

DRAFT 10/31/2022 *RLM*

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE AMENDING VARIOUS SECTIONS OF
CHAPTER 19.58 (FAMILY CHILD CARE HOMES) AND
MAKING OTHER AMENDMENTS TO TITLE 19
(ZONING) OF THE SUNNYVALE MUNICIPAL CODE
RELATED TO FAMILY CHILD CARE HOMES**

WHEREAS, in October 2019, California enacted Senate Bill 234 that modified existing law to allow Family Daycare Homes that provide care for up to 14 children to operate by right in any zone that allows residential uses; and

WHEREAS, the City has been following the rules set forth in SB 234 since it went into effect, but nevertheless desires to amend relevant zoning regulations to ensure consistency with SB 234 by allowing Family Daycare Homes as a permitted residential use of property in all zones in the City;

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

SECTION 1. CHAPTER 19.58 AMENDED. Chapter 19.58 (family Child Care Homes) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.58

Family ~~Child Care~~Daycare Homes

19.58.010. Purpose.

~~The purpose of this chapter establishes standards and specific permitting procedures for family child care homes. These is to set forth requirements for family daycare homes address the growing community nee while protecting the integrity of residential neighborhoods. These requirements are established under the authority granted by to comply with applicable provisions of the California Health and Safety Code (Sections 1596.72 et seq.) Sections 1597.30—1597.621.~~

19.58.020. Definitions.

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

(1) “Family daycare 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, and is either a large family daycare home or a small family daycare home. 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~~daycare home” means a ~~family child care home~~ facility that provides care, protection, and supervision for 97 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) as set forth in Health and Safety Code Section 1597.465 and as defined in state regulations,~~ as amended from time to time.

(3) “Small family ~~child care~~daycare home” means a ~~family child care home~~facility that provides care, protection, and supervision 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(e) as set forth in Health and Safety Code Section 1597.44 and as defined in state regulations,~~ as amended from time to time.

(4) “Home” means the licensee’s residence as defined by Government Code Section 244, and includes a detached single-family dwelling, a townhouse, a dwelling unit within a dwelling, or a dwelling unit within a covered multifamily dwelling in which the underlying zoning allows for residential uses.

(5) “Licensee” means an adult licensed to operate a family ~~child care~~daycare 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.~~

19.58.0340. Small fFamily ~~child care~~daycare 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.~~

(a) The use of a home as a small or large family daycare home shall be considered a residential use of property and a use by right for all purposes under this code.

(b) Family daycare licensees shall comply with all regulations generally applicable to the type of residential zone the family daycare is situated. The licensee shall also comply with all health and safety requirements of the state fire marshal.

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 unless a waiver is granted in accordance with Section 19.58.060(b).~~

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

~~(1) — Single Family Dwelling. On-site 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 between 9 a.m. and 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 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. The decision of the director shall be final.~~

~~(b) — Use Permit — When Required:~~

~~(1) — 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.~~

~~(2) If the site of the large family child care home is located within three hundred feet of a similar use, the applicant may request a waiver from the planning commission of the 300-foot requirement through a use permit process.~~

~~(3) 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.~~

~~(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. The decision by the planning commission to revoke a use permit for a large family child care home is appealable to the city council under the requirements and procedures in Chapter 19.98 (General Procedures).~~

SECTION 2. SECTION 19.88.020 AMENDED. Section 19.88.020 (Authority and Types of Permits) of Chapter 19.88 (Definitions) 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) [Text unchanged].

(b) Major use permit determined by the planning commission for:

(1) [Text unchanged.]

(2) [Text unchanged.]

~~(3) Operation of a large family child care home 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;~~

~~(4) Large family child care homes requesting a waiver from the 300-foot distance requirement.~~

SECTION 3. SECTION 19.12.040 AMENDED. Section 19.12.040 (Definitions, “C”) 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) [Text unchanged]

(2) (a) “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 child care homes.”~~family daycare homes.

(b) [Text unchanged]

(3) – (16) [Text unchanged]

SECTION 4. SECTION 19.12.070 AMENDED. Section 19.12.070 (Definitions, “F”) of Chapter 19.12 (Use Permits) 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 ~~child care~~daycare home.” For definition, see Chapter 19.58 (Family ~~Child Care~~Daycare Homes).

(4) – (10) [Text unchanged]

SECTION 5. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 6. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 7 EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 8 POSTING AND 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 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 (15) days after adoption of this ordinance.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney