid over-concentration.

On September 23, 2013 the Planning Commission discussed the Large Family Child Care Study Issue (see minutes in Attachment D). The Planning Commission recommends that the City Council adopt the staff recommendation with modifications: to allow Planning Commission to waive

the 300 foot separation requirement and to require renewal of LFCCH approvals every five years (to assure the most recent operational standards apply).

### **BACKGROUND**

The City Council hearing that lead to the LFCCH study issue occurred because the citizens speaking during the public comment period were concerned about issues in their neighborhood that arose from another LFCCH in the neighborhood (not the LFCCH that was the subject of the hearing, nor the one that was within 300 feet of the subject LFCCH). The City Council sponsored the study issue to look into these concerns. The LFCCH locational requirements study issue was ranked second on the list of 2013 topics for the Community Development Department. Staff was requested to return with recommendations on whether or not the City should modify the LFCCH requirements, and if so, to provide zoning options (Study Issue paper, Attachment A).

A LFCCH means a home that provides family child care for up to 12 children or up to 14 children if certain criteria are met (e.g. there are children under age 10 who live in the licensee's home and/or the assistant provider's children are present and under age 10).

The California Department of Social Services (DSS) estimates that the number of LFCCH providers has not increased significantly in the last 10 years. Many LFCCH providers also rent homes within the City and therefore do not always stay in one location long. This information leads us to believe the total number of LFCCHs has remained at approximately 100 in Sunnyvale over the last 20 years.

### **State Law and City Authority**

The State of California provides oversight and certification of all LFCCHs and limits what can be regulated by local municipalities. California's Health and Safety Code Chapter 3.6 (Attachment F) applies parameters for review of an LFCCH by a local municipality which are summarized here:

- A jurisdiction shall not prohibit large family child care homes on lots zoned for single-family dwellings. Cities are allowed to do one of the following:
  - Classify these homes as a permitted use of residential property for zoning purposes.
  - Require a planning permit with specific standards for the spacing between LFCCHs, traffic control, parking and noise control. This permit can be done administratively or at a public hearing. Any noise standards shall be consistent with the local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children.

Once the local municipality approves the use in one of the above mentioned ways, the State of California requires the LFCCH providers to do the following, prior to issuance of their state license (also summarized, for full text see Attachment F):

- a. Confirm the applicant is financially secure to operate a family child care home for children;
- b. Show evidence that they have a fire escape and disaster plan for the facility, that fire drills and disaster drills will be conducted regularly and that the LFCCH meets the standards established by the State Fire Marshal; and
- c. Provide fingerprints, criminal record, references and health records to the State.

The state has the right to conduct unannounced visits and annual visits to LFCCH that are on probation or have incurred any violations of this code. They also have the right to revoke a license and/or enforce civil penalties on LFCCH providers for non-compliance (additional regulation highlights for California family child cares can be found in Attachment G). Additionally, because the State of California looks at LFCCH as a residential use, property owners are not able to prohibit tenants from operating a family child care in their home, apartment, mobile home, etc. as long as the tenant can meet the State and Local guidelines.

## **EXISTING POLICY**

### **Land Use and Transportation Element**

**Policy LT-4.14** Support the provision of a full spectrum of public and quasi-public services (e.g. parks, day care, group living, recreation centers, religious institutions) that are appropriately located in residential, commercial and industrial neighborhoods and ensure that they have beneficial effects on the surrounding area.

**Policy LT-4.3** Support a full spectrum of conveniently located commercial, public and quasi-public uses that add to the positive image of the City.

### **Current Zoning Requirements for Large Family Child Care Homes**

Currently, LFCCHs in Sunnyvale are processed in three ways:

- If a LFCCH is not within 300 feet of another LFCCH the permit is approved administratively by staff with no fee charged to the applicant.
- If a LFCCH is located within 300 feet of another LFCCH the applicant must ask for a waiver from the Planning Commission. This process involves a small fee from the applicant, noticing (300 feet), a public hearing and most often conditions of approval.

All LFCCHs that request to operate on a site with more than one dwelling unit must go through the Planning Commission process described above.

## **ENVIRONMENTAL REVIEW**

Although the modifications to the ordinance are considered a project under the California Environmental Quality Act (CEQA), staff has concluded that adopting the proposed ordinance is exempt from CEQA under Guideline 15061(b)(3) because it can be seen with certainty that it will not have a significant effect on the environment.

## **DISCUSSION**

### **Overview of the Study Issue**

The issue of whether to further regulate LFCCHs in Sunnyvale is complicated and somewhat restricted because of limitations in the State Law. This study considered the following issues:

- The impact that large family child care homes may have on the community and individual neighborhoods;
- Correlation of neighborhood preservation complaints and this use;
- Comparison of what other cities have done regarding LFCCHs;
- Land use concerns regarding LFCCHs in the city; and
- Possible procedural changes if a decision is made to modify our current LFCCH practices.

The City can evaluate four areas when regulating LFCCHs; spacing and concentration, traffic control, parking and noise control. Sunnyvale currently addresses the spacing and concentration issue with the existing distancing requirements, but does not have operational standards to help address traffic control and parking issues. Noise from a LFCCH is problematic for a city to regulate because the noise standards in the General Plan are difficult to apply to children playing outdoors. It is also difficult to differentiate and regulate noise coming from a family child care versus the noise coming from a standard residential use.

Family child care is often a more affordable type of day care than a traditional child care center as there is significantly less overhead cost for the provider. Many families in the Sunnyvale community utilize this service and some small family child care homes grow into LFCCHs.

### **Large Family Child Care in Sunnyvale**

Since 1997, 98 LFCCH permits have been approved (about six per year on average) with only eight applications requiring Planning Commission review (less than one per year on average); none of these LFCCH permits have been denied (two were approved by the City Council, on appeal, following a Planning Commission denial). The total number of LFCCHs has stayed relatively consistent in Sunnyvale (around 100). The following table contains data from the last five years (plus two months of 2013-2014). Only five of these LFCCHs

required a public hearing (consistent with the information from the last 16+ years) and the other 50 LFCCH permits were issued by staff.

<b>Fiscal Year</b>	<b>Number of Use Permits Approved by Staff</b>	<b>Number of Use Permits Approved by the Planning Commission or City Council</b>	<b>Total Number of Use Permits Approved</b>	<b>Total Number of Licensed Large Family Child Care Homes in Sunnyvale</b>
08-09	19	2	21	93
09-10	7	0	7	92
10-11	10	1	11	92
11-12	8	0	8	96
12-13	5	1	6	100
13-14 (to date)	1	1	2	100
<b>Total</b>	<b>50</b>	<b>5</b>	<b>55</b>	

The number of applications in comparison to the total number of LFCCHs shows that the providers tend to either close, relocate, cannot meet the State Guidelines for a permit (after receiving Sunnyvale approval), or switch from large to small family child care over the years. A map showing the location of the existing 100 LFCCHs in Sunnyvale is attached (Attachment C).

### **Sunnyvale Youth and Family Resources Division**

The City of Sunnyvale has a full time staff member in the Youth and Family Resources Office (YFR) who serves as a liaison between the City, the Department of Social Services, the Child Care Providers and other involved agencies. The liaison assists the Sunnyvale Family Child Care Provider Network with their monthly meetings and holds quarterly child care professional development workshops.

The YFR created, with input from other staff, the *Good Neighbor Tips for Child Care Providers* (Attachment G) which Planning gives to new LFCCH providers (and is available on the YFR website). Since YFR helps new LFCCH providers, they are a good resource to help ensure LFCCH operators are good neighbors.

### **Neighborhood Preservation Involvement**

A random sampling of 50% of the existing LFCCHs found that three of these 50 existing LFCCHs have had complaints filed (in relation to noise, traffic and parking). One complaint from 1999 was for parking and traffic issues, one in 2007 was in relation to operation without an LFCCH permit (permit was issued), and one in 2010 was related to excessive noise. In these instances, all three complaints were reviewed and each case has been resolved or closed due to lack of enforcement standards. Since the City does not currently have operational standards for LFCCHs some of the complaints to Neighborhood

Preservation and Police Patrol are not entered as code violations and cannot be remedied by Neighborhood Preservation because there is no Zoning Code section directly related to the complaint.

A few additional cases regarding signs on child care properties (more specifically, lawn signs) advertising the use were opened. These signs are not allowed based on the Sign Code and all were removed when notified of the violation. The revised sign code adopted in July 2013 allows residents one 2 sq. ft. sign on their residence which may help LFCCH operators advertise their business without the use of lawn signs.

The conclusion of this research shows that very few LFCCHs in the City receive complaints on the issues cities are able to regulate. The few that generate complaints (similar to the one brought up at the September 2012 City Council meeting) can create an impression that many LFCCHs generate complaints. The information also shows that Neighborhood Preservation has very little to enforce in regards to LFCCHs under the current regulations.

### **Large Family Child Care in Multi-Family Housing**

LFCCHs in apartments or on lots with more than one dwelling have the potential for more significant impacts on neighbors than LFCCHs on single-family lots and may have difficulty meeting operational standards. An LFCCH is somewhat rare in multi-family settings because the State Fire Marshal requires an LFCCH to have two exits and most apartments and condos do not meet this requirement. If residents in an apartment, duplex, condo, etc. wish to operate an LFCCH they are required to apply for a Planning Commission Use Permit under the current ordinance. No changes have been proposed for these LFCCH applications as staff still believes an LFCCH in such a setting warrants a public hearing and additional staff review.

### **Other Cities Approaches**

Most of the jurisdictions in Santa Clara County have adopted Ordinances to regulate LFCCHs in their communities. The table attached to this report (Attachment E) shows the regulations for those jurisdictions as well as Sunnyvale.

Morgan Hill, Santa Clara and San Jose permit LFCCHs outright in all residential zones. Palo Alto, Gilroy and the County of Santa Clara process non-discretionary permits for their LFCCHs. Milpitas and Cupertino have a process similar to Sunnyvale's current requirements, but also have operational standards in place. Campbell, Los Altos Hills, Los Gatos, Mountain View and Los Altos process LFCCH permits by requiring noticing and discretionary permits through an approval body.

## **OPTIONS TO CONSIDER**

Due to the nature of the concerns and complaints, staff approached the study to find ways to assure all LFFCH requests are treated similarly, and that regulations were clear and objective. There are several ways Sunnyvale can regulate LFCCHs while also creating consistency in reviewing LFCCHs.

