



Planning Commission Agenda

Meeting of October 21, 2019 – 6:00 p.m.
Council Chambers, Civic Center
1243 National City Boulevard
National City, CA 91950



The Planning Commission requests that all cellphones, pagers, and/or smart devices be turned off during the meeting.

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Welcome to the Planning Commission meeting. The National City Planning Commission conducts its meeting in the interest of community benefit. Your participation is helpful. These proceedings are video recorded.

Roll Call

Pledge of Allegiance by Commissioner Dela Paz

Approval of Minutes

1. Approval of Minutes from the Meeting of October 7, 2019

Approval of Agenda

2. Approval of the Agenda for the Meeting on October 21, 2019

ORAL COMMUNICATIONS (3 MINUTE TIME LIMIT).

NOTE: Under State law, items requiring Commission action must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature.

PRESENTATIONS

CONTINUED PUBLIC HEARINGS

3. Resolution Taking Action on a Code Amendment amending Section 18.12.160 (Historic Properties) of Title 18 (Zoning) of the National City Municipal Code. (Case File No. 2019-23 A)

PUBLIC HEARINGS

4. Resolution Taking Action on a Code Amendment amending Sections 18.21.020 (Allowed Uses - Residential Zones) and 18.30.080 (Family Day Care Homes) of Title 18 (Zoning) of the National City Municipal Code. (Case File No. 2019-27 A)

OTHER BUSINESS

STAFF REPORTS

Senior Assistant City Attorney

Director of Community Development

Principal Planners

Commissioners

Chairperson

ADJOURNMENT

Adjournment to the next regularly scheduled meeting on November 4, 2019 at 6:00 p.m.



Planning Commission Minutes

Planning Commission
Meeting of October 7, 2019
Council Chambers, Civic Center
1243 National City Boulevard
National City, CA 91950

These minutes have been abbreviated. Video recordings of the full proceedings are on file and available to the public.

Agenda Items

The meeting was called to order by Chair Sendt at 6:01 p.m.

Roll Call

Commissioners Present: Natividad, Baca, Flores, Sendt, Yamane, Garcia, Dela Paz

Commissioners Absent: None.

Staff Also Present: Director of Community Development Armando Vergara, Senior Assistant City Attorney Nicole Pedone, Principal Planner Martin Reeder

Pledge of Allegiance Presented by Commissioner Baca

1. Approval of Minutes from the Meeting of September 9, 2019.

Motion by Baca, second by Garcia to approve the Minutes for the Meeting of September 9, 2019.

Motion carried by the following vote:

Ayes: Natividad, Baca, Flores, Yamane, Garcia, Dela Paz

Abstain: Sendt

Noes: None.

Absent: None.

Commissioner Sendt abstained due to his absence at the meeting on September 9, 2019.

2. Approval of the Agenda for the Meeting of October 7, 2019.

Motion by Natividad, second by Flores to approve the Agenda for the Meeting of October 7, 2019.

Motion carried by the following vote:

Ayes: Natividad, Baca, Flores, Sendt, Yamane, Garcia, Dela Paz

Abstain: None.

Noes: None.

Absent: None.

ORAL COMMUNICATION: None.

PRESENTATIONS: None.

CONTINUED PUBLIC HEARINGS: None.

PUBLIC HEARINGS:

3. Resolution Taking Action on a Code Amendment amending Section 18.12.160 (Historic properties) of Title 18 (Zoning) of the National City Municipal Code. (Case File No. 2019-23 A)

Presented by Principal Planner Martin Reeder

Motion by Dela Paz, second by Yamane to continue the item to the meeting of October 21, 2019 so staff could notify the Historical Society and allow them the opportunity to be present at the hearing.

Motion carried by the following vote:

Ayes: Baca, Flores, Sendt, Yamane, Garcia, Dela Paz

Abstain: None.

Noes: Natividad

Absent: None.

4. Resolution Taking Action on a Code Amendment amending Section 18.29.070 (Floodway (-FW), floodway fringe (-FF-1), and floodway fringe-shallow flooding (-FF-2) zones) of Title 18 (Zoning) of the National City Municipal Code. (Case File No. 2019-24 A)

Presented by Principal Planner Martin Reeder and Assistant Civil Engineer Carla Hutchinson.

