

TO: JAMES L. APP, CITY MANAGER

FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CODE AMENDMENT 03-005 (FAMILY DAY CARE HOMES)

DATE: MAY 6, 2003

Needs: For the City Council to consider Code Amendment 03-005, bringing the City's family day care regulations to bring them into conformance with State law.

Facts:

1. Senate Bill 265 (O'Connell) amended sections of the State's Health and Safety Code by:
 - Increasing the maximum number of children for a Family Day Care Home to 14; and,
 - Limiting the degree to which the City may regulate this type of facility by mandating that such a use is to be permitted by right.
2. The proposed Code Amendment modifies the provisions of the City's Zoning Ordinance to:
 - A. To increase the maximum number of children from 6 to 14 for a Family Day Care Home, which type of business would be permitted as a matter of right subject to compliance with the following performance standards requiring:
 - i. Adequate on-site parking for non-resident employees;
 - ii. Provisions for both on-site or on-street parking and access to be capable of handling pick-ups and drop-offs without causing traffic hazards;
 - iii. Noise generating activity to restricted to normal business hours (From 8:00 am to 6:00 pm);
 - iv. Inter-Departmental review/approval as to conformity with applicable state and local ordinances, including Uniform Building and Fire Code compliance as to the intended occupancy of the building(s).
 - v. Evidence of State licensure.
 - B. To require a CUP for a facility with more than 14 children and for a facility other than a Family Day Care Home; and,
 - To modify existing definitions of day care homes to bring each into compliance with state law.
3. The proposed Code Amendment has been developed with input from the City Attorney's office, and has been recommended for adoption by the Planning Commission.

Analysis

And

Conclusions: The Code Amendment has been developed in order to comply with the provisions of state law.

- Family Day Care Home with more than 14 children or a facility other than a Family Day Care Home would require approval of a Conditional Use Permit (CUP); and
- Large Family Day Care Home would require Plot Plan review and approval by City staff as to its conformity with the prescribed performance standards prior to issuance of a business license.

It would appear that the project would comply with the purpose and intent of the City's General Plan and Zoning Ordinance.

Policy

Reference: General Plan, Zoning Ordinance, and Senate Bill 265 (O'Connell)

Fiscal

Impact: None

Options:

- a. For the City Council to:

Introduce for First Reading Ordinance No. XXX N.S. amending the Title 21 (Zoning) of the Municipal Code relating to day care businesses (Code Amendment 03-005) and set May 20, 2003, as the date for adoption of said Ordinance.

- b. Request additional information and analysis.
- c. Amend, modify, or reject the above options.

Attachments:

Draft Ordinance Adopting CA 03-005

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ADDING SECTION 21.21.140 TO THE EL PASO DE ROBLES MUNICIPAL
CODE AND AMENDING TABLE 12.16.200 RELATING TO
FAMILY DAY CARE HOMES

WHEREAS, state law imposes certain limitations on the City's ability to regulate family day care homes, but allows the City to require that a large family day care home complies with the City's traffic, parking and noise ordinances; and

WHEREAS, the City Council desires to amend its Municipal Code to be consistent with the provisions of state law; and

WHEREAS, this ordinance is consistent with the City's General Plan.

NOW, THEREFORE, the City Council of the City of El Paso de Robles does hereby ordain as follows:

SECTION 1. Section 21.21.140 is hereby added to the El Paso de Robles Municipal Code to read as follows:

21.21.140 Family Day Care Homes

- A. A "family day care home" means a home that regularly provides, as an accessory use of a residentially zoned and occupied property, for the care, protection and supervision of fourteen (14) or fewer children, in the provider's own home, for periods of less than 24 hours/day, while the parents or guardians of the children are away and is either a small family day care home or a large family day care home.
- B. A "small family day care home" is defined as a home that provides family day care for up to eight (8) children, including children under the age of 10 who reside in the home, so long as the provisions of Health and Safety Code section 1597.44 are satisfied. A small family day care home shall be a permitted use in all residential zones and is not subject to performance standards.
- C. A "large family day care home" is defined as a home that provides family day care for between nine (9) and fourteen (14) children, including children under the age of 10 who reside in the home, so long as the provisions of Health and Safety Code section 1597.465 are satisfied.
- D. Large family day care homes are not subject to a conditional use permit but do require plot plan review and approval to be established in a single-family residential zone, in compliance with all applicable health and safety codes, subject to the following performance standards:
 - 1. The property shall provide one parking space on-site for each non-resident employee in addition to standard parking requirements for the underlying zoning per section 21.22.040 of the Zoning Ordinance. The Planning Commission may approve employee parking spaces as tandem parking spaces pursuant to section 21.22.160.
 - 2. Adequate on-site or on-street parking shall be available for loading and unloading in a manner that does not interfere with traffic flow or create a potential traffic hazard.

3. The facility shall operate in a manner that complies with noise standards pursuant to section 21.21.040. No outside play shall be permitted before 8:00 a.m. or after 6:00 p.m.
4. Signs that are inconsistent with Chapter 21.19 shall not be permitted.
5. Inter-Departmental review/approval as to conformity with applicable state and local ordinances, including Uniform Building and Fire Code compliance as to the intended occupancy of the building(s), shall be obtained prior to approval of the plot plan.
6. Evidence of State licensure shall be submitted to the City prior to approval of the plot plan.
7. The facility shall obtain a City Business License pursuant to Chapter 5.04 of the Municipal Code.

E. This section shall not apply to day care centers, which are defined as any child day care facility other than a family day care home, and include, but are not limited to, infant centers, preschools, extended day care facilities and schoolage child care centers.

SECTION 2. Section C. Institutional, Public & Quasi-Public of Table 21.16.200 is hereby amended to read as shown on Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3. The City Council hereby declares that the addition of section 21.21.140 to the El Paso de Robles Municipal Code and the amendment to Section C of Table 21.16.200 relating to the processing of family day care home applications is exempt from further environmental review under California Environmental Quality Act Guideline 15274 (14 Cal. Code Regs. § 15274).

SECTION 4. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 6. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

Introduced at a regular meeting of the City Council held on May 6, 2003, and passed and adopted by the City Council of the City of El Paso de Robles on the 20th day of May 2003 by the following roll call vote, to wit:

AYES;
NOES;
ABSTAIN:
ABSENT:

Mayor Frank R. Mecham

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

[illegible]

	ZONING DISTRICT																
LAND USE	AG	RA	R1	R2	R3	R30	R4	OP	CP	C1	C2	C3	RC	M	PM	AP	POS
a. Family day care home with 14 children or fewer (See Section 21.21.140 for large-family day care requirements) * See B(11) above regarding requirement for lots less than 1 acre.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
b. More than 14 children, or day care center other than a Family Day Care Home	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
4. Libraries, museums and art galleries (private) * See Section 21.18.020(e)	C	C	C	C	C	C	C	P*	P	P	P	P	P	P	P	P	C
5. Convention centers (private)	N	N	N	N	N	N	N	N	N	P	P	P	P	P	P	P	P
6. Public facilities (government offices, community centers, libraries, recreation buildings, equipment yards, etc.)	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P
7. Public parks, playgrounds, ballfields	N	C	C	C	C	C	C	N	P	P	P	P	P	P	P	P	P
8. Public utilities facilities:																	
a. Wells, pump stations, switching and relay boxes	P	C	C	C	C	C	C	N	P	P	P	P	P	P	P	P	P
b. Pipelines & power transmission lines	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P
c. Water tanks, electrical substations	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P
9. Schools:																	
a. Public, all levels	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
b. Private, all levels	N	N	C	C	C	C	C	N	C	C	C	C	N	C	C	C	N
c. Business, trade, dance schools	C	N	N	N	N	N	N	N	N	P	P	P	P	P	P	P	N
10. Social halls, clubs, lodges, scout huts and fraternal organizations (allows food	N	N	C	C	C	C	C	P*	C	P	P	P	C	P	P	P	C

[illegible]