### **Option A: Modify the Large Family Child Care Home Regulations to Add Procedural Changes, Amendments to Application Requirements, and Operational Standards**

Adopt an ordinance (Attachment B) to regulate new LFCCHs. The ordinance would consist of the following:

1. Prohibit LFCCHs within 300 feet of a legally permitted LFCCH to avoid over-concentration.
2. Establish an LFCCH approval process with application requirements for new LFCCHs including:
  - a. LFCCH applicants shall submit a site plan with their application to show the assigned drop-off/pick-up area on their property.
  - b. Ensure LFCCH applicants have attended a one-on-one meeting with the Youth and Family Resources Division prior to approval of their application.
  - c. Written acknowledgement by the applicant to:
    - Follow the good neighbor policies they receive from Planning and the YFR.
    - Park provider and employee vehicles in their garage to keep the driveway free for parents to use.
    - Adhere to the operational standards in the zoning code.
3. Establish operational standards for new LFCCHs, including:
  - a. Require at least one uncovered drop-off/pick-up space on the property (space size must be consistent with the requirements for a single-family residence). If the LFCCH has two uncovered (driveway) parking spaces, both shall be left open for drop-off/pick-up of children.
  - b. Outdoor activities of the LFCCH will be limited to between the hours of 9 a.m. and 6 p.m.
  - c. The outdoor play area of the LFCCH must be enclosed with a 6-foot high solid fence (unless the neighbors sign a waiver to exclude this requirement). This requirement could be satisfied with a property line fence.
  - d. All outdoor play structures are subject to the requirements of Chapter 19.40 (Accessory Structures).
  - e. The child care operator must be a resident of the home.
  - f. The LFCCH shall not significantly alter the physical appearance of the single-family residence.

This option would require a non-discretionary approval for new LFCCHs based on the finding that very few LFCCHs in the City have generated complaints or

problems over the years. Staff finds that if distancing requirements and sufficient operational and application standards are set in place to protect the integrity of the single-family neighborhoods (while staying within the parameters of the State requirements), a discretionary permit (with or without a public hearing) for LFCCHs should be unnecessary. This approach is similar to other non-discretionary approvals issued, such as home occupation uses.

**Pros:**

- Allows new LFCCHs to open in residential zones and avoids over-concentration of these uses.
- Creates process consistency for all new LFCCH providers.
- Provides operational standards for all new LFCCHs.
- Provides a streamlined review process for LFCCH by allowing all LFCCH applications to be approved over-the-counter by staff.

**Cons:**

- This option would classify some of the existing LFCCHs as legal non-conforming because they are currently located within 300 feet of another or do not meet the new operational standards.
- Does not allow for additional conditions to be added to LFCCHs on a case-by-case basis.
- Does not allow for a waiver of the 300-foot distance requirement.
- Does not allow for an appeal of the LFCCH approval.

**Option B: Require public noticing of all new LFCCHs**

Noticing all new staff-level LFCCH applications would alert neighbors of a new LFCCH and also allow for public input. This option would maintain the operational and locational requirements shown in Option 1, but would also require notification to neighbors. While the LFCCH approval would be handled administratively by staff, noticing would make the LFCCH approval discretionary and appealable to the Planning Commission.

**Pros:**

- Alerts neighbors of the use.
- Allows for additional conditions of approval to be added to LFCCHs on a case-by-case basis.

**Cons:**

- Implements a public noticing procedure for a use that has generated very few complaints from neighbors over the years.
- Increases staff time required to process most LFCCHs.
- Increases fees and permit delays for most LFCCH providers.

**Option C: Require Public Hearings for all new LFCCHs** This option could be done along with Option 1 to further regulate LFCCHs in Sunnyvale and would require review by a hearing body, such as the Planning Commission or Zoning Administrator.

**Pros:**

- Provides a public forum and hearing with an opportunity for public input.
- Allows additional operational standards to be placed on a LFCCH on a case-by-case basis.
- Allows for conditions to be placed on the LFCCH use permit to allow for future review of the permit.

**Cons:**

- Increases fees and permit delay to most LFCCH providers.
- Institutes a mandatory public hearing process for all LFCCHs, when such uses (with a few exceptions) do not generate neighbor complaints or operational problems.
- Increases staff time required to process most LFCCHs.

**Option D: Maintain the Status Quo**

Continuing to process LFCCHs in the same manner that we currently use by issuing permits over-the-counter for LFCCHs not within 300 feet of another and requiring a use permit from the Planning Commission for LFCCHs that are within 300 feet of another or that are on a multi-family lot.

**Pros:**

- No additional staff time or expenses would be required to implement any new process or ordinance.
- Most LFCCHs would be reviewed and approved over the counter and without fees to the applicant.

**Cons:**

- Would not adopt operational standards for new LFCCHs.
- Continuing inconsistency on how LFCCHs are processed for single-family dwellings.
- Public hearings on LFCCHs could only pertain to spacing and concentration, traffic control, parking and very limited noise control.

**Existing LFCCHs in Sunnyvale**

The LFCCHs in Sunnyvale who have valid LFCCH permits from Planning would not be subject to any new provisions with modifications to the existing regulations. These LFCCHs would be considered legal non-conforming if they do not meet the operational standards under the modified ordinance.

**FISCAL IMPACT**

If Council follows the staff recommendation, the costs to the City to implement the ordinance would be minimal, mainly consisting of additional Planning

Division staff time to explain the new operational and site requirements and process the LFCCH approval and YFR staff time to meet with each prospective provider. Introduction of the proposed ordinance could reduce costs because it would eliminate public hearings currently required for LFCCHs within 300 feet of another LFCCH. Staff anticipates no change required to budgeted hours. Staff estimates an average of one additional hour per application (for the Planning Division) which is offset by the current Planning Division budget for less than one public hearing application each year.

Alternative options could have additional costs associated with them. Additional staff time would be needed to prepare reports, attend public hearings and work with neighbors and the applicant to process the application. Increased noticing would also add costs to the permit based on additional staff time and costs associated with copies and postage. The Planning Commission recommendation would require more time than the current procedures: the public hearing component is already budgeted; additional 10 hours per year would be needed to explain the operational requirements to new providers; and eventually additional budget for the 5-year renewals would be required. The 5-year renewal would require review and follow up with up to 20 LFCCH businesses per year (estimated at 40 hours per year).

### **PUBLIC CONTACT**

Public contact regarding the study issue was made through the following ways:

1. Posting the Planning Commission agenda on the City's official-notice bulletin board outside City Hall; posting the City Council agenda on the City's official-notice bulletin board at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the Planning Commission and City Council agendas and reports available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website;
2. Publication in the *Sun* newspaper, at least 10 days prior to the hearing;
3. E-mail notification of the hearing dates sent to all interested parties and Sunnyvale neighborhood groups;
4. Presentation (with discussion) at the Sunnyvale Child Care Provider Meeting (summary below);
5. Public Meeting with Community Members (summary below);
6. Meetings with the Youth and Family Resources Division; and
7. Outreach by the Youth and Family Resources Division to their mailing list.

Staff e-mailed the Report to Council and draft Ordinance to all members of the public interest list prior to the September 23, 2013 Planning Commission meeting. No one from the public spoke during the public hearing portion on LFCCHs. Staff received one letter prior to the public hearing which has been attached to this report (Attachment I).

### ***Family Day Care Providers***

Staff attended the monthly meeting of the Sunnyvale Child Care Providers in May 2013 to discuss the study issue and create a dialog with the providers. Over 30 people attended the May meeting and contributed to the discussion. The following are the major points/concerns discussed at the meeting:

- Providers felt that noticing new LFCCHs and requiring public hearings would cause time delays and hardships;
- How the providers could be good neighbors;
- How the providers deal with problematic situations involving parents; and
- Ideas to keep children well-behaved during outdoor play.

### ***Community Meeting/Public Concerns***

Staff sent out meeting information to the Sunnyvale neighborhood associations regarding a community meeting in May 2013 at City Hall to create a dialog with Sunnyvale residents. Three people attended the meeting; however, all three were child care providers.

Sunnyvale citizens who attended the appeal hearing that initiated sponsorship of this study issue raised several concerns, and referred to an existing LFCCH in the neighborhood:

- Noise of children;
- Traffic within their neighborhoods associated with the LFCCH;
- Double parking in front of the day care; and
- Overconcentration of the use in their neighborhood.

### **ALTERNATIVES**

1. Find that the project is exempt from CEQA pursuant to guideline 15061(b)(3).
2. Introduce an ordinance (Attachment B) for large family child care homes to establish a consistent application process that includes distance requirements and operational standards for new large family child care homes (Option A).
3. Adopt the Planning Commission recommendation of Alternative 2 with the following modifications:
  - a. Include opportunity for child care providers to apply for a Use Permit for a waiver (to be granted by the Planning Commission) for LFCCH applications within 300 feet of another LFCCH in single-family dwellings.
  - b. Require the renewal of new LFCCH approvals every five years.
4. Adopt an alternative with modifications (different distance requirements, procedural requirements, noticing requirements, etc.).
5. Do not modify Chapter 19.58 and make no changes to how large family child cares homes are currently processed.

**RECOMMENDATION**

Staff recommends Alternative 1 and 2, adoption of the attached ordinance, to create a consistent process for all new large family child care homes and find that the project is exempt from CEQA. The process changes and the addition of operational standards should help to alleviate the small number of complaints received by the City regarding LFCCHs. By codifying operational standards, it will also provide clearer grounds for enforcement if necessary. Additionally, the 300-foot separation standard will avoid over-concentration of these uses in neighborhoods.

With operational standards that proactively address possible neighborhood concerns, staff believes that a discretionary permit and public hearing process are not necessary. Additionally, eliminating the public hearing process for LFCCHs reflects the fact that the large majority of LFCCHs in Sunnyvale have not been an issue and that none of the LFCCH applications have been denied in the last 15 years.

The Planning Commission found that opportunity should still be given to LFCCH providers who might live within 300 feet of another LFCCH as there could be a determination that the location does not contribute to overconcentration. This recommendation would maintain the existing process for LFCCHs within 300 feet of another LFCCH. The Planning Commission further found that renewal of approvals would facilitate implementation of future new operating standards. Staff does not feel that a five year permit renewal is necessary, especially since there have been no changes to the LFCCH standards in the last 30 years. This would suggest that additional or modified standards in the next five years would be unlikely and that a five year renewal process may burden LFCCH providers.

Reviewed by:

Hanson Hom, Director, Community Development  
Reviewed by: Trudi Ryan, Planning Officer  
Prepared by: Amber El-Hajj, Senior Planner

Approved by:

Gary M. Luebbers  
City Manager

**Attachments**

- A. Study Issue Paper
- B. Draft Ordinance
- C. Existing Locations of Large Family Child Care Homes in Sunnyvale with 300 Foot Radius Lines
- D. Minutes from the September 23, 2013 Planning Commission Meeting
- E. Two Maps showing a Specific Section of the City with 300 Foot Radius Lines
- F. Spreadsheet of How Other Cities in Santa Clara County Regulate Large Family Child Care Homes
- G. California Health and Safety Code Chapter 3.6
- H. Good Neighbor Tips for Child Care Providers
- I. Public Comment

# **Attachment A**

## 2013 Council Study Issue

**CDD 13-07 Large Family Day Care Locational Requirements**

Lead Department Community Development

History 1 year ago None 2 years ago None

**1. What are the key elements of the issue? What precipitated it?**

Recently, there have been a few use permit applications for large family day care (LFDC) uses located within 300 feet of an existing LFDC; in one case the Planning Commission decision was appealed to the City Council. Concern from the public is the impact LFDC's have on the surrounding neighbors and nearby area. During the City Council meeting, members of the public pointed out concerns with other LFDC sites that were not subject to the use permit requirements.

This study would consider the limitations that State law has on regulating LFDC's, specifically that LFDC's shall be treated the same as any other residential use. State law allows a city to prescribe reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control, which would be the crux of this study. One option to explore is having operational criteria for all LFDC (e.g hours of operation, parking, noise).

**2. How does this relate to the General Plan or existing City Policy?**

**Policy LT 4.14.** Support the provision of a full spectrum of public and quasi-public services (e.g., parks, day care, group living, recreation centers, religious institutions) that are appropriately located in residential, commercial and industrial neighborhoods and ensure that they have beneficial effects on the surrounding area.

**Action statement LT 4.14d** Encourage employers to provide on-site facilities such as usable open space, health club facilities, and child care where appropriate.

**Policy LT 4.3.** Support a full spectrum of conveniently located commercial, public and quasi-public uses that add to the positive image of the City.

**State Law:** Has determined that a family day care is a residential use and precludes cities from regulating small family care and allows limited regulations for large family care.

**3. Origin of Issue**

Council Member(s) Moylan, Spitaleri, Whittum

**4. Staff effort required to conduct study Moderate****Briefly explain the level of staff effort required**

Background research of State law and other cities' approaches; public outreach to the general public and day care operators, preparation of reports; and, public hearings.

**5. Multiple Year Project? No Planned Completion Year 2013****6. Expected participation involved in the study issue process?**

Does Council need to approve a work plan? No

Does this issue require review by a Board/Commission? Yes

If so, which? Planning Commission

Is a Council Study Session anticipated? No

7. Briefly explain if a budget modification will be required to study this issue

Amount of budget modification required 0

Explanation

8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts

Are there costs of implementation? No

Explanation

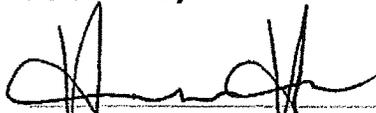
9. Staff Recommendation

Staff Recommendation Support

If 'Support', 'Drop' or 'Defer', explain

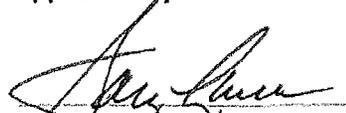
State law considers large and small family child care uses as residential uses the same as any other home. Cities can prescribe reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control. This study could provide better guidance to the community, staff and decision-makers about the location and operating requirements of LFDC's.

Reviewed by

  
Department Director

10/1/12  
Date

Approved by

  
City Manager

10-4-12  
Date

# **Attachment B**

ORDINANCE NO. \_\_\_\_\_-13

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CHAPTER 19.58 CONCERNING LARGE FAMILY CHILD CARE HOMES OF TITLE 19 (ZONING CODE) OF THE SUNNYVALE MUNICIPAL CODE**

WHEREAS, on September 11, 2012, the City Council of the City of Sunnyvale requested that the locational requirements for Large Family Child Care be a Council Study Issue to determine what opportunities there may be to consider reasonable standards, restrictions and requirements concerning spacing and concentration, traffic control, parking and noise related to Large Family Child Care in Sunnyvale.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.12.040 AMENDED. Section 19.12.040 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.12.040. "C"**

(1) "Cardroom" means any establishment where any card game is played for currency, check, credit or any other thing of value.

(2) "Child care center" means a building or portion thereof in which nonresident children under eighteen years of age receive care and supervision for less than a twenty-four-hour period. "Child care center" includes infant centers, preschools, centers for mentally ill children and extended day care of school-age children but does not include "family day child care homes."

(a) – (b) [Text unchanged.]

(3) – (16) [Text unchanged.]

SECTION 2. SECTION 19.12.050 AMENDED. Section 19.12.050 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.12.050. "D"**

(1) "Day care center" means a building or portion thereof in which individuals receive care and supervision for less than a twenty-four-hour period for compensation or profit. "Day care center" does not include "family day child care homes."

SECTION 3. SECTION 19.12.070 AMENDED. Section 19.12.070 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.12.070. "F"**

(1) – (2) [Text unchanged.]

(3) "~~Family day child care home.~~" means ~~a home which regularly provides care, protection, and supervision of fourteen or fewer persons under~~

eighteen years of age, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardians are away. For definition, see Chapter 19.58 (Family Child Care Homes).

~~———— (a) “Large family day care home” means a family day care home in which care is provided to nine to fourteen persons under eighteen years of age, including children who reside at the home as defined by the laws of the state of California.~~

~~———— (b) “Small family day care home” means a family day care home in which care is provided to eight or fewer persons under eighteen years of age, including children who reside at the home as defined by the laws of the state of California. A small family day care home is a residential use of property.~~

**SECTION 4. TABLE 19.18.030 AMENDED.** Table 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**TABLE 19.18.030**  
Permitted, Conditionally Permitted and Prohibited Uses in Residential Zoning Districts

In the table, the letters and symbols are defined as follows:

- P = Permitted use
- MPP = Miscellaneous Plan Permit required
- UP = Use Permit required
- SDP = Special Development Permit required
- N = Not permitted, prohibited

<b>RESIDENTIAL ZONING DISTRICTS</b>	<b>R-0/R-1</b>	<b>R-1.5</b>	<b>R-1.7/PD</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>R-5</b>	<b>R-MH</b>
<b>1. – 3. [Text unchanged.]</b>								
<b>4. Commercial Uses</b>								
<b>A. – C. [Text unchanged.]</b>								
<b>D. Small family day care</b>	P	P	P	P	P	P	P	P
<b>E. Large family day care</b>	UP	UP	UP	UP	UP	UP	UP	UP
<b>F.D. Rest homes</b>	UP	UP	N	UP	UP	UP	UP	N
<b>5. – 7. [Text unchanged.]</b>								

**SECTION 5. TABLE 19.28.070 AMENDED.** Table 19.28.070 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**TABLE 19.28.070**  
Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks

In the table, the letters and symbols are defined as follows:

- P = Permitted use
- SDP = Special development permit required
- MPP = Miscellaneous plan permit required

N = Not permitted, prohibited

<b>DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS</b>	<b>1</b>	<b>1a</b>	<b>2</b>	<b>3</b>	<b>7</b>	<b>13</b>	<b>18</b>	<b>20</b>
<b>1. Residential</b>								
<b>A.</b> Single-family dwelling and accessory buildings and uses developed on an existing, legally created lot	N	N	N	N	N	SDP	N	SDP
<b>B.</b> Single room occupancy (SRO) facilities	N	SDP	N	N	SDP	SDP	SDP	SDP
<b>C.</b> Two-family dwelling (duplex)	N	N	N	N	N	SDP	N	SDP
<b>D.</b> Multiple-family dwellings (3 or more units, or more than one main building) and accessory buildings and uses	N	SDP	SDP	SDP	SDP	SDP	SDP	SDP
<b>E.</b> Boarding for less than three persons	N	P	P	P	P	P	P	P
<b>F.</b> Facilities caring for 6 or fewer persons, as declared by the state to be a residential use	N	P	P	P	P	P	P	P
<b>G.</b> Small Family Day Care	N	P	N	N	P	P	P	P
<b>H.</b> Large Family Day Care	N	UP	N	N	UP	UP	UP	UP
<b>2. – 6. [Text unchanged.]</b>								

SECTION 6. TABLE 19.28.080 AMENDED. Table 19.28.080 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**TABLE 19.28.080**  
**Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP**  
**Blocks**

In the table, the letters and symbols are defined as follows:

- P** = Permitted use
- SDP** = Special development permit required
- MPP** = Miscellaneous plan permit required
- N** = Not permitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16	6, 10a	8, 9, 10, 11, 12 and 17	8a	8b, 9a
1. - 2. [Text unchanged.]					
3. Commercial Uses	P	P	P	P	P
A. Child care/day care center/nursery schools	SDP	SDP	SDP	SDP	SDP
B. Hotels or motels	SDP	N	N	N	N
C. Small family day care	P	P	P	P	P
D. Large family day care	UP	UP	UP	UP	UP
E.C. Rest Homes	SDP	SDP	SDP	SDP	SDP
4. - 6. [Text unchanged.]					

SECTION 7. CHAPTER 19.58 AMENDED. Chapter 19.58 (Day Care Facilities) of Title 19 (Zoning Code) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Chapter 19.58  
Day Care Facilities**

~~19.58.010. — Purpose.~~

~~19.58.020. — Development requirements.~~

~~19.58.030. — Authority.~~

~~19.58.040. — Procedures.~~

~~19.58.050. — Applications.~~

~~19.58.060. — Actions.~~

~~19.58.070. — Findings.~~

~~19.58.010. — Purpose.~~

~~Day care facilities include day care centers, childcare centers, large family and small family day care. Processing requirements for day care centers and childcare centers are noted in Chapters 19.16 through 19.28 of this title. Pursuant to state law, small family day care facilities are not subject to city processing requirements. Specific requirements and procedures for large family day care homes are provided in this chapter.~~

~~19.58.020. — Development requirements.~~

~~Large family day care homes shall:~~

~~(a) Not be located on lots having more than one dwelling unit without a use permit.~~

~~(b) Not be located within three hundred feet of a building or parcel occupied by a similar use unless a waiver has been granted.~~

~~19.58.030. — Authority.~~

~~Authority for action on a large family day care home shall be vested as specified as follows:~~

~~—— (a) Minor use permit determined by the director of community development for requests which do not include a waiver that the facility is located closer than three hundred feet to a similar use.~~

~~—— (b) Major use permit determined by the planning commission for requests which include a waiver that the facility is located closer than three hundred feet to a similar use.~~

**19.58.040. — Procedures.**

~~—— (a) The provisions of this chapter identify and prescribe specific procedures and requirements for the filing, processing and consideration of a use permit application for a large family day care home. These provisions shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expiration, extensions and revocations.~~

~~—— (b) The director of community development shall investigate whether the proposed use, or parcel of land upon which the use is located, is located closer than three hundred feet from the exterior boundary of any other parcel of property, within or outside the city, occupied by another large family day care home. If located within three hundred feet of a similar use, the applicant may request a waiver of the three hundred foot requirement.~~

**19.58.050. — Applications.**

~~—— The application shall include:~~

~~—— (a) Name, address and telephone number of:~~

~~—— (1) Owner of property;~~

~~—— (2) Operator of business.~~

~~—— (b) Hours of operation.~~

~~—— (c) A written statement that the applicant has reviewed the permit records of the city of Sunnyvale and either that those records show no permitted large family day care homes within three hundred feet of the lot on which the large family day care home is located, or that the applicant is requesting a waiver of this requirement, along with a listing of the names and addresses of the operators of any such existing large family day care homes within such distance.~~

~~—— (d) Additional information as required by the director of community development.~~

**19.58.060. — Actions.**

~~—— (a) The director of community development, without a public hearing, may:~~

~~—— (1) Grant the use permit as requested or as changed, modified or conditioned by the director when the use is determined to meet the required findings; or~~

~~—— (2) Deny the use permit as requested when determined to be inconsistent with the required findings.~~

~~—— (b) After receiving a request for a waiver of proximity to a similar use, and following a public hearing, the planning commission by the affirmative vote of a majority of its voting members may:~~

~~—— (1) Grant the waiver requested if deemed to meet the required findings; or~~

- ~~———— (2) Deny the waiver if the standards for approval are not met.~~
- ~~———— (c) After receiving an appeal from the action of the planning commission on a requested waiver and associated use permit, and following a public hearing, the city council by the affirmative vote of a majority of its voting members may:~~
  - ~~———— (1) Grant the waiver and associated use permit as requested if deemed to meet the criteria set forth in the required findings.~~
  - ~~———— (2) Deny the waiver and associated use permit if the standards for approval are not met.~~

**19.58.070. Findings.**

- ~~———— (a) The director of community development may:~~
  - ~~———— (1) Approve a use permit upon finding that:~~
    - ~~———— (A) The use complies with the provisions of Title 19; and~~
    - ~~———— (B) The use, or parcel of land upon which the use is located, is not located closer than three hundred feet from the exterior boundary of any other parcel of property, within or outside the city, occupied by another large family day care home.~~
  - ~~———— (2) Deny a use permit upon written findings as to the manner in which the operation or maintenance of the proposed use would be inconsistent with the provisions of Title 19.~~
- ~~———— (b) The planning commission may:~~
  - ~~———— (1) Grant a waiver and associated use permit upon finding that a waiver would not be detrimental or injurious to the property or improvement, or uses in the immediate vicinity.~~
  - ~~———— (2) Deny a waiver and associated use permit upon findings that a waiver would be detrimental or injurious to the property to improvements, or uses in the immediate vicinity.~~
- ~~———— (c) The city council may:~~
  - ~~———— (1) Grant a waiver and associated use permit upon finding that a waiver would not be detrimental or injurious to the property or improvement, or uses in the immediate vicinity.~~
  - ~~———— (2) Deny a waiver and associated use permit upon findings that a waiver would be detrimental or injurious to the property to improvements, or uses in the immediate vicinity.~~

**Chapter 19.58**  
**Family Child Care Homes**

**19.58.010. Purpose.**

**19.58.020. Definitions.**

**19.58.030. Applicability.**

**19.58.040. Large Family Child Care Home Distance and Operational Requirements.**

**19.58.050. Large Family Child Care Home Distance Permit Required.**

**19.58.060. Procedures.**

**19.58.010. Purpose.**

This chapter establishes standards and specific permitting procedures for family child care homes. These requirements address the growing community

need for accessible child care while protecting the integrity of residential neighborhoods. These requirements are established under the authority granted by California Health and Safety Code Sections 1597.30 – 1597.621.

**19.58.020. Definitions.**

For purposes of this chapter, the following definitions shall apply:

(1) “Family child care home” means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away. A family child care home is an accessory use of a permitted residential property and is a state-licensed facility.

(2) “Large family child care home” means a family child care home for 9 to 14 children, including children under the age of 10 years who reside at the home, as defined by Health & Safety Code Section 1596.78(b).

(3) “Small family child care home” means a family child care home for 8 or fewer children, including children under the age of 10 years who reside at the home, as defined by Health & Safety Code Section 1596.78(c).

(4) “Home” means the licensee’s residence as defined by Government Code Section 244.

(5) “Licensee” means an adult licensed to operate a family child care home by the California Department of Social Services or designated state licensing agency, and who is primarily involved in providing care for the children during the hours that the home provides care.

**19.58.030. Applicability.**

This chapter applies to family child care homes in any zoning district. A family child care home is allowed as an accessory use to any permitted residential use subject to the operational standards and permitting requirements of this chapter.

**19.58.040. Small Family Child Care Homes Allowed.**

The operation of a small family child care home is allowed in any permitted residential use in any zoning district and is exempt from the operational and permitting requirements in this chapter.

**19.58.050. Standards for Large Family Child Care Homes.**

In addition to the terms or conditions of the state license, all large family child care homes shall comply with the following requirements:

(a) **300-foot Distance Required.** A large family child care home shall be located 300 feet or more from another large family child care home, as measured from any property line, within or outside the city. If only a portion of the property is located within 300 feet, the entire property is considered to be within 300 feet. A large family child care home within 300 feet of another large family child care home is prohibited.

(b) **Parking and Circulation.** Parking and circulation shall be provided as follows:

(1) **Single-Family Dwelling.** Onsite parking (8.5 feet wide by 18 feet long per space) for drop-off and pick-up shall be provided during hours of operation as follows:

- a. Sites with driveways that are 17 feet or wider shall provide at least two spaces.
- b. Sites with driveways less than 17 feet wide shall provide at least one space.
- c. Sites without a driveway are required to install/create at least one parking space.

(2) **Non Single-Family Dwelling.** For a large family child care home in a two-family or multi-family dwelling or mobile home park, onsite parking and circulation area shall be reserved in accordance with the site plan approved by Use Permit.

(c) **Outdoor Activities.** Outdoor activities such as play, entertainment or educational activities shall only occur before 9 a.m. and after 6 p.m.

(d) **Fences.** Outdoor play area of the large family child care home shall be enclosed with a 6 foot high solid fence (property line fence is permissible), unless the neighbor adjacent to a section of the fence signs a waiver to exclude this requirement.

(e) **Accessory Structures.** All accessory structures, including outdoor play equipment, are subject to the requirements of Chapter 19.40.

(f) **Signs.** A residential name plate may be installed subject to the requirements of subsection Section 19.44.050(h) (Residential name plate). No other signage advertising or identifying the large family child care home is allowed.

(g) **Home Occupation.** Large family child care home licensees shall maintain a Sunnyvale business license as required in Chapter 5.04 (Business License Tax).

**19.58.060. Director Approval or Use Permit Required.**

Except as otherwise modified in this chapter, the requirements and procedures identified in Chapter 19.98 (General Procedures) apply.

(a) **Director Approval—Single-Family Dwelling in Residential Zoning District.** Each licensee is required to obtain approval by the director of community development for operation of a large family child care home in a single-family dwelling in any residential zoning district. Without public notice or hearing, the director may approve or deny a large family child care home application upon determining its conformance with Section 19.58.050 (Standards for Large Family Child Care Homes) and applicable provisions of this title.

(b) **Use Permit—Single-Family Dwelling in Nonresidential Zoning District or Non Single-Family Dwelling.** A use permit granted by the planning commission is required for operation of a large family child care home in a permitted single-family dwelling in any nonresidential zoning district or in a two-family dwelling, multi-family dwelling or mobile home. In accordance with the procedures and findings in Chapter 19.88 (Use Permits), and upon determining conformance with Section 19.58.050 (Standards for Large Family Child Care Homes) and other applicable provisions of this title, the planning commission may approve, conditionally approve or deny a use permit application for a large family child care home.

(c) **Applications.** Large family child care home applications shall contain the following information:

- (1) Name, address and contact information of the licensee and the property owner;
- (2) Hours of operation;
- (3) Site plan indicating the driveway parking spaces or other proposed onsite parking and circulation area reserved for drop-off and pick-up of children, and any proposed outdoor play structures;
- (4) A written statement that the licensee has reviewed and shall maintain compliance with the operational requirements under Section 19.58.040; and
- (5) Additional information as required by the director of community development.

**19.58.070. Revocation of Use Permit by the Planning Commission.**

A use permit for a large family child care home may be revoked by the planning commission, after a public hearing thereon, by an affirmative vote of a majority of its voting members, when the planning commission finds a violation of or noncompliance with the conditions of approval of the permit.

SECTION 8. SECTION 19.88.020 AMENDED. Section 19.88.020 of Chapter 19.88 (Use Permits) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.88.020. Authority and types of permits.**

Authority for action on a use permit shall be vested as follows:

- (a) Minor use permit determined by the director of community development for:
  - (1) Projects, structures or activities determined to pose no significant land use consequences;
  - (2) Those uses determined to be categorically exempt pursuant to the terms of the California Environmental Quality Act;
  - (3) Unenclosed accessory uses when otherwise required under Title 19.
- (b) Major use permit determined by the planning commission for:
  - (1) All applications for a use permit other than those determined to be minor permits or for minor permits that are determined by the director of community development to require more extensive community participation;
  - (2) Floor area ratio which would otherwise meet the maximum of thirty-five percent except that floor area occupied by showers and/or dressing rooms provided for use by bicycle commuters increases the total floor area ratio over forty percent. This FAR bonus over thirty-five percent shall only be allowed for bicycle related facilities;
  - (3) Operation of a ~~Large family day-child~~ care homes requesting a waiver that the facility is located closer than three hundred feet to a similar use in a single-family dwelling in any non-residential zoning district, or in a two-family or multi-family dwelling or in a mobile home.

