

# City of San José, California

## COUNCIL POLICY

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| <b>TITLE</b> GUIDELINES FOR CHILD CARE  | <b>PAGE</b><br>1 of 5             | <b>POLICY NUMBER</b><br>6-14 |
| <b>EFFECTIVE DATE</b> September 28, 1982  | <b>REVISED DATE</b> June 24, 2003 |                              |
| <b>APPROVED BY COUNCIL ACTION</b> September 28, 1982; April 14, 1992; June 24, 2003 |                                   |                              |

### BACKGROUND

The composition of San José's workforce has changed dramatically in recent years and is expected to continue to change in the future. The fastest growing segment of the labor force is the dual-working parents of young children. More parents would return to work if they could find affordable, quality child care.

The City of San José has historically encouraged new child care facilities and has continued to facilitate their development by deregulating and streamlining the process and requirements by which the City regulates them. Some of these requirements were streamlined in 1988 as a result of 1987 recommendations from the City's Child Care Task Force Report. The cooperation of child care providers is crucial in order to reap the full benefits of the City's streamlining efforts. One of the best means of ensuring success for a proposal is for the child care provider to acquaint themselves with the City's regulations, development process, and the Child Care Policy and its guidelines. Early contact with the City, as well as the State of California Department of Social Services Community Care and Licensing Division is a key to successful development and operation of child care facilities in San José.

This Policy update continues the tradition of continuous improvement of the review process for child care facilities, and reflects the need that prudent design review guidelines must be followed to ensure child safety and to maintain neighborhood integrity. The intent of this Policy is to:

1. Create safe environments for all children in child care facilities in the City,
2. Ensure that child care facilities are good neighbors, and are compatible with their surroundings,
3. Provide guidance to child care providers on how to successfully design and operate facilities with greater certainty, and
4. Consolidate the guidelines for use by child care providers, decision-makers, and City staff on the location, design and operation of child care facilities.

### DEFINITIONS

1. **Family Child Care Home** - is any residential unit which regularly provides care, protection and supervision to fourteen (14) or fewer children, or as set forth by the State, as an incident to the use of the unit by a family as its residence, for periods of less than twenty-four hours per day. (20.200.380 of SJMC).
2. **Child Care Center** is any child care facility, including a preschool, other than a Family Care Home, which provides non-medical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. (20.200.190 of SJMC).

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**PURPOSE**

The City allows Child Care Centers through the Conditional Use Permit process to ensure that they conform to City requirements and are compatible with surrounding neighborhoods. In making recommendations to the Planning Commission, staff will review proposals for consistency with this Policy and the guidelines included in it as well as the Zoning Ordinance. Proposals are examined on a case-by-case basis to account for the unique circumstances of each property and proposal. To facilitate the evaluation process for individual permit applications, the guidelines identify the project characteristics necessary for approval.

In general, the guidelines have been crafted in the hope that they will be useful to those people engaged in the design, review, approval, and provision of child care.

They are intended as a reference point so that there can be a common understanding of the minimum design and operational expectations of Child Care Centers in San José. Child care providers and their design consultants should become familiar with these guidelines and apply them appropriately to their projects so that they can be reviewed and permitted by the City as efficiently as possible. These guidelines, however, do not try to encompass every technique of achieving the best standards in the design and operation of Child Care Centers. Care providers are encouraged to use their own creativity and work with the City staff to achieve individual excellence.

A successful Center normally begins with early discussions with the Department of Planning, Building and Code Enforcement (PBCE) and the City's Office of Early Care and Education Service. In some cases care providers may choose to utilize the Preliminary Review process with PBCE prior to applying for a Conditional Use Permit in order to improve the certainty, predictability, efficiency and potential cost savings of the review process. Early contact by child care providers also avails PBCE an opportunity to coordinate the request within the City and other stakeholders such as the State of California Department of Social Services Community Care and Licensing Division, if necessary. It also allows PBCE to advise the care provider on potential community interests and involvement and the need to conduct early, proactive community outreach possibly prior to the Conditional Use Permit process.

