

## **ORDINANCE NO. 3208-23**

### **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 Daycare Homes**

##### **19.58.010. Purpose.**

The purpose of this chapter is to set forth requirements for family daycare homes to comply with applicable provisions of the California Health and Safety Code (Sections 1596.72 et seq.).

##### **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.

(2) “Large family daycare home” means a facility that provides care, protection, and supervision for 7 to 14 children, including children under the age of 10 years who reside at the home, 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 daycare home” means a 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 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 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. Family daycare homes allowed.**

(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.

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.]

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 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 daycare home.” For definition, see Chapter 19.58 (Family 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 December 13, 2022, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on January 10, 2023, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  
RECUSAL:

ATTEST:

APPROVED:

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DAVID CARNAHAN  
City Clerk  
Date of Attestation: \_\_\_\_\_

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LARRY KLEIN  
Mayor

(SEAL)

APPROVED AS TO FORM:

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City Attorney