SECTION 9. SECTION 19.98.040 AMENDED. Section 19.98.040 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.98.040. Notice requirements.**

(a) – (j) [Text unchanged.]

(k) Appeals. Notice of an appeal of an action to the heritage commission, planning commission or city council shall be made ten calendar days prior to the appeal hearing as follows:

(1) Minor permits:

(A) By mailing a copy of the notice to the owner of the subject property,

(B) By mailing a copy of the notice to the appellant,

(C) By mailing a copy of the notice to the owner of adjacent properties,

~~(D) Notice for an appeal of a waiver of proximity to a similar use for a large family day care home shall also include mailing a copy of the notice to all property owners within one hundred feet of the property under consideration;~~

(l) – (m) [Text unchanged.]

SECTION 10. SECTION 19.98.070 AMENDED. Section 19.98.070 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.98.070. Appeals.**

(a) – (b) [Text unchanged.]

(c) Appeal of All Other Permits and Actions. Any person aggrieved, including a member of the planning commission or city council, by the decision of the director of community development, heritage preservation commission or planning commission may file an appeal after the date of such decision. The appeal shall be in writing stating the grounds therefor. All proceedings initiated by the decision of the director of community development or planning commission shall be suspended pending a determination on the merit of the appeal.

(1) Any decision by the director of community development may be appealed to the planning commission and city council, except:

(A) – (D) [Text unchanged.]

(E) A decision by the director on an application to operate a large family day child care home in a single-family dwelling, where the decision of the director is final ~~where a waiver of proximity to a similar use is not requested.~~

(F) – (G) [Text unchanged.]

(2)-(5) [Text unchanged.]

(d) [Text unchanged.]

SECTION 11. CEQA-. The City Council hereby determines that the action taken to amend these provisions of the Zoning Code is exempt from the California Environmental Quality Act (CEQA) Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty

(30) days from and after the date of its adoption.

SECTION 13. PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2013 and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2013 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Attestation: \_\_\_\_\_

(SEAL)

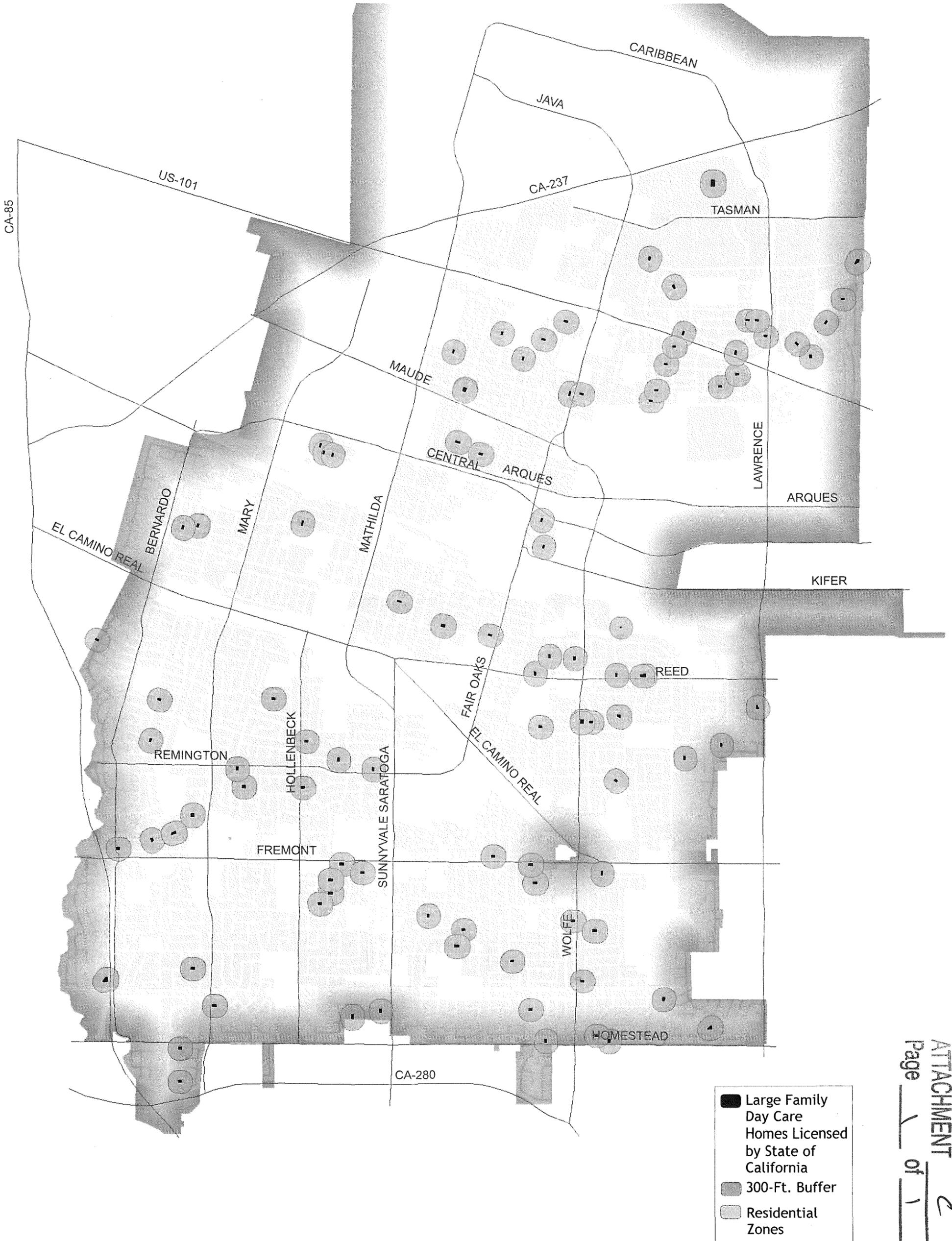
APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

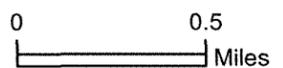
# **Attachment C**



# City of Sunnyvale Large Family Day Care Homes



	Large Family Day Care Homes Licensed by State of California
	300-Ft. Buffer
	Residential Zones



# **Attachment D**

**PUBLIC HEARINGS/GENERAL BUSINESS**

- 2. FILE #:** 2013-7140  
**Location:** Citywide  
**Proposed Project:** Large Family Child Care (Study Issue): A study to review land use options for possible changes to the processing and regulation of new Large Family Child Care Homes.  
**Environmental Review:** Exempt from CEQA, Guideline 15061(b)(3)  
**Staff Contact:** Amber El-Hajj, (408) 730-2723,  
*Ael-hajj@sunnyvale.ca.gov*  
**Note:** This item is scheduled to be considered by City Council on October 22, 2013.

**Amber El-Hajj**, Senior Planner, presented the staff report.

**Comm. Hendricks** confirmed with Ms. El-Hajj that Large Family Child Care Homes (LFCCH) in operation have received very few complaints from neighbors, and that new rules created by the proposed ordinance would not be retroactive for existing LFCCHs. Comm. Hendricks discussed with Ms. El-Hajj that the potential 300 foot distance requirement between LFCCHs is an attempt to eliminate double processing, creating the same process for all applicants.

**Comm. Olevson** confirmed with staff that Neighborhood Preservation would enforce LFCCH noncompliance, and discussed with Ms. El-Hajj the reasons staff did not recommend option B. In response to Comm. Olevson's concerns about the availability of appeal options, **Trudi Ryan**, Planning Officer, explained that applicants could apply for a variance as with other zoning standards.

**Comm. Larsson** discussed with staff the possibility of making permits time-limited as the requirements implemented may evolve over time.

**Vice Chair Melton** confirmed with staff that a small family child care home could operate within the 300 foot distance of a LFCCH. Vice Chair Melton discussed with staff the possibility of restricting LFCCH attendance to children living within the surrounding neighborhood.

**Comm. Hendricks** and Ms. El-Hajj discussed how the proposed operational standards could reduce concerns and the number of complaints received about new LFCCHs. Ms. El-Hajj described the application process with the proposed standards. Comm. Hendricks and staff discussed the possibility and difficulties with issuing provisional permits to applicants while notifying neighbors to ensure time for public comment on the application.

**Chair Dohadwala** and staff discussed how the option containing no requirement for a public hearing is an attempt at creating consistency in the process. Chair Dohadwala said that she is concerned that the 300 foot distance requirement will reduce the

number of child care centers in the future. Ms. El-Hajj explained that the number of centers has remained consistent in the last 20 years and that there is no rush of new applications for LFCCHs. Chair Dohadwala and Ms. El-Hajj discussed Good Neighbor policies.

**Comm. Olevson** asked staff about potential effects of adopting option A without public noticing or hearings and issuing fixed-term permits, which after 4-5 years would need formal review to discuss any complaints and operational issues. **Kathryn Berry**, Senior Assistant City Attorney, noted that a public hearing review process would require a greatly increased amount of work for staff to demonstrate that the LFCCHs are creating a nuisance and that the Planning Commission would likely have to review 40-50 permits per year. Staff discussed with Comm. Olevson other options available to child care providers who may want to apply for a LFCCH within the potential 300 foot distance requirement.

**Chair Dohadwala opened the public hearing.**

**Chair Dohadwala** said it would be helpful to receive public input on this issue.

**Chair Dohadwala closed the public hearing.**

**Comm. Larsson** discussed with Ms. Ryan examples of findings to be made for variance approvals, and confirmed with staff that no conditions could be added to an individual LFCCH if the non-discretionary approach is used. Comm. Larsson and staff discussed examples of operations standards used in other cities.

**Comm. Hendricks moved for Alternative 2 to adopt Option A with modifications: require a public hearing for applications for Large Family Child Care Homes (LFCCH) located within 300 feet of other LFCCHs; and review operational standards every five years. Comm. Larsson seconded.**

**Comm. Hendricks** thanked the public for waiting through the discussion for their items, and said he likes the idea of operational standards and a new measure of consistency in the application process.

**Comm. Larsson** said adding operational standards is very important and is glad the motion includes the possibility of a public hearing and a waiver. He said he does not want to have a hard and fast limit for homeowners who may want to have a LFCCH that is a little bit too close to another. He said he thinks maintaining flexibility is important.