Motion by Dela Paz, second by Natividad to close the public hearing and approve the Resolution Taking Action on a Code Amendment amending Section 18.29.070 (Floodway (-FW), floodway fringe (-FF-1), and floodway fringe-shallow flooding (-FF-2) zones) of Title 18 (Zoning) of the National City Municipal Code. (Case File No. 2019-24 A)

Motion carried by the following vote:

Ayes: Natividad, Baca, Flores, Sendt, Yamane, Garcia, Dela Paz

Abstain: None.

Noes: None.

Absent: None.

OTHER BUSINESS:

5. Presentation related to the new Street Tree Ordinance (Engineering Department)

Presented by Assistant Civil Engineer Carla Hutchinson and representatives from Dudek utilizing a Power Point presentation.

Commissioner Dela Paz suggested that initiatives be made to reach out to schools to make them aware of the impacts and benefits of the trees in National City.

Commissioner Natividad suggested that staff explore other methods of making the public aware of the City's program to plant trees at the request of homeowners in front of their homes in the Right of Way, besides posting it on the City's website.

Chair Sendt expressed concern that only 21 people participated in the public survey initiated by Dudek and commented that more people should have been included.

STAFF REPORTS:

Senior Assistant City Attorney: None.

Armando Vergara, Director of Community Development: Advised that the Commissioners comments regarding outreach would be forwarded to the City Manager. Also announced the City's Open House occurring on October 8, 2019, the Cannabis Community Forum occurring on October 22, 2019, and the Strategic Plan Update at City Hall on October 29, 2019.

Principal Planners: None.

COMMISSIONER REPORTS:

Natividad: None.

Baca: Announced that he would be absent for the next meeting on October 21, 2019.

Dela Paz: None.

Garcia: Encouraged the Commissioners to take the City's Strategic Plan survey.

Yamane: None.

Flores: Thanked Principal Planner Martin Reeder for his follow up on the left hand turn lane on 24th Street and Highland Ave.

Sendt: None.

ADJOURNMENT by Chair Sendt at 7:23 p.m. to the meeting of October 21, 2019.

CHAIRPERSON

The foregoing minutes were approved at the Regular Meeting of October 21, 2019.



CITY OF NATIONAL CITY - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

TITLE: CONTINUED PUBLIC HEARING – CODE AMENDMENT
AMENDING SECTION 18.12.160 (HISTORIC PROPERTIES)
OF TITLE 18 (ZONING) OF THE NATIONAL CITY
MUNICIPAL CODE.

Case File No.: 2019-23 A

Staff report by: Martin Reeder, AICP – Principal Planner

Project location: Citywide

Applicant: City-initiated Land Use Amendment

Environmental review: Not a project per CEQA

Staff recommendation: Recommend approval of the amendment to the City Council

BACKGROUND

Previous Action

The Planning Commission held an advertised public hearing on this item on October 7, 2019. The Commission continued the item in order for the National City Historical Society to be notified and present at the hearing. The item was continued time specific to tonight's meeting.

Overview

Section 18.12.160 of the Land Use Code (LUC) makes specific reference to the National City Historic Society ("the Society"). While the Society is an important resource in the City for information on applications for historic designation and demolition of historic structures, it is not the only resource. This has led to confusion with regard to prioritizing comments or recommendations.

Proposed Changes

In order to avoid the appearance of favoring one organization or resource over another, staff suggests removing the term "National City Historical Society" from Section 18.12.160 of the LUC. Staff will still be able to solicit comments and recommendations from the Society, as well as other resources (e.g. National City Library History Room staff, State Historic Preservation Office, Save Our Heritage Organization, etc.).

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the amendment to Section 18.12.160 of the LUC to the City Council.

OPTIONS

1. Recommend approval of the amendments to Section 18.12.160 of the LUC based on the attached findings or findings to be determined by the Planning Commission; or
2. Recommend denial of the amendment to Section 18.12.160 of the LUC based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date.

ATTACHMENTS

1. October 7, 2019 Planning Commission Staff Report
2. Findings
3. Proposed Code changes
4. Resolution



MARTIN REEDER, AICP
Principal Planner



ARMANDO VERGARA
Director of Community Development



CITY OF NATIONAL CITY - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

TITLE: PUBLIC HEARING – CODE AMENDMENT AMENDING SECTION 18.12.160 (HISTORIC PROPERTIES) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.

