



**Draft for Planning Commission review
on September 23, 2013**

Council Date: October 22, 2013

SUBJECT: 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)

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 for all LFCCHs to avoid over-concentration.

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).

An LFCCH is located in a provider's home where care, protection, and supervision is regularly provided for 9 to 14 children for periods of less than 24 hours per day. The maximum number of children to be cared for will depend on the age of the children and whether some are children of the provider.

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

CEQA 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.

As mentioned in the background section, the maximum number of children cared for depends on the age of the children and whether or not there is an assistant.

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.

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.

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. 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.

Fiscal Year	Number of Use Permits Approved by Staff	Number of Use Permits Approved by the Planning Commission or City Council	Total Number of Use Permits Approved	Total Number of Licensed Large Family Child Care Homes in Sunnyvale
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
2013 (to date)	1	1	2	100
Total	50	5	55	

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 Planning 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 the 50 existing LFCCHs have had complaints issued (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. Since the City does not currently have operational standards for LFCCHs some of the complaints cannot be remedied by Neighborhood Preservation because there is no Zoning Code section directly related to the complaint. In these instances, all three complaints were reviewed and each case has been resolved or closed due to lack of enforcement standards.

A few additional cases had also been opened over the years regarding signs on child care properties (more specifically, lawn signs) advertising the use. 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 Ordinance to Add Procedural Changes, Amendments to Application Requirements, Operational Standards and Revocation Procedures

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 would be 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.
- Allows for 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 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.

Alternative options would have additional costs associated. 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.

PUBLIC CONTACT

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

1. Posting the Planning Commission and City Council agendas on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report 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.

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

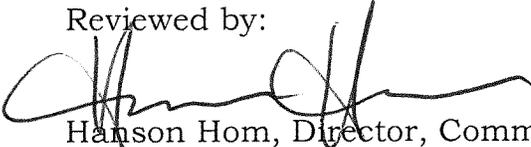
1. Introduce an ordinance (Attachment B) for large family child care homes to establish a consistent application process that includes distance requirements and operational standards for new large family child care homes (Option A) .
2. Adopt an alternative with modifications (different distance requirements, procedural requirements, noticing requirements, etc.).
3. 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, adoption of the attached ordinance, to create a consistent process for all new large family child care homes. 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.

Reviewed by:

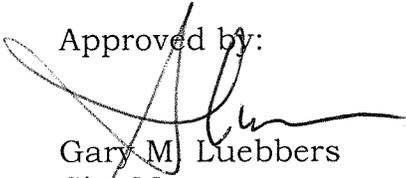


Hanson Hom, Director, Community Development

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. Two Maps showing a Specific Section of the City with 300 Foot Radius Lines
- E. Spreadsheet of How Other Cities in Santa Clara County Regulate Large Family Child Care Homes
- F. California Health and Safety Code Chapter 3.6
- G. Good Neighbor Tips for Child Care Providers

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

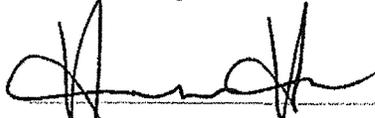
9. Staff Recommendation

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

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

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

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

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20
1. Residential								
A. Single-family dwelling and accessory buildings and uses developed on an existing, legally created lot	N	N	N	N	N	SDP	N	SDP
B. Single room occupancy (SRO) facilities	N	SDP	N	N	SDP	SDP	SDP	SDP
C. Two-family dwelling (duplex)	N	N	N	N	N	SDP	N	SDP
D. 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
E. Boarding for less than three persons	N	P	P	P	P	P	P	P
F. 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
G. Small Family Day-Care	N	P	N	N	P	P	P	P
H. Large Family Day-Care	N	UP	N	N	UP	UP	UP	UP
2. – 6. [Text unchanged.]								

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) – (l) [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: _____

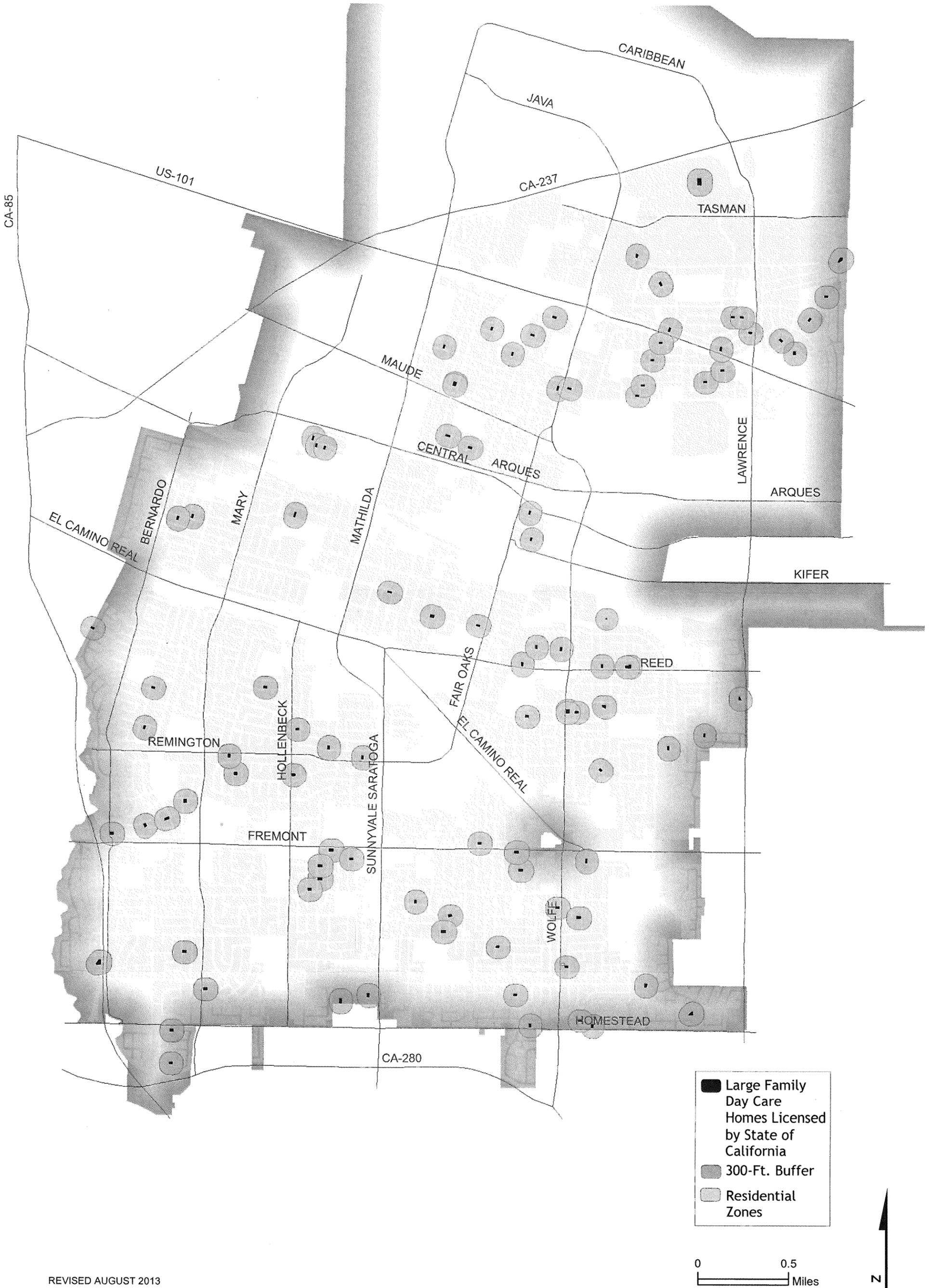
(SEAL)

APPROVED AS TO FORM:

City Attorney



City of Sunnyvale Large Family Day Care Homes



For remaining
attachments, please
see Planning
Commission web page