

March 3, 1987

REPORT TO THE COMMITTEE ON TRANSPORTATION AND LAND USE  
LARGE FAMILY DAY CARE HOMES

This office has been requested to prepare a report concerning the extent to which The City of San Diego may regulate large family day care homes which, by definition, includes a home for seven to twelve children.

Health & Safety Code Section 1597.46 provides that a city shall not prohibit a large family day care home on a lot zoned for single family dwellings but may either (1) classify these homes as a permitted use, (2) grant a nondiscretionary permit to use the lot provided the home complies with applicable ordinances and regulations, or (3) require a permit to be obtained from the Zoning Administrator which shall be issued if the application complies with local ordinances and regulations.

The City may establish regulations of large family day care homes which relate to spacing and concentration, traffic control, parking, noise control and regulations adopted by the State Fire Marshal. Such regulations may be enacted by ordinance or resolution of the City Council.

If the City chooses to require a Zoning Administrator permit, fees necessary to cover the cost of permit processing and appeal may be charged. Under present City practice, a noticed public hearing is conducted by the Zoning Administrator. The provisions of subparagraph (3) of Section 1597.46 limit the conduct of a noticed public hearing to those cases where the applicant or a neighbor requests such hearing.

Our present practice of conducting a noticed public hearing in all cases involving a large family day care home should be modified to conform with this limitation. In addition, in the absence of a regulatory ordinance or resolution addressing the

matters enumerated in the preceding paragraph, a permit cannot be required since, in the absence of standards relating to such matters, only those regulations applicable to single family dwellings can be applied to large family day care homes. If the City is to regulate such homes, it is mandatory that reasonable standards be adopted before a permit can be required.

Respectfully submitted,  
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