Case File No.: 2019-23 A

Staff report by: Martin Reeder, AICP – Principal Planner

Project location: Citywide

Applicant: City-initiated Land Use Amendment

Environmental review: Not a project per CEQA

Staff recommendation: Recommend approval of the amendment to the City Council

BACKGROUND

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the amendment to sections 18.12.160 to the City Council.

Overview

Chapter 18.12.160 of the Land Use Code makes specific reference to the National City Historic Society (“the Society”). While the Society is an important resource in the City for information on applications for historic designation and demolition of historic structures, it is not the only resource. This has led to confusion with regard to prioritizing comments or recommendations.

Proposed Changes

In order to avoid the appearance of favoring one organization or resource over another, staff suggests removing the term “National City Historical Society” from chapter

18.12.160. Staff will still be able to solicit comments and recommendations from the Society, as well as other resources (e.g. National City Library History Room staff, State Historic Preservation Office, Save Our Heritage Organization, etc.).

Staff will refer to the National Register Criteria for Evaluation, which is published by the National Park Service, Office of Historic Preservation. The standards can be used for evaluation of both state and nationally-significant structures.

Criteria generally focus on the quality of significance in local history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. that are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. that are associated with the lives of persons significant in our past; or
- C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or,
- D. that have yielded, or may be likely to yield, information important to prehistory or history.

A strikethrough/underline version of the changes are attached to this staff report.

Findings

There are two findings required for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

General Plan Conformance

The requested amendments to this section are consistent with the General Plan, as both the Land Use and Open Space Elements encourage the preservation of historic structures. Three policies and one goal apply in this case:

Land Use

Policy LU-7.2: Support historic preservation, adaptive reuse, and refurbishing of existing buildings and structures.

Open Space

Goal OS-8: The identification, preservation, and enhancement of the city's historic, cultural, and paleontological resources.

Policy OS-8.1: Establish formal criteria to be used in the identification, restoration, and preservation of locally significant historic structures.

Policy OS-8.4: Consult with property owners and land developers early in the development review process to minimize potential impacts to historic and cultural resources.

CEQA Compliance

These amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. Any applications for historic designation or demolition of historic structures would still require the same level of CEQA review as before.

Summary and next steps

Staff is recommending changes to the City's Municipal Code related to the review of permits involving historic structures, and recommends that the Planning Commission support the amendment. The Commission's recommendation will be provided to the City Council at a subsequent public hearing at the City Council.

OPTIONS

1. Recommend approval of the amendments to Chapter 18.12.160 of the Land Use Code based on the attached findings or findings to be determined by the Planning Commission; or
2. Recommend denial of the amendment to Chapter 18.12.160 of the Land Use Code based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date.

ATTACHMENTS

1. Findings
2. Proposed Code changes
3. Public Hearing Notice (published in the Star News)
4. Resolution



MARTIN REEDER, AICP
Principal Planner



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

1. That the proposed amendment to section 18.12.160 is consistent with the General Plan, as Land Use and Open Space Policies LU-7.2, OS-8.1, and OS-8.4 encourage historic preservation of the City's historic resources.

2. That the proposed amendment has been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendment is not considered to be a project under CEQA as there would be no physical impact as a result of the change. Any applications for historic designation or demolition of historic structures would still require the same level of CEQA review as currently. The change is solely related to removing a specific entity's name in the Municipal Code and replacing with a generic term.

18.12.160 - Historic properties.

- A. Intent and Purpose. It is the intent and purpose of this section to protect, preserve and, where damaged, restore National City's historic resources by:
1. Establishing a procedure whereby properties of historical significance are identified and appropriate notice is provided in the event demolition, significant alteration, or conversion is proposed.
 2. Protecting the educational, cultural, economic, and general welfare of the public, while employing regulations that are consistent with sound historical preservation principles and the rights of private property owners.
 3. Utilizing State Historic Preservation Office standards for identifying and preserving properties of historical significance in the City to ensure appropriate categorization and disposition of historic resources.
- B. Designation of Historic Properties.
1. A list of historic properties shall be maintained and periodically updated.
 2. Changes to the historic properties list may be initiated by resolution of the city council or on the verified application of the owner(s) of the property to be designated or their authorized agents.
 3. Any application or resolution that proposes changes to the historic properties list shall be accompanied by an evaluation of the historic character of the property and shall be reviewed by the planning division.
 4. The planning division, after reviewing such application for completeness, ~~shall notify the historical society of~~ may solicit comments from local, state, or federal historic resources, as necessary, related to the proposed changes to the historic properties list. ~~Any comments or recommendations provided by the historical society must be received within twenty days of the notice of proposed changes.~~
 5. Once the planning division has completed review of the application and considered any comments or recommendations ~~from the historical society~~, it shall prepare a report and recommendation to the planning commission.

