



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 02/26/2020

ITEM NO: 3

DATE: February 21, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations, Town Wide. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations.

CEQA:

The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

FINDINGS:

- The project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3); and
- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

In September of 2019, Governor Newsom signed Senate Bill 234 (Exhibit 3), amending sections 1596.72 – 1597.543 of the Health and Safety Code regarding large family daycare homes. The new State law requires a large family daycare home to be considered a residential use by right,

PREPARED BY: Diego Mora
Assistant Planner

Reviewed by: Planning Manager and Community Development Director

BACKGROUND (continued):

where residential uses are permitted.

DISCUSSION:

A. Town Code Amendments

Section 29.10.020. – Definitions

A family daycare home, as defined by State law, is a facility 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.

Existing Town Code Section 29.10.020 defines family daycare home as:

Family day care home means a dwelling where day care is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family day care home is for six (6) or fewer children and a large family day care home is for seven (7) to twelve (12) children. Both limitations include the number of children residing in the dwelling unit.

The draft Ordinance (Exhibit 2) would modify the definition for family daycare home in Section 29.10.020 – Definitions, to be consistent with the new State law as follows:

Family ~~day care~~ daycare home means a dwelling where ~~day care~~ daycare is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family ~~day care~~ daycare home is for ~~six eight~~ (6 8) or fewer children and a large family day care home is for ~~seven nine~~ (7 9) to ~~twelve fourteen~~ (12 14) children. Both limitations include ~~the number of children residing in the dwelling unit~~ children under 10 years of age who reside at the home.

Section 29.10.09050 – Large family daycare homes.

Existing Town Code Section 29.10.09050 currently requires a non-discretionary large family daycare home permit that must be approved by the Development Review Committee prior to issuance of a business license, as previously allowed by State law. The new State law removed that provision and requires large family daycare homes to be considered a residential use by right, where residential uses are permitted. The draft Ordinance (Exhibit 2) would remove Section 29.10.09050 of the Town Code to conform to the new State law.

PAGE 3 OF 4

SUBJECT: Family Daycare Home Regulations /A-20-002

DATE: February 21, 2020

DISCUSSION (continued):

Sections 29.20.745(10). – Development Review Committee.

Existing Town Code currently assigns the approval of large family daycare home permits to the Development Review Committee. The new State law allows a large family daycare home to be considered a residential use by right, where residential uses are permitted. The draft Ordinance (Exhibit 2) would amend Section 29.10.745(10) of the Town Code to conform to the new State law.

Sections 29.40.160 through 29.40.835. – Permitted Uses.

Existing Town Code currently identifies a small family daycare home as a permitted use in residential zones. The new State law allows both a small and large family daycare home to be considered a residential use by right, where residential uses are permitted. The draft Ordinance (Exhibit 2) would modify the permitted uses to permit any family daycare home in all residential zones to conform to the new State law.

PUBLIC OUTREACH:

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

Based on the analysis above, staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval. The Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

PAGE 4 OF 4

SUBJECT: Family Daycare Home Regulations /A-20-002

DATE: February 21, 2020

CONCLUSION (continued):

1. Make the finding that the project is Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3) (Exhibit 1);
2. Make the required finding that the amendments to the Town Code (Zoning Regulations) are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code (Exhibit 2).

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the draft Ordinance with modifications; or
2. Forward a recommendation to the Town Council for denial of the draft Ordinance; or
3. Continue the matter to a date certain with specific direction.

Exhibits:

1. Required Findings
2. Draft Ordinance
3. California Government Sections 1596.72 – 15.97.543 as amended

PLANNING COMISSION – February 26, 2020
REQUIRED FINDINGS FOR:

Town Code Amendment Application A-20-002

Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations.

FINDINGS

Required Findings for CEQA:

- The project is Exempt pursuant to the adopted Guidelines for Implementation of the California Environmental Quality Act, Section 15061(b)(3).

Required Findings for General Plan:

- The amendments to Chapter 29 of the Town Code are consistent with the General Plan.

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Draft Ordinance: subject to
modification by Town Council
based on
deliberations and direction

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE
REGARDING FAMILY DAYCARE HOME REGULATIONS**

WHEREAS, in 2019, Senate Bill 234 amended Government Code Sections 1596.72 through 1597.543 regarding family daycare homes; to address the current shortage of regulated childcare; and

WHEREAS, the current definition of large family daycare home within the Town Code is for seven (7) to twelve (12) children; and

WHEREAS, the new State law requires family daycare homes to allow up to fourteen (14) children; and

WHEREAS, the current regulations of family daycare homes within the Town Code would require a large family daycare home to obtain approval of a discretionary large family daycare home permit from the Development Review Committee; and

WHEREAS, the new State law requires large family daycare homes to be considered a residential use by right; and

WHEREAS, the Town Council wishes to amend the Town Code, to consider a small or large family daycare home as a residential use by right, to comply with the new State law; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on February 26, 2020; and

WHEREAS, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding family daycare home regulations and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on _____, ____; and

WHEREAS, on _____, _____, the Town Council reviewed and commented on the proposed amendments regarding family daycare home regulations and the Town Council voted to introduce the Ordinance.

EXHIBIT 2

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES
ORDAIN AS FOLLOWS:**

SECTION I

Chapter 29 of the Town Code is hereby amended as follows:

ARTICLE I. DIVISION 1. - MISCELLANEOUS

Sec. 29.10.020. - Definitions.

...

Family ~~day-care~~ daycare home means a dwelling where ~~day-care~~ daycare is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family ~~day-care~~ daycare home is for ~~six~~ eight (6 8) or fewer children and a large family day care home is for ~~seven~~ nine (7 9) to ~~twelve~~ fourteen (~~12~~ 14) children. Both limitations include ~~the number of children residing in the dwelling unit~~ children under 10 years of age who reside at the home.

...

~~Sec. 29.10.09050. — Large family day care homes.~~

~~(a) Scope. Large family day care homes are allowed in all residential zones subject to the following regulations:~~

- ~~(1) All perimeter gates must be self-latching and the latches shall be a minimum of four (4) feet above grade.~~
- ~~(2) The rear yard must be enclosed with a minimum five-foot high fence.~~
- ~~(3) Use of the garage for day care must meet Uniform Building Code for living space.~~
- ~~(4) Two (2) off-street parking spaces must be provided, plus one (1) space for each employee.~~
- ~~(5) No double key deadbolts may be used on exterior doors.~~
- ~~(6) A minimum of two (2) exits must be provided.~~
- ~~(7) A minimum of one hundred (100) square feet of habitable space as defined by Section 409 of the Uniform Building Code shall be provided for each child.~~
- ~~(8) No child care space is permitted on the second floor unless approved by the Building Official.~~

- ~~(9) No signs may be displayed.~~
- ~~(10) A minimum lot size of six thousand (6,000) square feet is required.~~
- ~~(11) A minimum of five hundred (500) feet between large family day care homes is required.~~
- ~~(12) The day care home operator must be a resident of the home.~~
- ~~(13) The large family day care home shall not alter the single family residential character of the premises.~~
- ~~(b) Permit. A large family day care permit must be obtained from the Development Review Committee and all conditions identified must be satisfied prior to issuance.~~
- ~~(c) Inspection. Prior to issuance of a permit, the large family day care home is subject to an on-site inspection to insure compliance with all regulations to the satisfaction of the Building Official and Planning Director.~~
- ~~(d) Notification. All property owners within one hundred (100) feet shall be notified prior to the issuance that a large family day care home permit will be issued and the notification shall include the conditions under which the permit shall operate.~~
- ~~(e) Affidavit. All property owners of the property where the large family day care home is to be located shall sign an affidavit certifying that the property shall remain in compliance with the requirements of subsection 29.10.09050(a).~~
- ~~(f) Denial. The Planning Director may not issue a large family day care home permit where he finds the day care home will not comply with the provisions of this chapter.~~
- ~~(g) Revocation. The Planning Director may revoke large family day care home permits for violations of this chapter. Before revoking a large family day care home permit, the Planning Director shall give the permittee ten (10) days' notice in writing that revocation is under consideration, shall consider whatever evidence the permittee wishes to present to contest the revocation, and shall give the permittee written notice of this decision. Both notices shall be mailed to the address given by the permittee in his application for the large family day care home permit or such other address as the permittee has provided the Planning Director.~~