**Comm. Olevson** said he will be supporting the motion because it combines the best of everything heard tonight.

**Vice Chair Melton** said he will not be supporting the motion even though he understands the rationale from the Commissioners. He said he thinks staff nailed it with option one which discusses option A and the blanket prohibition of LFCCHs within 300 feet of one another. He said he is comfortable with this because he looks at the turnover rate of daycare centers and that a small center can wait for a large one nearby

to close to apply. He said he likes the consistency of the staff proposal and everybody operating under one set of rules. He said confusion arises with notification of a new LFCCH, and the public and the Planning Commission have to be reminded that the Commission can only look at the concentration of centers, and not whether it is wise for a new LFCCH to go in. He said this is not addressed in the motion and because he thinks there is a better recommendation to make to City Council, he will not be supporting the motion.

**Motion carried, 5-1 with Vice Chair Melton dissenting.**

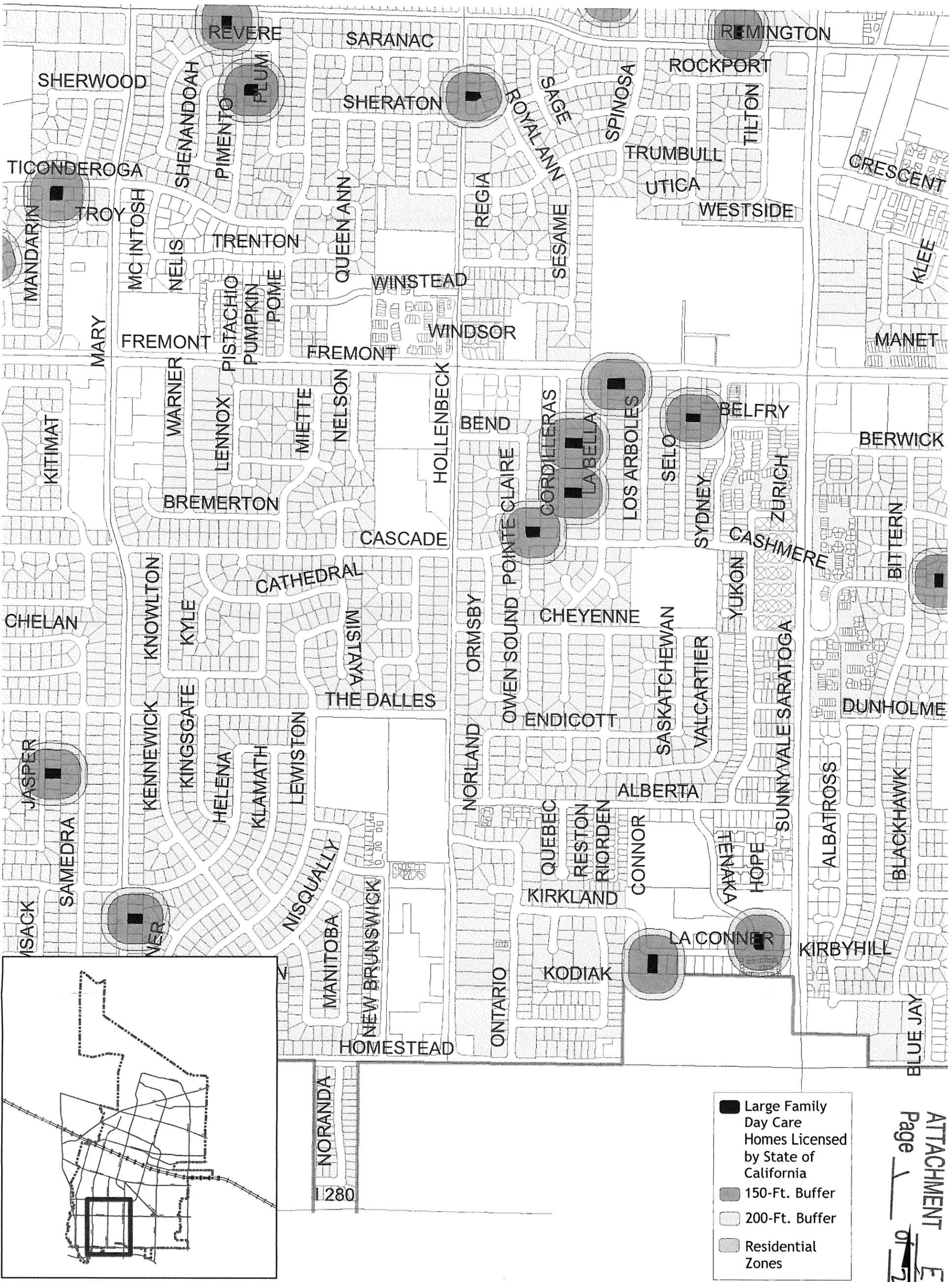
**ACTION: Comm. Hendricks moved for Alternative 2 to adopt Option A with modifications: require a public hearing for applications for Large Family Child Care Homes (LFCCH) located within 300 feet of other LFCCHs; and review operational standards every five years. Comm. Larsson seconded. Motion carried, 5-1 with Vice Chair Melton dissenting.**

**APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the October 22, 2013 meeting.**

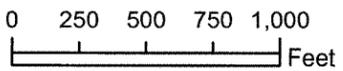
# **Attachment E**



# City of Sunnyvale Large Family Day Care Homes



- Large Family Day Care Homes Licensed by State of California
- 150-Ft. Buffer
- 200-Ft. Buffer
- Residential Zones





# **Attachment F**

Jurisdiction	Require Use Permit	Deciding Body	Distance Requirement	Noticing Requirement	Parking Requirement	Drop Off Standards	Outdoor Hours	Play areas	Other
Campbell	CUP for all large family child care	Planning Commission	300 ft. from each other, PC can grant exception (rare)	300 ft. radius (prop owners)	3 spaces in addition to req. SF parking (5 spaces total)	safe means of drop off/pick up on-site, loading spaces must be 2 of the three additional spaces required	7 a.m. to 7 p.m.	Enclosed by 6 foot fence	
Cupertino	P - outside 300 ft. (w/ parking) Admin CUP-within 300 ft.	Dir. Of Comm Dev.	300 ft. from each other, ZA can grant exception	100 ft. (prop owners)	one space for every non-resident employee and one drop off space in addition to req. SF parking (2 covered and 2 uncovered)	one space in front of house, can be on street but only if on same side of street			
Gilroy	Permitted in any residential zone (with req. SF parking)				2 parking spaces per dwelling unit (one covered)				
Los Altos Hills	Admin UP for all large family child care	Zoning Admin		100 ft. (prop owners)		looked at w/ use permit	looked at w/ use permit	looked at w/ use permit	
Los Gatos	Large Family Day Care Permit	Dev. Review Committee	500 ft. from each other (no exception)	100 ft. (prop owners)	2 off-street parking spaces plus one space for each employee	not mentioned in code		enclosed by 5 foot fence	100 sq. ft. of habitable space per child, 6,000 sq. ft. minimum lot size
Milpitas	P - outside 300 ft. (w/ requirements) CUP-within 300 ft.	Staff, Planning Commission	300 ft. from each other	300 ft. radius (prop owners) for CUP large family day cares, none for staff permit	1 per 1.5 employees in addition to req. house parking (2-3 spaces)	specific loading area requirements	6:30 a.m. to 7:30 p.m. or as modified with the CUP	Enclosed by 6 foot fence	Approval from Fire Dept. req.
Monte Serrano	No mention of Large Family Child Care in Muni Code								
Morgan Hill	Permitted in any residential zone								
Mountain View	CUP for all large family child care	Zoning Admin	No residential property shall be bordered on more than one side by a large family day care	100 ft. (prop owners)	1 space per employee in addition to req. parking (2 spaces, one covered)	Adequate drop off/pick up areas are required		Enclosed by 6 foot fence	Cannot be located adjacent to a business that uses hazardous materials
Palo Alto	Permitted in any zone (with req. parking)	Staff			2 spaces per dwelling unit (one covered) plus one per employee who does not live on-site				
County of Santa Clara	Requires license for all large family child care	Secretary of the PC	300 ft. from each other	none	2 off-street parking spaces plus one space for each employee			Rear yard must be enclosed with a fence	
City of Santa Clara	Permitted in all residential zones								
Saratoga	No mention of Large Family Child Care in Muni Code								
Los Altos	Use Permit for all large family day care	Planning Commission	500 ft. of another (as measured from any property line), 1,500 ft. of another (as measured following the street)	none	4 off-street parking spaces	staggering drop off and pick up times to minimize traffic impacts	8 a.m. to 7 p.m.		If located on a flag lot the lot size must be at least 15,000 sq. ft.
San Jose	Permitted in all residential zones								
Sunnyvale (current)	Admin Permit - outside 300 ft. UP - within 300 ft.	Staff, Planning Commission	300 ft., Planning Commission can grant waiver	300 ft. radius (prop owners) for CUP large family day cares, none for staff permit					
Sunnyvale (proposed)	Admin Approval	Staff	300 ft. from another LFCC	none	At least 1 space dedicated to drop off/pick up on the property	Site Plan required to show loading area	9 a.m. to 6 p.m.		

# **Attachment G**

# HEALTH AND SAFETY CODE

## SECTION 1597.30-1597.621

ATTACHMENT G  
Page 1 of 14

1597.30. The Legislature finds and declares:

(a) It has a responsibility to ensure the health and safety of children in family homes that provide day care.

(b) That there are insufficient numbers of regulated family day care homes in California.

(c) There will be a growing need for child day care facilities due to the increase in working parents.

(d) Many parents prefer child day care located in their neighborhoods in family homes.

(e) There should be a variety of child care settings, including regulated family day care homes, as suitable alternatives for parents.

(f) That the program to be operated by the state should be cost effective, streamlined, and simple to administer in order to ensure adequate care for children placed in family day care homes, while not placing undue burdens on the providers.

(g) That the state should maintain an efficient program of regulating family day care homes that ensures the provision of adequate protection, supervision, and guidance to children in their homes.

1597.36. The department shall provide written documentation to providers of the need for repairs, renovations, or additions when requested for an application for a loan guarantee pursuant to subdivision (d) of Section 8277.6 of the Education Code whenever the repairs, renovations, or additions are required by the department in order for the licensee to maintain or obtain a license for more than six children.

1597.40. (a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance,

encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

1597.43. The Legislature finds and declares all of the following:

(a) Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.

(b) The uses of congregate care facilities are distinguishable from the uses of family day care homes operated under the standards of state law. For purposes of this section, a "congregate care facility" means a "residential facility," as defined in paragraph (1) of subdivision (a) of Section 1502. Congregate care facilities are used throughout the day and night, and the institutional uses of these facilities are primary uses of the facilities, not accessory uses, and draw a large number of employees, vehicles, and equipment compared to that drawn to family day care homes.

(c) The expansion permitted for family day care homes by Sections 1597.44 and 1597.465 is not appropriate with respect to congregate

care facilities, or any other facilities with quasi-institutional uses. Therefore, with these provisions, the Legislature does not intend to alter the legal standards governing congregate care facilities and these provisions are not intended to encourage, or be a precedent for, changes in statutory and case law governing congregate care facilities.

1597.44. A small family day care home may provide care for more than ~~six and up to eight~~ children, without an additional adult attendant, if all of the following conditions are met:

(a) ~~At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.~~

(b) ~~No more than two infants are cared for during any time when more than six children are cared for.~~

(c) The licensee notifies each parent that the facility is caring for two additional schoolage children and that there may be up to ~~seven or eight children in the home at one time.~~

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

1597.45. All of the following shall apply to small family day care homes:

(a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

(b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

(c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes,

and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not less than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. A hearing on the application for a permit issued pursuant to this paragraph shall not be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any, of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Code of Regulations. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

1597.465. A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than three infants are cared for during any time when more than 12 children are being cared for.

(c) The licensee notifies a parent that the facility is caring for two additional schoolage children and that there may be up to 13 or 14 children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

ATTACHMENT G  
Page 5 of 14

1597.467. (a) Whenever any licensee under this chapter has reasonable cause to believe that a child in his or her care has suffered any injury or has been subjected to any act of violence while under the licensee's care, the licensee shall, as soon as possible, report that injury or act of violence to the parent, parents, or guardian of that child.

(b) (1) A report shall be made to the department by telephone or fax during the department's normal business hours before the close of the next working day following the occurrence during the operation of a family day care home of any of the following events:

(A) Death of any child from any cause.

(B) Any injury to any child that requires medical treatment.

(C) Any unusual incident or child absence that threatens the physical or emotional health or safety of any child.

(2) In addition to the report required pursuant to paragraph (1), a written report shall be submitted to the department within seven days following the occurrence of any events specified in paragraph (1). The report shall contain all of the following information:

(A) Child's name, age, sex, and date of admission.

(B) Date and nature of the event.

(C) Attending physician's name and findings and treatment, if any.

(D) Disposition of the case.

(c) The department may develop the report form to be used for reporting purposes pursuant to this section, and shall maintain all reports filed under this section in a manner that allows the department to report the data to the Legislature.

(d) The failure of a licensee to report, as prescribed by this section, any injury of, or act of violence to, a child under the licensee's care may be grounds for the suspension of his or her license pursuant to this chapter, but shall not constitute a misdemeanor.

(e) Nothing in this section shall relieve any licensee of any obligation imposed by other law including, but not limited to, laws relating to seeking medical attention for a child or reporting suspected child abuse.

1597.47. The provisions of this chapter shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family day care facility as long as such restrictions are identical to those applied to other single-family residences. The provisions of this chapter shall not be construed to preclude the application to a family day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single-family dwellings, except as otherwise provided in this chapter.

1597.52. (a) Licensing reviews of a family day care home for

children shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training programs of the facility.

(b) No home shall be licensed or registered as a large family day care home after January 1, 1984, unless the provider has at least one year's experience as a regulated small family day care home operator or as an administrator of a licensed day care center. The director may waive this requirement upon a finding that the applicant has sufficient qualifying experience.

1597.53. No family day care home for children shall be licensed under Chapter 3 (commencing with Section 1500), but shall be subject to licensure exclusively in accordance with this chapter and Chapter 3.4 (commencing with Section 1596.70) which shall apply to family day care homes.

1597.531. (a) All family day care homes for children shall maintain in force either liability insurance covering injury to clients and guests in the amount of at least one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees, or a bond in the aggregate amount of three hundred thousand dollars (\$300,000). In lieu of the liability insurance or the bond, the family day care home may maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care home does not carry liability insurance or a bond according to standards established by the state. If the provider does not own the premises used as the family day care home, the affidavit shall also state that the parent has been informed that the liability insurance, if any, of the owner of the property or the homeowners' association, as appropriate, may not provide coverage for losses arising out of, or in connection with, the operation of the family day care home, except to the extent that the losses are caused by, or result from, an action or omission by the owner of the property or the homeowners' association, for which the owner of the property or the homeowners' association would otherwise be liable under the law. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.

(b) A family day care home that maintains liability insurance or a bond pursuant to this section, and that provides care in premises that are rented or leased or uses premises which share common space governed by a homeowners' association, shall name the owner of the property or the homeowners' association, as appropriate, as an additional insured party on the liability insurance policy or bond if all of the following conditions are met:

(1) The owner of the property or governing body of the homeowners' association makes a written request to be added as an additional insured party.

(2) The addition of the owner of the property or the homeowners' association does not result in cancellation or nonrenewal of the insurance policy or bond carried by the family day care home.

(3) Any additional premium assessed for this coverage is paid by the owner of the property or the homeowners' association.

(c) As used in this section, "homeowners' association" means an association of a common interest development, as defined in Section 1351 of the Civil Code.

1597.531. (a) All family day care homes for children shall maintain in force either liability insurance covering injury to clients and guests in the amount of at least one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees, or a bond in the aggregate amount of three hundred thousand dollars (\$300,000). In lieu of the liability insurance or the bond, the family day care home may maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care home does not carry liability insurance or a bond according to standards established by the state. If the provider does not own the premises used as the family day care home, the affidavit shall also state that the parent has been informed that the liability insurance, if any, of the owner of the property or the homeowners' association, as appropriate, may not provide coverage for losses arising out of, or in connection with, the operation of the family day care home, except to the extent that the losses are caused by, or result from, an action or omission by the owner of the property or the homeowners' association, for which the owner of the property or the homeowners' association would otherwise be liable under the law. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.

(b) A family day care home that maintains liability insurance or a bond pursuant to this section, and that provides care in premises that are rented or leased or uses premises which share common space governed by a homeowners' association, shall name the owner of the property or the homeowners' association, as appropriate, as an additional insured party on the liability insurance policy or bond if all of the following conditions are met:

(1) The owner of the property or governing body of the homeowners' association makes a written request to be added as an additional insured party.

(2) The addition of the owner of the property or the homeowners' association does not result in cancellation or nonrenewal of the insurance policy or bond carried by the family day care home.

(3) Any additional premium assessed for this coverage is paid by the owner of the property or the homeowners' association.

(c) As used in this section, "homeowners' association" means an association of a common interest development, as defined in Sections 4080 and 4100 of the Civil Code.

1597.54. All family day care homes for children, shall apply for a license under this chapter, except that any home which on June 28, 1981, had a valid and unexpired license to operate as a family day

care home for children under other provisions of law shall be deemed to have a license under this chapter for the unexpired term of the license at which time a new license may be issued upon fulfilling the requirements of this chapter.

An applicant for licensure as a family day care home for children shall file with the department, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, all of the following:

(a) A brief statement confirming that the applicant is financially secure to operate a family day care home for children. The department shall not require any other specific or detailed financial disclosure.

(b) (1) Evidence that the small family day care home contains a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal under subdivision (d) of Section 1597.45, or evidence that the large family day care home meets the standards established by the State Fire Marshal under subdivision (d) of Section 1597.46.

(2) Evidence satisfactory to the department that there is a fire escape and disaster plan for the facility and that fire drills and disaster drills will be conducted at least once every six months. The documentation of these drills shall be maintained at the facility on a form prepared by the department and shall include the date and time of the drills.

(c) The fingerprints of any applicant of a family day care home license, and any other adult, as required under subdivision (b) of Section 1596.871.

(d) Evidence of a current tuberculosis clearance, as defined in regulations that the department shall adopt, for any adult in the home during the time that children are under care.

(e) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and Chapter 3.4 (commencing with Section 1596.70) and the regulations adopted pursuant to those chapters.

(f) Evidence satisfactory to the department that the applicant and all other persons residing in the home are of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1596.871, employment history, and character references.

(g) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.

(h) Other information as may be required by the department for the proper administration and enforcement of the act.

1597.541. (a) The department shall adopt regulations regarding age-appropriate immunization requirements for enrolled children for family day care homes.

(b) All family day care homes for children shall maintain evidence that enrolled children have met the age-appropriate immunization requirements adopted pursuant to this section.

1597.542. (a) The Division of Child Care Licensing in the department shall clearly differentiate degrees of violations of the regulations adopted for purposes of this chapter by the impact upon children in care.

(b) The department shall implement this section only to the extent funds are available in accordance with Section 18285.5 of the Welfare and Institutions Code.

1597.55a. Every family day care home shall be subject to unannounced visits by the department as provided in this section. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

(a) The department shall conduct an announced site visit prior to the initial licensing of the applicant.

(b) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a family day care home by the department is no longer at the facility.

(c) (1) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subdivision (b). These unannounced visits shall be conducted based on a random sampling methodology developed by the department.

(2) If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by 10 percent of the facilities not subject to an evaluation under subdivision (b). The department may request additional resources to increase the random sample by 10 percent.

(d) Under no circumstance shall the department visit a licensed family day care home less often than once every five years.

(e) A public agency under contract with the department may make spot checks if it does not result in any cost to the state. However, spot checks shall not be required by the department.

(f) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853.

(g) An unannounced site visit shall adhere to both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

(h) The department shall implement this section during periods that Section 1597.55b is not being implemented in accordance with Section 18285.5 of the Welfare and Institutions Code.

1597.55b. No site visits, unannounced visits, or spot checks, shall be made under this chapter except as provided in this section.

(a) An announced site visit shall be required prior to the licensing of the applicant.

(b) A public agency under contract with the department may make spot checks if they do not result in any cost to the state. However, spot checks shall not be required by the department.

(c) An unannounced site visit to all licensed family day care homes shall be made annually and as often as necessary to ensure compliance.

(d) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853. At no time shall other site visit requirements described by this section prevent a timely site visit response to a complaint.

(e) The department shall annually make unannounced spot visits on 20 percent of all family day care homes for children licensed under this chapter. The unannounced visits may be made at any time, and shall be in addition to the visits required by subdivisions (b) and (c).

(f) An unannounced site visit shall comply with both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

(g) The department shall implement this section only to the extent funds are available in accordance with Section 18285.5 of the Welfare and Institutions Code.