6. The planning commission shall hold a public hearing on the proposal and shall provide a recommendation to the city council.
7. The city council shall hold a public hearing and may approve, modify and approve, or deny the proposed changes to the historic properties list.

C. Review of Ministerial Permits.

1. The building official or designee shall review each request for a non-discretionary building or demolition permit to determine if it involves any structure identified on the list of historic properties. If a property proposed for demolition or significant alteration or conversion is determined to be on the historic properties list, the building official or designee shall withhold issuance of the permit for a period of thirty days.
2. The building official shall immediately notify the planning division and the city council of the pending permit.
3. The planning division shall review the permit and solicit comments from local, state, or federal historic resources, as necessary, to determine consistency with this chapter. ~~Within five days, the planning division shall provide notice to the historical society of the pending permit and may request comments and recommendations. Any comments or recommendations provided by the historical society must be received within twenty days of the notice of pending permit.~~
4. Once the planning division has reviewed the permit application and considered any comments or recommendations ~~from the historical society~~, it shall provide a recommendation to the city council. The recommendation may include approval of the permit, no recommendation, recommendation that the permit be denied, or a request for additional time to evaluate the permit.
5. The city council, at its sole discretion, may approve the permit, deny the permit if a finding is made that such permit may result in an adverse effect on the public welfare, or withhold the issuance of the permit until such time as all alternative measures are thoroughly evaluated.

D. Review of Discretionary Permits. All discretionary permits involving a historic resource shall be reviewed in compliance with the California Environmental Quality Act.

RESOLUTION NO. 2019-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION
TO THE CITY COUNCIL OF A CODE AMENDMENT AMENDING
SECTION 18.12.160 (HISTORIC PROPERTIES) OF TITLE 18 (ZONING)
OF THE NATIONAL CITY MUNICIPAL CODE.

APPLICANT: CITY-INITIATED.

CASE FILE NO. 2019-23 A

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Chapter 18.12.150; and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendment at a duly advertised public hearings held on October 7, 2019 and October 21, 2019 at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report provided for Case File No. 2019-23 A, which is maintained by the City and incorporated herein by reference; along with any other evidence presented at said hearing; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City amendment to Chapter 18.12.160 (Historic properties) of Title 18 (Zoning) of the National City Municipal Code; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State and Federal law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Planning Commission of the City of National City, California, that the evidence presented to the Planning Commission at the public hearings held on October 7, 2019 and October 21, 2019, support the following findings:

1. That the proposed amendments to section 18.12.160 are consistent with the General Plan, as Land Use and Open Space Policies LU-7.2, OS-8.1, and OS-8.4 encourage historic preservation of the City's historic resources.

2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. Any applications for historic designation or demolition of historic structures would still require the same level of CEQA review as currently. The change is solely related to removing a specific entity's name in the Municipal Code and replacing with a generic term. In addition, secondhand dealing is a commercial use that is typically permitted by right without CEQA review.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of October 21, 2019, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON



CITY OF NATIONAL CITY - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

TITLE: PUBLIC HEARING – CODE AMENDMENT AMENDING SECTIONS 18.21.020 (ALLOWED USES - RESIDENTIAL ZONES) AND 18.30.080 (FAMILY DAY CARE HOMES) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.

Case File No.: 2019-27 A

Staff report by: Martin Reeder, AICP – Principal Planner

Project location: Citywide

Applicant: City-initiated Land Use Amendment

Environmental review: Not a project per CEQA

Staff recommendation: Recommend approval of the amendment to the City Council

BACKGROUND

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the amendments to sections 18.21.020 and 18.30.080 of the Land Use Code (LUC) to the City Council.