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ARTICLE II. DIVISION 3. – APPROVALS

Sec. 29.20.185. – Table of conditional uses.

...

(4) Schools

...

Table of Conditional Uses		RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
d.	Small family day care <u>daycare home</u>								X	X	X	X		
e.	Large family day care home <u>Reserved.</u>													

...

ARTICLE II. DIVISION 7. – ASSIGNMENT OF DUTIES

Sec. 29.20.745. – Development Review Committee.

...

(10) Reserved.

...

ARTICLE IV. DIVISION 2. – RC OR RESOURCE CONSERVATION ZONE

Sec. 29.40.160. – Permitted Uses.

...

(4) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 3. – HR OR HILLSIDE RESIDENTIAL ZONE

Sec. 29.40.235. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 4. – R-1 OR SINGLE-FAMILY RESIDENTIAL ZONE

Sec. 29.40.385. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 5. – R-D OR DUPLEX RESIDENTIAL ZONE

Sec. 29.40.510. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 6. – R-M OR MULTIPLE-FAMILY RESIDENTIAL ZONE

Sec. 29.40.610. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 7. – R-1D OR SINGLE-FAMILY RESIDENTIAL DOWNTOWN ZONE

Sec. 29.40.725. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 8. – RMH OR MOBILE HOME RESIDENTIAL ZONE

Sec. 29.40.835. – Permitted Uses.

...

(6) Family daycare home.

SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of 2020, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: _____

ATTEST:

**TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: _____

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SB-234 Family daycare homes. (2019-2020)

Disclaimer: The bill is compared here to the law that was in affect at the time. Note that the code section(s) in question may have been subsequently amended.

As Amends the Law on Nov 18, 2019

[As Amends the Law Today](#)

SECTION 1. Section 1596.72 of the Health and Safety Code is amended to read:

1596.72. The Legislature finds all of the following:

- (a) That child ~~day-care~~ *daycare* facilities can contribute positively to a child's emotional, cognitive, and educational development.
- (b) That it is the intent of this state to provide a comprehensive, quality system for licensing child ~~day-care~~ *daycare* facilities to ensure a quality ~~day-care~~ *childcare* environment.
- (c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child ~~day-care~~ *daycare* facilities.
- (d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child ~~day-care~~ *daycare* facilities from those facility types administered under Chapter 3 (commencing with Section 1500).
- (e) That good quality ~~child-day-care~~ *childcare* services are an essential service for working parents.
- (f) California has a tremendous shortage of regulated childcare, and only a small fraction of families who need childcare have it. Parents should be able to support their families without having to sacrifice their child's well-being.*
- (g) With childcare, families have more options for jobs and education to improve their prospects. Good, affordable childcare gives children a strong start and creates opportunities for families and communities.*

SEC. 2. Section 1596.73 of the Health and Safety Code is amended to read:

1596.73. The purposes of this act are to:

- (a) Streamline the administration of ~~child-care~~ *childcare* licensing and thereby increase the efficiency and effectiveness of this system.
- (b) Encourage the development of licensing staff with knowledge and understanding of children and ~~child-care~~ *childcare* needs.
- (c) Provide providers of ~~child-care~~ *childcare* with technical assistance about licensing requirements.
- (d) Enhance consumer awareness of licensing requirements and the benefits of licensed ~~child-care~~ *childcare*.
- (e) Recognize that affordable, quality licensed ~~child-care~~ *childcare* is critical to the well-being of parents and children in this state.
- (f) Promote the development and expansion of regulated childcare.*

SEC. 3. Section 1596.78 of the Health and Safety Code is amended to read:

EXHIBIT 3

1596.78. (a) "Family ~~day-care- daycare~~ home" means a **home facility** 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 ~~day-care- daycare~~ home or a small family ~~day-care- daycare~~ home.

(b) "Large family ~~day-care- daycare~~ home" means a **home facility** that provides ~~family-day-care- care, protection, and supervision~~ for 7 to 14 children, inclusive, including children under ~~the-age-of- 10 years of age~~ who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family ~~day-care- daycare~~ home" means a **home facility** that provides ~~family-day-care- care, protection, and supervision~~ for eight or fewer children, including children under ~~the-age-of- 10 years of age~~ who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

(d) A small family daycare home or large family daycare home 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. A small family daycare home or large family daycare home is where the daycare provider resides, and includes a dwelling or a dwelling unit that is rented, leased, or owned.

SEC. 4. Section 1597.30 of the Health and Safety Code is amended to read:

1597.30. The Legislature finds and ~~declares+~~ *declares all of the following:*

(a) ~~It-~~ *The Legislature* has a responsibility to ensure the health and safety of children in family homes that provide ~~day-care- daycare~~.

(b) ~~That there are insufficient numbers~~ *There is an extreme shortage* of regulated family ~~day-care homes in California-~~ *daycare homes in California, and the number has decreased significantly since 2008.*

(c) There ~~will- continues to~~ be a growing need for child ~~day-care- daycare~~ facilities due to the ~~increase-in working-parents-~~ *increased number of working parents. Parents need childcare so they can work and attend school, and so their children can thrive.*

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

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

(f) ~~That the~~ *The licensing* 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- daycare~~ homes, while not placing undue burdens on the providers.

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

(h) The state has a responsibility to promote the development and expansion of regulated family daycare homes to care for children in residential settings.

SEC. 5. Section 1597.40 of the Health and Safety Code is repealed.

~~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.~~

SEC. 6. *Section 1597.40 is added to the Health and Safety Code, to read:*

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

(b) The Legislature declares this policy to be of statewide concern with the purpose of occupying the field. This act, the state building code, and the fire code, and regulations promulgated pursuant to those provisions, shall preempt local laws, regulations, and rules governing the use and occupancy of family daycare homes. Local laws, regulations, or rules shall not directly or indirectly prohibit or restrict the use of a facility as a family daycare home, including, but not limited to, precluding the operation of a family daycare home.

SEC. 7. *Section 1597.41 is added to the Health and Safety Code, to read:*

1597.41. (a) Every provision in a written instrument relating to real property that purports to restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family daycare home is void, and every restriction in that written instrument as to the use or occupancy of the property as a family daycare home is void.

(b) An attempt to deny, restrict, or encumber the conveyance, leasing, or mortgaging of real property for use or occupancy as a family daycare home is void. A restriction related to the use or occupancy of the property as a family daycare home is void. A property owner or manager shall not refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, 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 use to a person because that person is a family daycare provider.

(c) Except as provided in subdivision (d), a restriction, whether by way of covenant, contract, condition upon use or occupancy, or by transfer of title to real property, that restricts directly or indirectly limits the acquisition, use, or occupancy of 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 use as a family daycare home is void.

(d) (1) A prospective family daycare 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 daycare home.

(2) A family daycare home provider who has relocated an existing licensed family daycare home program to a rental property on or after January 1, 1997, may provide less than 30 days' written notice when the department approves the operation of the new location of the family daycare home in less than 30 days, or the home is licensed in less than 30 days, so that service to the children served in the former location not be interrupted.

(3) A family daycare 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 law, upon commencement of, or knowledge of, the operation of a family daycare home on an individual's property, the landlord or property owner may require the family daycare home provider to pay an increased security deposit for operation of the family daycare home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family daycare homes. The total security deposit charged shall not exceed the maximum allowable under existing law.

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

(e) During the license application process for a small or large family daycare home, the department shall notify the applicant that the remedies and procedures in Article 2 (commencing with Section 12980) of Chapter 7 of Part 2.8 of Division 3 of Title 2 of the Government Code relating to fair housing are available to family daycare home providers, family daycare home provider applicants, and individuals who claim that any of the protections provided by this section or Section 1597.40, 1597.42, 1597.43, 1597.45, 1597.455, or 1597.46 have been denied.

(f) For the purpose of this section, "restriction" means a restriction imposed orally, in writing, or by conduct and includes prohibition.

(g) This section does not alter the existing rights of landlords and tenants with respect to addressing and resolving issues related to noise, lease violations, nuisances, or conflicts between landlords and tenants.

SEC. 8. Section 1597.42 is added to the Health and Safety Code, to read:

1597.42. The use of a home as a family daycare home, operated under the standards of state law, in a residentially zoned area shall be considered a residential use of property for the purposes of all local ordinances, regulations, and rules, and shall not fundamentally alter the nature of the underlying residential use.

SEC. 9. Section 1597.45 of the Health and Safety Code is amended to read:

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

(a) The use of a ~~single-family-residence-home~~ as a small ~~family-day-care-~~ or large family daycare home shall be considered a residential use of property ~~and a use by right~~ for the purposes of all local ordinances, including, but not limited to, zoning ordinances.

(b) ~~No~~ A local jurisdiction shall ~~not~~ impose a business license, fee, or tax for the privilege of operating a small ~~family-day-care-~~ or large family daycare home.

(c) Use of a ~~single-family-dwelling-for-purposes-of-home-as~~ a small ~~family-day-care-~~ or large family daycare 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-~~ or large family daycare 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 of Division 12, 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 and one or more functioning carbon monoxide detectors that meet the requirements of Chapter 8 the provisions of Division 13 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of the carbon monoxide detectors during inspections. 21000)~~ of the Public Resources Code.

(e) The provisions of this chapter do not preclude a city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family daycare home, as long as those restrictions are identical to those applied to all other residences with the same zoning designation as the family

daycare home. This chapter does not preclude a local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity, as long as the local ordinance is identical to those applied to all other residences with the same zoning designation as the family daycare home. This chapter also does not prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, the ordinance or nuisance abatement shall not distinguish family daycare homes from other homes with the same zoning designation, except as otherwise provided in this chapter.

(f) For purposes of this chapter, "small family daycare home or large family daycare home" 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. A small family daycare home or large family daycare home is where the family daycare provider resides, and includes a dwelling or dwelling unit that is rented, leased, or owned.

SEC. 10. Section 1597.455 is added to the Health and Safety Code, to read:

1597.455. (a) A small family daycare 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 of Division 12, except that a small family daycare home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(b) A small family daycare home for children shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.

SEC. 11. Section 1597.46 of the Health and Safety Code is repealed.

~~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 a 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 (c) and regulations adopted by the State Fire Marshal pursuant to that subdivision. 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 a 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 (c) and regulations adopted by the State Fire Marshal pursuant to that subdivision. 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 a 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 an 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 an 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) A large family day care home shall have one or more functioning carbon monoxide detectors that meet the requirements of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of the carbon monoxide detectors during inspections.~~

~~(f) 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, that 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 a building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes that 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.~~

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

SEC. 12. Section 1597.46 is added to the Health and Safety Code, to read:

1597.46. (a) A large family daycare home shall abide by all standards, in addition to the requirements of the State Uniform Building Standards Code, that are specifically designed to promote fire and life safety in large family daycare homes. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in family daycare 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, all of the following:

(1) The requirement that a large family daycare home contain a fire extinguisher or smoke detector device, or both, that meets childcare standards established by the State Fire Marshal.

(2) Specification as to the number of required exits from the home.

(3) Specification as to the floor or floors on which childcare may be provided and the number of required exits on each floor.

(b) A large family daycare home for children shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.

(c) Enforcement of this section shall be in accordance with Sections 13145 and 13146. A city, county, city and county, or district shall not adopt or enforce a building ordinance or local rule or regulation relating to the subject of fire and life safety in large family daycare homes that 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 all residences with the same zoning designation in which childcare is provided.

SEC. 13. Section 1597.47 of the Health and Safety Code is repealed.

~~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.~~

SEC. 14. Section 1597.54 of the Health and Safety Code is amended to read:

1597.54. (a) All family ~~day-care~~ *daycare* homes for children, shall apply for a license under this chapter, except that any home ~~which that~~, on June 28, 1981, had a valid and unexpired license to operate as a family ~~day-care~~ *daycare* 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 license~~, at which time a new license may be issued upon fulfilling the requirements of this chapter.

(b) An applicant for licensure as a family ~~day-care~~ *daycare* 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)~~ *(1)* A brief statement confirming that the applicant is financially secure to operate a family ~~day-care~~ *daycare* home for children. The department shall not require any other specific or detailed financial disclosure.

~~(b)~~ *(2)* ~~(A)~~ Evidence that the small family ~~day-care~~ *daycare* home contains a fire extinguisher or smoke detector device, or both, ~~which that~~ meets standards established by the State Fire Marshal under ~~subdivision (d) of Section 1597.45, Section 1597.455~~, or evidence that the large family ~~day-care~~ *daycare* home meets the standards established by the State Fire Marshal under subdivision ~~(d)~~ *(a)* of Section 1597.46.

~~(2)~~ *(B)* 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.

~~(e)~~ *(3)* The fingerprints of any applicant of a family ~~day-care~~ *daycare* home license, and any other adult, as required under subdivision (b) of Section 1596.871.

~~(d)~~ *(4)* 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. This requirement may be satisfied by a current certificate, as defined in subdivision (f) of Section 121525, that indicates freedom from infectious tuberculosis as set forth in Section 121525.

~~(e)~~ *(5)* Commencing September 1, 2016, evidence of current immunity or exemption from immunity, as described in Section 1597.622, for the applicant and any other person who provides care and supervision to the children.

~~(f)~~ *(6)* 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.

~~(9)~~ (7) 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.

~~(8)~~ *Other information as required by the department for the proper administration and enforcement of the act.*

~~(H)~~ (c) 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.

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

SEC. 15. Section 1597.543 of the Health and Safety Code is repealed.

~~1597.543. Every family day care home for children shall have one or more carbon monoxide detectors in the facility that meet the standards established in Chapter 8 (commencing with Section 13260) of Part 2 of Division 12. The department shall account for the presence of these detectors during inspections.~~

SEC. 16. Section 1597.543 is added to the Health and Safety Code, to read:

1597.543. (a) The State Fire Marshal shall update the building and fire standards necessary to implement the sections of this chapter relating to life and fire safety, including, but not limited to, Sections 1597.455 and 1597.46, and shall publish the updates in the California Code of Regulations (CCR) in the next Title 19 and Title 24 CCR adoption cycle.

(b) Prior to the publication of the updates required by subdivision (a), but not later than January 1, 2021, the State Fire Marshal shall issue guidance on implementing the sections listed in subdivision (a).

(c) The State Fire Marshal shall update the regulations at least every three years to conform to changes in this chapter. The State Fire Marshal may issue guidance on implementing this chapter annually in the years in which the regulations are not updated in Title 19 and Title 24 of the CCR.