The guidelines in this Policy are general, designed to address citywide issues and should not be construed as the only requirements for each individual site. When deviation is made from the above guidelines, staff should identify the reasons for such deviation in the staff report to the Planning Commission, or City Council on appeal.

Existing Child Care Centers subject to a permit with a time condition are not subject to this Policy. Additionally, it is not the intention of this Policy to deal with specific educational and per-child interior/exterior play space requirements, which are the purview of the State of California Department of Social Services Community Care and Licensing Division.

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**POLICY**

1. Regulations and Outreach
  - a) Use Matrix

| Use  | Zoning Regulations   | Permit Required  |
|--|--|--|
| Family Child Care  | Allowed by right in all residential dwelling types as incident to the primary residential use.   | • State Community Care License<br>• City Fire Clearance • Business License Tax   |
| Child Care Center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site  | Allowed by Right in the Open Space, Agriculture, and all Residential and Commercial Zoning Districts   | • No Planning Permit Required • State Community Care License • City Fire Clearance • Business License Tax  |
| Child Care Center located on an existing school site or as an incident to an on-site Church/Religious Assembly use that involves building additions or changes to the site (excludes change out of play equipment within existing play area) | Conditional Use in all Residential and Commercial Zoning Districts Special Use Permit for expansion of legal nonconforming use in all other zoning districts                       | • A Conditional Use Permit or Special Use Permit as appropriate • City Building Permit • State Community Care License • City Fire Clearance • Business License Tax |
| Child Care Center  | Conditional use in all Residential and Commercial zoning districts, as well as in all Industrial zoning districts that have a General Plan Designation of Mixed Industrial Overlay | • A Conditional Use Permit • City Building Permit • State Community Care License • City Fire Clearance • Business License Tax                                      |

- b) Any interior or exterior building modifications and any new construction requires a City Building Permit.
    - c) The City Council has adopted a Policy on Public Outreach. This policy addresses the expectations for notifying surrounding property owners and tenants of pending land use applications. The policy may be found at the PBCE offices or on line at: <http://www.ci.san-jose.ca.us/planning/sjplan/>

2. Guidelines

- a) Facility Location

- i) New Child Care Centers are encouraged on developed school sites and in conjunction with church uses.
    - ii) New Child Care Centers are encouraged in non-residential areas to provide care for children near employment centers, provided that the surrounding business or industrial activities would not adversely impact the Center.
    - iii) New Child Care Centers near nonresidential areas should be reviewed for proximity to hazardous materials and should not be located near facilities that may affect the health and safety of the children.
    - iv) New Child Care Centers are encouraged in residential areas on Major Collectors and Arterial streets, as designated on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
    - v) Conversions from residential uses to Child Care Centers within homogenous single-family residential neighborhoods are discouraged.
    - vi) New Child Care Centers are discouraged from locating on residential streets with limited accessibility, such as those that terminate in a cul-de-sac, in order to prevent traffic congestion and bottle-necking within the neighborhood.
    - vii) New Child Care Centers are encouraged in the transitional or mixed use areas at the margins of homogenous neighborhoods as long as the health and safety of the children is protected, and compatibility with proximate uses assured.

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- b) Traffic and Circulation
  - i) Access to new Child Care Centers to pickup and drop-off children should not negatively impact off-site traffic flow by causing on-street stacking or stopping.
  - ii) On-site circulation should be designed to preclude vehicles from backing onto streets designated as Major Collectors and Arterials on the City's adopted San José 2020 General Plan Land Use/Transportation Diagram.
  - iii) Traffic reports for new Child Care Centers may be required to analyze the traffic generated by the proposed project.
  - iv) Child Care Centers located in nonresidential complexes should not allow drop-off and pick-up activities to interfere with the existing on-site traffic circulation.
  - v) New Child Care Centers should provide adequate vehicular driveways and sufficient turn-around areas for adequate on-site circulation.
- c) Parking and Drop-off
  - i) All new Child Care Centers are required to provide parking in accordance with the Parking and Loading provision codified under Chapter 20.90 of the San José Municipal Code.
  - ii) Parking areas should not be located in the front or side setback areas. The City regulates the amount of paving allowed within the front setback areas in single family residential zoning districts, normally not to exceed 50%. Refer to front yard paving provisions, Section 20.30.440, of the San José Municipal Code for more information.
  - iii) Child Care Centers should provide adequate short-term parking to accommodate child drop-off areas, which are not located in the public right-of-way.
- d) Site Design
  - i) Child Care Centers must conform to the setback requirements of the Zoning District designated for the site.
  - ii) New Child Care Centers should be on sites that are able to adequately accommodate the physical requirements of on-site circulation, parking, play areas and setbacks. Our experience has found that this is normally at least a 10,000 square foot parcel or site.
  - iii) New Child Care Centers should install a minimum 6-foot high fence around the active outdoor play areas for child security. A wall may be required to minimize potential impacts from outdoor play and parking areas to surrounding residential uses.
  - iv) New Child Care Centers proximate to residential neighborhoods should locate play areas away from adjacent residences as much as possible.
  - v) Landscaping should be installed and maintained in the areas not designated for parking and driveways in accordance with the City's Landscape and Irrigation Guidelines. Street trees should be installed if missing on the site frontage.
  - vi) A minimum of five feet of perimeter landscaping should be provided to buffer the active play areas, and 10 feet for parking or service areas of Child Care Centers, from any adjacent residential properties.
  - vii) Other than to ensure consistency with height requirement of accessory structures where required by the Zoning Code, and to approve play areas themselves, the City does not approve specific outdoor play equipment in the permit review process. Changes to the play equipment do not require additional planning approvals.
  - viii) Proposed building additions and any other exterior remodeling should be architecturally compatible with existing structures and all new construction, additions and remodeling should be consistent the surrounding neighborhood character.

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- ix) Proposed buildings should be compatible with the surrounding area, particularly with respect to height and mass.
- x) All roof equipment, trash enclosures, and mechanical equipment should be screened from view from public streets and located to minimize the potential for nuisances to any adjacent residences.
- xi) The use of temporary facilities not on permanent foundations is prohibited.
- e) Number of Children
  - i) The maximum number of children for a new facility shall not exceed that allowed by the State Community Care Licensing requirements for interior and exterior spaces. In addition, the other criteria outlined in this Policy, particularly circulation, parking and land use compatibility will be utilized to determine if additional restrictions are warranted.
- f) Operation
  - i) To minimize adverse impacts to adjacent residences, Child Care Centers adjacent to residential neighborhoods should operate only from 6:00 a.m. to 7:00 p.m., Monday through Friday.
  - ii) New Child Care Centers are required to meet the noise standards of the Zoning Ordinance and should meet the City's noise standards as specified in the adopted San José 2020 General Plan. A noise study may be required for Child Care Centers proximate to residential neighborhoods to evaluate noise levels and identify appropriate mitigation.
  - iii) The City's Office on Early Care and Education Services should review the operational aspects of all Child Care Center proposals to help ensure child safety and security and to evaluate consistency with State Community Care Licensing requirements.
- g) Other Requirements
  - i) Signage for a Child Care Center is regulated by the City's Sign Ordinance based on the zoning designation of the proposed site.
  - ii) The Planning Commission, or the City Council on appeal, may impose other appropriate conditions on a project-by project basis as required to ensure land use compatibility. The guidelines in this Policy represent minimum criteria for new Child Care Centers.
  - iii) The Conditional Use Permit should include standard conditions, such as undergrounding utilities, providing public improvements, screening roof equipment, identifying materials, etc., necessary for the permit to fulfill the requirements for a Site Development Permit.
  - iv) Conditional Use Permits may be issued for a specified period of time. The normal time frame for a Child Care Center is 5 years for the first permit approval, and 10 years for renewals.
  - v) Conditional Use Permits can be revoked or subsequent permits may be withheld or denied if the conditions of approval of previous permits are not met.