Overview

Under existing law (the California Child Day Care Facilities Act) the State Department of Social Services licenses and regulates family day care homes. Under this law, a small family day care home, which may provide care for up to eight children, is considered a residential use of property for purposes of all local ordinances. Existing law authorizes a city, county, or city and county to either classify a large family day care home, which

may provide care for up to 14 children, as residential use of the property or to provide a process for applying for a permit to use the property as a large family day care home.

Small family day care homes are currently permitted by right in all residential zones in the City. However, large family day care homes require a minor use permit (formerly a Large Family Day Care permit) in all residential zones. These regulations are consistent with state law as it exists today.

On September 5, 2019, the Governor signed Senate Bill (SB) 234 into law. SB 234, which is now in effect, requires that a large family day care home also be treated as a residential use of property for purposes of all local ordinances, the same as with small family day care homes currently. This means that the City can no longer require a permit for large family day care homes. The City has business licenses for nine residential large family day care facilities, although the County Community Care Licensing Division of the Department of Social Services shows 22 active facilities in National City.

The new state law continues to provide for an application process through the state and for fire safety inspections through the State Fire Marshal. Consistency with the state law was part of the City’s existing Ordinance and would continue as such after changes are made.

Proposed Changes (Section 18.21.020)

Chapter 18.21.020 (Allowed Uses – Residential Zones) is a matrix of the allowable uses in each of the residential zones. It currently reads as follows:

| | | | | | | | |
|-----------------------------|---|---|---|---|---|---|-----------------------------------|
| Family day care home, small | P | P | P | P | P | P | Section 18.30.080 |
| Family day care home, large | M | M | M | M | M | M | Section 18.30.080 |

P – Permitted
 M – Minor Use Permit

As mentioned above, the City may no longer require a permit for large family day care homes. Therefore, the table should be amended to read as follows (changes noted in **bold**):

| | | | | | | | |
|-----------------------------|----------|----------|----------|----------|----------|----------|-----------------------------------|
| Family day care home, small | P | P | P | P | P | P | Section 18.30.080 |
| Family day care home, large | P | P | P | P | P | P | Section 18.30.080 |

P – Permitted
 M – Minor Use Permit

Proposed Changes (Section 18.30.080)

Section 18.30.080 (Family day care homes) has general regulations related to both small and large family day care homes. This section is mostly compliant with the exception of subsection (C), which reads as follows:

- C. Site Location. Properties used for large family day care homes, as defined by the California Health and Safety Code, shall not be located closer than three hundred feet from any other large family day care home.

There is no such distance requirement in the new law; therefore, this subsection is inconsistent with state law and should be struck from the Land Use Code. In addition to the change to section (C), there are two typographical errors (noted in ~~strikethrough~~) in subsections (D) (5) and (D) (6), which should be changed to read as follows (changes noted in **bold**):

- 5. Noise must be maintained in compliance with the city's noise regulations as set forth in ~~Title 9~~ **Title 12**.
- 6. The provider shall comply with all applicable regulations of the city's fire department regarding health and safety requirements as they relate to day care ~~homes~~ **homes** and shall contain a fire extinguisher and smoke detector device.

A strikethrough/underline version of the changes are attached to this staff report.

Findings

There are two findings required for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

General Plan Conformance

The requested amendments to this section are consistent with the General Plan, as the Education and Public Participation Element encourages the availability of and streamlining of permits for child care through the following goals/policies:

Goal E-6: The availability of affordable, safe child care for all segments of the community.

Policy E-6.2: Streamline application procedures for small and large family day care centers.

CEQA Compliance

These amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. The changes would result in fewer barriers for the operation of large family day care homes.

Summary and next steps

Staff is recommending changes to the City's Municipal Code related to requirements for large family day care homes and recommends that the Planning Commission support the amendments. The Commission's recommendation will be provided to the City Council at a subsequent public hearing of the City Council.

OPTIONS

1. Recommend approval of the amendments to Sections 18.21.020 and 18.30.080 of the Land Use Code based on the attached findings or findings to be determined by the Planning Commission; or
2. Continue the item to a specific date.

ATTACHMENTS

1. Findings
2. Senate Bill No. 234
3. Proposed Code changes
4. Public Hearing Notice (published in the Star News)
5. Resolution



MARTIN REEDER, AICP
Principal Planner



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

1. That the proposed amendments are mandated by newly amended state law, per Senate Bill 234 (SB 234).
2. That the proposed amendments to Sections 18.21.020 and 18.30.080 are consistent with the General Plan, as Education and Public Participation Element Goal E-6 and Policy E 6.2 encourage the availability of and streamlining of permits for child care.
3. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. The changes would result in fewer barriers for the operation of large family day care homes.