1597.56. (a) The department shall notify a family day care home in writing of all deficiencies in its compliance with this act and the rules and regulations adopted pursuant to this act, and shall set a reasonable length of time for compliance by the family day care home. Upon a finding of noncompliance with a plan of correction, the department may levy a civil penalty that shall be paid to the department each day until the department finds the family day care home in compliance.

(b) In developing a plan of correction, both the licensee and the department shall give due consideration to the following factors:

(1) The gravity of the violation.

(2) The history of previous violations.

(3) The possibility of a threat to the health or safety of any child in the facility.

(4) The number of children affected by the violation.

(5) The availability of equipment or personnel necessary to correct the violation, if appropriate.

(c) The department shall ensure that the licensee's plan of correction is verifiable and measurable. The plan of correction shall specify what evidence is acceptable to establish that a deficiency has been corrected. This evidence shall be included in the department's facility file.

ATTACHMENT G  
Page 11 of 14

(d) The department shall adopt regulations establishing procedures for the imposition of civil penalties under this section.

ATTACHMENT G  
Page 12 of 14

1597.57. The department shall do all of the following:

(a) Develop and utilize one application form for all family day care homes for children requesting a new license.

(b) Establish for parents a consumer education program annually on the law and regulations governing family day care homes for children under this chapter and the role of the state and other public entities and local associations in relation to family day care homes for children. In planning this program, the department shall seek the assistance of other public entities and local associations.

(c) Administer an orientation program for new operators of family day care homes for children that may be conducted directly by the department or by contract with local governments or family day care home associations.

1597.58. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment or both, as determined by the department. In no event shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56, and 1597.62 the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) Any violation that results in the injury, illness, or death of a child.

(2) Absence of supervision, including, but not limited to, a child left unattended, a child left alone with a person under 18 years of age, and lack of supervision resulting in a child wandering away.

(3) Accessible bodies of water.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Sections 1596.852, 1596.853, 1597.55a and 1597.55b.

(6) The presence of an excluded person on the premises.

(d) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56 and 1597.62, any family day care home that is cited for repeating the same violation of this chapter or Chapter 3.4 (commencing with Section 1596.70), within 12 months of the first violation is subject to an immediate civil penalty assessment of up to one hundred fifty dollars (\$150) and may be assessed up to fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(e) Any family day care home that is assessed a civil penalty under subdivision (d) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (d) shall be assessed an immediate assessment of up to one hundred fifty

dollars (\$150) and may be assessed up to one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(f) Notwithstanding any other provision of law, revenues received by the state from the payment of civil penalties imposed on licensed family day care homes pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed family day care home providers.

ATTACHMENT G  
Page 13 of 14

1597.59. The department and the local agencies with which it contracts for the licensing of family day care homes for children shall grant or deny a license to a family day care home for children within 30 days after receipt of all appropriate licensing application materials as determined by the department, provided both of the following conditions are met:

(a) A site visit has been completed and the family day care home has been found to be in compliance with licensing standards.

(b) The applicant and each person described by subdivision (b) of Section 1596.871 has obtained a criminal record clearance, or been granted a criminal record exemption by the department or the local contracting agency.

The department shall conduct an initial site visit within 30 days after the receipt of all appropriate licensing application materials.

1597.61. (a) When the department determines that a family day care home for children is operating without a license and notifies the unlicensed provider of the requirement for the license, the licensing agency may issue a cease and desist order only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the children or if a license held by the facility has been revoked by the department within two years preceding the determination of unlicensed operation. In all other cases where the licensing agency determines such a facility is operating without a license and notifies the unlicensed provider of the requirements for the license, the licensing agency may issue a cease and desist order only if the unlicensed provider does not apply for a license within a reasonable time after the notice.

(b) If an unlicensed family day care home fails to respond to a cease and desist order issued pursuant to subdivision (a), or if the department determines it necessary to protect the immediate health and safety of the children, the licensing agency may bring an action to enjoin such a home from continuing to operate pursuant to Section 1596.89.

(c) The district attorney of a county shall, upon application by the department, institute and conduct the prosecution of any action brought by the licensing agency against an unlicensed family day care home located in that county.

1597.62. (a) The department may impose civil penalties of not less than twenty-five dollars (\$25) and not more than fifty dollars (\$50) per day per violation for uncorrected violations that present an immediate or potential risk to the health and safety of children in care. The penalties shall be imposed in accordance with Sections 1596.893b and 1597.56.

(b) The department shall implement this section only to the extent funds are available in accordance with Section 18285.5 of the Welfare and Institutions Code.

1597.621. Family day care homes that, on December 31, 1983, have a valid unexpired registration to operate as a family day care home for children pursuant to Section 1597.62 in one of the pilot counties shall be deemed to be issued a family day care license effective January 1, 1984. Licensure pursuant to this section shall not require a visit pursuant to the requirement set forth in subdivision (a) of Section 1597.55. However, all other requirements of licensing shall continue to be met. Complaint and revocation procedures may be enforced.

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# **Attachment H**

## **Good Neighbor Tips for Child Care Providers Operating in Residential Neighborhoods**

Home-based, licensed child care providers offer an important and vital service to the Sunnyvale Community. As a result, the City would like to offer the following tips in an effort to help you maintain good relationships with your neighbors. Home-based child care providers who follow these tips are more likely to experience far fewer complaints from neighbors about noise, traffic, safety, and aesthetics.

### **Exercise Good Communication With Neighbors and Daycare Families**

- Know your neighbors and encourage them to get to know you. Take the time to introduce yourself, explain your routines, the number of children being cared for in your home, the number of employees you have, your credentials, and, why you decided to become a child care provider.
- Give neighbors your contact information and encourage them to contact you directly if they have a concern or problem. Be willing and committed to solve any problem quickly.
- Explain the importance of maintaining positive relationships with neighbors during your orientation with new families joining your day care. Provide regular reminders to them through newsletters and include specific instructions in their contracts with you.
- Periodically remind the children how they too can be good neighbors.
- Take the initiative to discuss with your neighbors any planned changes to shared fencing or outdoor play equipment that could potentially impact their quality of life, home appearance, privacy or home value prior to purchase and construction.

### **Be Proactive in Addressing Parking, Traffic and Safety Concerns**

Give families instructions such as:

1. Do not block, turn around in, or park in neighbors' driveways.
2. Do not double park, or honk their horns when picking up or dropping off children.
3. Supervise children carefully between vehicles and your home, to keep them from running into the street.
4. Instruct families that if they park across the street from your home they must escort children to your door.
5. Do not allow children to walk across or play on neighbors' property.
6. Stagger arrival and pick up times, to reduce the impact of parking and traffic on your neighbors.

### **Reduce Outdoor Noise**

- Install fences or plant hedges to create an effective sound barrier.
- Limit outdoor play time to hours when neighbors are least likely to be disturbed, after 9:00 a.m. and before 5:00 p.m. Discuss outdoor play schedules with your neighbors in an effort to be less disruptive. Avoiding singing and the use of bells, whistles, and musical instruments outside.

- Children who are having a loud tantrum or argument outdoors should be taken inside until they quiet down.
- Do not have all the children playing outside at the same time.
- If children arrive very early or leave very late, talk with families about coming and going quietly.
- Consider the placement of the entrance to your child care home. If you opt for a side entrance, be considerate of the distance to your neighbor's home. Make sure that the gate or alternate door used is in good working order and doesn't create excess noise.

### **Resources Available to Child Care Providers**

- City of Sunnyvale One Stop Permit Center (Building/Planning/Permits), *OneStop.InSunnyvale.com*, 408-730-7444
- City of Sunnyvale Youth & Family Resources, *Childcare.InSunnyvale.com*, 408-730-7800
- City of Sunnyvale Neighborhood Preservation, *DPS.InSunnyvale.com*, 408-730-7610
- State of California Community Care Licensing, San Jose Office, *ccl.d.ca.gov*, 408-324-2148

Adapted from "Being a Good Neighbor – Tips for Family Child Care Providers" by Kristen Anderson, Redwood City Child Care Coordinator

# **Attachment I**

September 22, 2013,

Dear Planning Commission,

After talking to Amber I was surprised that only a few large family day cares are perceived as a problem. She explained that a notice was sent to the neighborhood associations, and that not many people came to the meeting. I have spoken to some of my neighbors who were at the council meeting that started this study, and none of us knew anything about this meeting. I wonder how many other people who live next to LFDC's also did not know about this meeting.

As you said, you really can't control the noise kids make, but you can limit the number of hours they can be outside. Did you ask the non-problem LFDCs how many hours the kids spend outside? I have a friend who lives next to a small family day care that isn't a problem because the kids come out to play for an hour in the morning and afternoon. The LFDC four doors down was approved with the condition they would be out for an hour in the morning and afternoon. A retired Nursery school teacher was appalled that kids were out most of the day (they nap from approximately 1 to 3). At the Nursery School the kids went outside for an hour in the morning and afternoon. Professional day cares do not have the kids outside all day long. Limiting the hours from 9AM to 6PM is an insult ....a mere 9 hours!

Having a day care next door is not the same as having a family next door. Families don't have 9 to 15 kids today, and the kids they do have grow up so the screaming stops after a few years. The family behind us has 3 kids who were not out 9 hours a day before they started the day care. Of course, they didn't have a playground complete with an 11 foot jungle gym along the fence then either.

If you live in Sunnyvale, you better have a job with regular hours. If you work nights, or work out of your home, or take a medical leave, or are a stay at home mom, or want to stay in your home after you retire, it isn't advisable to buy in Sunnyvale. Wish we had known this 13 years ago.

I can't believe the state says these LFDCs do not change the character of a neighborhood. The first question you ask other home businesses is how many cars will it bring into the neighborhood, but it's okay for daycares and their helpers. If kids can be out a mere 9 hours a day, you cannot enjoy your yard. When the screaming starts, which it always does and can be intermittent or for long periods of time, you cannot enjoy your own home. Heaven forbid you would like to take a 15 minute nap!

These are businesses that make a lot of money for the owners, and they should be regulated because they do affect neighbors. I realize you want to provide daycare, but PLEASE LIMIT THE OUTSIDE PLAY TIME TO AN HOUR IN THE MORNING AND AFTERNOON for existing and new LFDCs so we can enjoy our homes and yards for which we have paid dearly!

You mentioned YFR as a resource, but must they use this or is it optional?

Sincerely,



CC:City Council