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

SHARE THIS:  

Date Published: 09/07/2019 04:00 AM

Senate Bill No. 234

CHAPTER 244

An act to amend Sections 1596.72, 1596.73, 1596.78, 1597.30, 1597.45, and 1597.54 of, to add Sections 1597.41, 1597.42, and 1597.455 to, to repeal Section 1597.47 of, and to repeal and add Sections 1597.40, 1597.46, and 1597.543 of, the Health and Safety Code, relating to family daycare homes.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 234, Skinner. Family daycare homes.

Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services licenses and regulates family daycare homes. Under existing law, a small family daycare home, which may provide care for up to 8 children, is considered a residential use of property for purposes of all local ordinances. Existing law authorizes a city, county, or city and county to either classify a large family daycare home, which may provide care for up to 14 children, as residential use of the property or to provide a process for applying for a permit to use the property as a large family daycare home.

This bill would instead require a large family daycare home to be treated as a residential use of property for purposes of all local ordinances.

Existing law makes void every provision in a written instrument entered into relating to real property that purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family daycare home for children and every restriction or prohibition in a written instrument as to the use or occupancy of the property as a family daycare home.

This bill would also make void an attempt to deny, restrict, or encumber the conveyance, leasing, or mortgaging of real property for use or occupancy as a family daycare home and a restriction related to the use or occupancy of the property as a family daycare home. The bill would prohibit a property owner or manager from refusing to sell or rent, or refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying, 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. The bill would require the department to notify applicants for family daycare home licenses that specified housing discrimination remedies are available to a family daycare home provider, family daycare home provider applicant, or person who is claiming that any of these protections have been denied.

Existing law prohibits a local jurisdiction from imposing a business license, fee, or tax for the privilege of operating a small family daycare home.

This bill would extend that prohibition to large family daycare homes.

Existing law requires the State Fire Marshal to adopt building standards and regulations relating to the fire and life safety systems in family daycare provider homes.

This bill would require the State Fire Marshal to update those regulations in the next regulation adoption cycle, and every 3 years thereafter to conform to changes in these provisions. The bill would also require the State Fire Marshal to issue guidance on implementing the provisions prior to the publication of regulations, but not later than January 1, 2021, and would authorize guidance to be issued annually thereafter in years when the specified regulations are not updated.

The bill would also make technical and conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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 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 daycare facilities to ensure a quality childcare environment.
- (c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child 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 daycare facilities from those facility types administered under Chapter 3 (commencing with Section 1500).
- (e) That good quality 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 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 childcare needs.
- (c) Provide providers of childcare with technical assistance about licensing requirements.
- (d) Enhance consumer awareness of licensing requirements and the benefits of licensed childcare.
- (e) Recognize that affordable, quality licensed 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:

1596.78. (a) "Family daycare home" means 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, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home.

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

(c) "Small family daycare home" means a facility that provides care, protection, and supervision for eight or fewer children, including children under 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 all of the following:

(a) The Legislature has a responsibility to ensure the health and safety of children in family homes that provide daycare.

(b) There is an extreme shortage of regulated family daycare homes in California, and the number has decreased significantly since 2008.

(c) There continues to be a growing need for child daycare facilities due to the 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 childcare located in their neighborhoods in family homes.

(e) There should be a variety of childcare settings, including regulated family daycare homes, as suitable choices for parents.

(f) 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 daycare homes, while not placing undue burdens on the providers.

(g) The state should maintain an efficient program of regulating family 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.

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. (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 the purposes of all local ordinances, including, but not limited to, zoning ordinances.

(b) A local jurisdiction shall not impose a business license, fee, or tax for the privilege of operating a small or large family daycare home.

(c) Use of a home as a small 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 or large family daycare home shall not be subject to the provisions of Division 13 (commencing with Section 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.

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.

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

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

(b) An applicant for licensure as a family 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:

(1) A brief statement confirming that the applicant is financially secure to operate a family daycare home for children. The department shall not require any other specific or detailed financial disclosure.

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

(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.

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

(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.

(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.

(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.

(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.

(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.

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

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.

Deletions shown as ~~Strikethrough~~

Additions shown as Underline

18.30.080 - Family day care homes.

- A. Purpose. The purpose of this section is to implement the California Health and Safety Code provisions regarding day care homes, both large family and small family.
- B. Applicability. Family day care homes are permitted as set forth in Division 2 subject to the requirements of this section.
- ~~C. Site Location. Properties used for large family day care homes, as defined by the California Health and Safety Code, shall not be located closer than three hundred feet from any other large family day care home.~~
- D. C. Operation and Development Standards.
 - 1. The family day care home must be the residence of the day care provider.
 - 2. The day care home must be clearly incidental and secondary to the use of the property for residential purposes.
 - 3. Hours of operation shall be less than twenty-four hours a day.
 - 4. The day care home shall comply with all municipal and state laws and regulations regarding single-family residences and day care homes.
 - 5. Noise must be maintained in compliance with the city's noise regulations as set forth in ~~Title 9~~ Title 12.
 - 6. The provider shall comply with all applicable regulations of the city's fire department regarding health and safety requirements as they relate to day care ~~hees~~ homes and shall contain a fire extinguisher and smoke detector device.
 - 7. All state licensing standards must be met and the provider shall keep all state licenses and permits current.
 - 8. The day care home shall be maintained to retain the appearance of a home consistent with the general character of the neighborhood.

9. Large family day care homes shall provide at least one off-street parking space per employee of driving age not living in the home. The residential driveway approach is acceptable for this parking requirement provided that it does not conflict with a required drop-off/pick-up area and does not block the public sidewalk or right-of-way.
10. Indoor and outdoor play areas that satisfy the requirements of the state shall be provided. The outdoor play area shall be screened and enclosed by a natural barrier, wall, or fence a minimum of five feet in height. The outdoor play area shall be designed to reduce noise impacts on adjacent properties.

NOTICE OF PUBLIC HEARING

CODE AMENDMENT AMENDING SECTIONS 18.21.020 (ALLOWED USES - RESIDENTIAL ZONES) AND 18.30.080 (FAMILY DAY CARE HOMES) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.

CASE FILE NO.: 2019-27 A

The National City Planning Commission will hold a public hearing after the hour of 6:00 p.m. **Monday, October 21, 2019**, in the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: City-initiated)

The amendment intends to modify existing Municipal Code language related to requirements for Large Family Day Care Facilities.

Information is available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 12:00 p.m., **October 21, 2019**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

RESOLUTION NO. 2019-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION TO THE CITY COUNCIL OF A CODE AMENDMENT AMENDING SECTIONS 18.21.020 (ALLOWED USES - RESIDENTIAL ZONES) AND 18.30.080 (FAMILY DAY CARE HOMES) OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.

APPLICANT: CITY-INITIATED.

CASE FILE NO. 2019-27 A

WHEREAS, on September 5, 2019, the Governor of the State of California signed into law Senate Bill No. 234, amending Section 1596.72 of the Health and Safety Code to require that large family day care homes be treated as a residential use of property for purposes of all local ordinances; and,

WHEREAS, Sections 18.21.020 and 18.30.080 of the National City Municipal Code are, as a result of the adoption of Senate Bill No. 234, inconsistent with Section 1596.72 of the Health and Safety Code; and,

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Chapter 18.12.150; and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendment at a duly advertised public hearing held on October 21, 2019 at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report provided for Case File No. 2019-27 A, which is maintained by the City and incorporated herein by reference; along with any other evidence presented at said hearing; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City amendment to Sections 18.21.020 (Allowed uses – residential zones) and 18.30.080 (Family day care homes) of Title 18 (Zoning) of the National City Municipal Code; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State and Federal law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Planning Commission of the City of National City, California, that the evidence presented to the Planning Commission at the public hearing held on October 21, 2019, support the following findings:

1. That the proposed amendments are mandated by newly amended state law, per Senate Bill 234 (SB 234).
2. That the proposed amendments to Sections 18.21.020 and 18.30.080 are consistent with the General Plan, as Education and Public Participation Element Goal E-6 and Policy E 6.2 encourage the availability of and streamlining of permits for child care.
3. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA as there would be no physical impact as a result of the change. The changes would result in fewer barriers for the operation of large family day care homes.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of October 21, 2019, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON