

ORDINANCE AMENDMENT REVIEW SHEET**Amendment: C20-2023-001 Childcare Services**

Description: Amend Title 25 pertaining to childcare and day care services to modify land use definitions, create use-specific development regulations, ensure compatibility with adjacent uses, and adjust zoning district permitted uses to increase opportunities for childcare services around the city.

Background: Initiated by City Council [Resolution No. 20230126-055](#)

On October 4, 2018, the Austin City Council passed [Resolution No. 20181004-036](#), directing the City Manager to evaluate fee structures and zoning regulations pertaining to childcare centers with the goal of supporting affordable and high-quality childcare in the city. The resolution acknowledges that removing certain barriers imposed by the City is crucial for facilitating the establishment, expansion, and operation of childcare facilities. It specifically identifies Land Development Code (LDC) regulations and City fees associated with opening, expanding, and operating childcare centers as significant obstacles faced by providers in Austin. In response to [Resolution No. 20181004-036](#), the Planning and Zoning Department, Development Services Department, and Austin Public Health provided a [report](#) in 2019 outlining recommendations for implementing changes to the LDC.

In January of 2023, City Council passed [Resolution No. 20230126-055](#), instructing the City Manager to develop necessary amendments to the Land Development Code (LDC) to increase opportunities for childcare services throughout the city. Additionally, the resolution calls for the creation of a grant program to assist qualifying childcare operations in covering City fees associated with opening or expanding a childcare facility.

The Resolution directs staff to develop LDC amendments to achieve the following objectives:

1. Introduce a zoning use classification and definition for childcare services.
2. Eliminate requirements for non-accessible parking in childcare services.
3. Allow childcare services as an accessory use in principal residential areas.
4. Modify the maximum number of enrollees allowed in childcare services.
5. Increase opportunities for childcare services throughout the city by:
 - a. Adjusting zoning districts where childcare services are permitted or conditional uses.
 - b. Designating childcare services as permitted uses in areas with childcare deserts.
 - c. Implementing other appropriate changes to the conditional use permitting process.
6. Restrict childcare operations in zoning districts that are incompatible with their use.

On August 16, 2023, Codes and Ordinances Joint Committee recommended approval of staff's recommendations to Planning Commission with the following amendments:

1. Permit adult care services in all zoning districts where childcare services is proposed to be a permitted use.
2. Require a conditional use permit for childcare services in industrial zoning districts.
3. Determine incompatible commercial land uses and add a distance requirement that mirrors City Code Section 25-2-839.
4. Add childcare and adult care services as a permissible ground floor use in vertical mixed-use development.
5. Eliminate off-street parking requirements for Adult Care Services.
6. Remove “daytime” from the land use definitions and replace with “less than 24 hours.”
7. Add to the Childcare Services land use definition that it is for children 13 and below.
8. Ensure the use does not “trigger” compatibility.

Summary of Proposed Code Amendment:

The proposed code amendments aim to enhance and expand the provision of Childcare Services in the city. The amendments include the following key improvements to:

1. Land Use Definitions:
Definitions for childcare services are proposed. The previous day care services definition is proposed to be modified to adult care services for persons 18 years of age or older.
2. Enrollee Caps:
Limits on the number of enrollees for childcare services are proposed to be increased as follows:
 - a. Limited: Up to 12 persons
 - b. General: More than 12 but not more than 24 persons
 - c. Commercial: More than 24 persons
3. Zoning District Modifications:
To broaden access to childcare, childcare services are proposed as a permitted use in zoning districts where it is currently a conditional use, and as a conditional use in districts where it is currently not permitted (Exhibits A-C).
4. Restricting Incompatible Uses:
 - a. Industrial zoning districts (Industrial Park, Major Industry, Limited Industrial Services), which may pose potential hazards or incompatibility, are proposed to be designated as conditional for childcare services (general and commercial).
 - b. Major Industry is proposed to be designated as conditional for childcare services (limited)
5. Regulating Plans Alignment:
All applicable regulating plans are proposed to be updated to align with the changes in allowable uses for each zoning district.
6. Accessory Use:
 - a. Childcare services (limited) is proposed to be added as an accessory use to a principal residential use, allowing for the establishment of smaller childcare facilities within residential areas without the need for a change of use if the primary residential use is maintained.

- b. Childcare services (limited) is proposed to be added as an accessory use to a principal civic and commercial use if certain conditions are met.

7. Compatibility:

Compatibility requirements for structures within 540 feet of a childcare or day care use are proposed to be removed unless triggered by another use or zoning district.

By implementing these amendments, Staff aims to create more opportunities for childcare services, ensuring accessibility and safety while accommodating the diverse needs of the community. These improvements contribute to a more vibrant and family-friendly city, supporting the well-being and development of its residents.

Proposed Amendment Text:

See attached draft ordinance.

Staff Recommendation: Recommended

Recommended Changes and Rationale:

Staff recommends the proposed modifications to land use definitions, zoning district permitted uses, accessory uses, and development standards described above. The proposed changes will help to remove barriers for the siting and expansion of childcare facilities.

The [National Database of Childcare Prices](#) (NDCP) is the most comprehensive source of local childcare price data. Data indicates that childcare is a substantial budget item for a majority of families and prices are especially untenable for low-income families. Across the Austin metropolitan area, childcare prices as a share of median family income range from 7.6% to 16% depending on the type of care (Table 1). Increasing opportunities for the siting and expansion of new childcare facilities, especially home-based facilities that are often more affordable options, will help to alleviate the cost burden of childcare on families within the Austin area. The proposed changes to the zoning districts permitted uses and the proposal to allow childcare services (limited) as an accessory use in a primary residential use directly address this goal.

Table 1: Childcare Price as Share of Median Family Income

County name	Infant center-based price as share of family income: 2018 (%)	Infant home-based price as share of family income: 2018 (%)	Toddler center-based price as share of family income: 2018 (%)	Toddler home-based price as share of family income: 2018 (%)	Preschool center-based price as share of family income: 2018 (%)	Preschool home-based price as share of family income: 2018 (%)	School-age center-based price as share of family income: 2018 (%)	School-age home-based price as share of family income: 2018 (%)
Bastrop County	12.4	10.9	11.4	10.3	10.6	9.8	10.0	8.8
Caldwell County	16.0	14.0	14.7	13.3	13.6	12.6	12.9	11.3
Hays County	11.3	9.9	10.4	9.4	9.6	8.9	9.1	8.0
Travis County	11.5	10.0	9.2	9.5	9.8	9.0	9.2	8.1
Williamson County	9.7	8.5	8.9	8.1	8.3	7.6	7.8	6.9

[Children at Risk](#) defines a childcare desert as zip codes with at least 30 children, ages 0-5, where the demand for childcare (the number of children, ages 0-5, with working parents) is three times greater or more than the supply of childcare (licensed capacity of childcare providers in the area). Austin currently has 25 zip codes classified as childcare deserts (Exhibit D). Existing zoning categories where childcare services is permitted are insufficient to address community need. Permitting childcare services in all residential and commercial zoning districts will allow childcare facilities to locate adjacent to community and employment centers to meet demand. The proposed changes to zoning district permitted uses will increase the area where childcare services are permitted within childcare deserts by 260%, 127%, and 7% for commercial, general, and limited respectively (Table 2).

Table 2: Childcare Services Acreage by Zoning Allowance

	Land Use Definition	Permitted (Acres)	% Change	Permitted in Childcare Desert (Acres)	CUP (Acres)	% Change	CUP in Childcare Desert (Acres)	Not Permitted (Acres)	% Change	Not Permitted in Childcare Desert (Acres)
Proposed	Childcare Services (Commercial)	107,383	255%	60,339	29,475	-64%	14,173	0	-100%	
	Childcare Services (General)	105,899	154%	59,216	20,948	-69%	11,946	0	-100%	
	Childcare Services (Limited)	116,395	6%	67,379	10,453	157%	11,946	0	-100%	
Existing	Day Care Services (Commercial)	30,272	-	18,714	81,932	-	46,559	9,269	-	2,789
	Day Care Services (General)	41,624	-	26,106	68,628	-	38,618	10,011	-	3,351
	Day Care Services (Limited)	109,831	-	62,726	4,069	-	3,629	10,011	-	3,351

The American Planning Association (APA) supports legislation which provides for small in-home childcare as permitted land uses in all zoning districts. APA also encourages cities to amend local zoning regulations to remove barriers for siting and expansion of childcare facilities in all zoning districts that are appropriate and safe for children. Additionally, APA supports zoning regulations that provide for childcare in locations convenient to neighborhoods and public services. Proposed changes to zoning regulations accomplish all three of the recommendations by APA.

Not Recommended Changes and Rationale:

Staff does not recommend creating minimum distance requirements for commercial land uses as was recommended by the Codes and Ordinances Joint Committee. While staff recognizes the need to ensure the safety of users of childcare services, minimum standards for licensed childcare facilities are maintained by the Texas Health and Human Services Commission. Minimum standards include provisions for fire safety, emergency preparedness, and hazard

detection. Provisions are primarily targeted toward indoor and outdoor facilities within the site containing the childcare service itself, as opposed to off-site or adjacent uses. Depending on the provision, inspections are required before license issuance and re-inspection is required annually or bi-annually.

Staff does not recommend the elimination of parking requirements for Childcare or Adult Care Service be included in this code amendment and instead that it be included in the response to code amendment case C20-2023-012 Eliminate Minimum Parking Requirements. Including the elimination of parking requirements in the comprehensive amendment to remove requirements for all uses will ensure that the requirements for accessible parking spaces, off-street loading, and bike parking for Childcare and Adult Care services will be consistent with the requirements for all other land uses.

Board and Commission Actions:

Early Childhood Council Briefing: August 12, 2023

Codes and Ordinances Joint Committee Review: August 16, 2023

Unanimously recommended as amended

Planning Commission Briefing: September 12, 2023

Planning Commission Public Hearing: September 26, 2023

Unanimously recommended with Commissioners Howard, Mushtaler and Hempel noted as absent.

Council Action:

To be considered on October 19, 2023

Sponsor Department: Planning Department

City Staff: Jordan Feldman, Jordan.Feldman@austintexas.gov, (512) 974-7288 (Case Manager)

Paul Books, Paul.Books@austintexas.gov, (512) 974-3137 (Case Manager)

Exhibit A

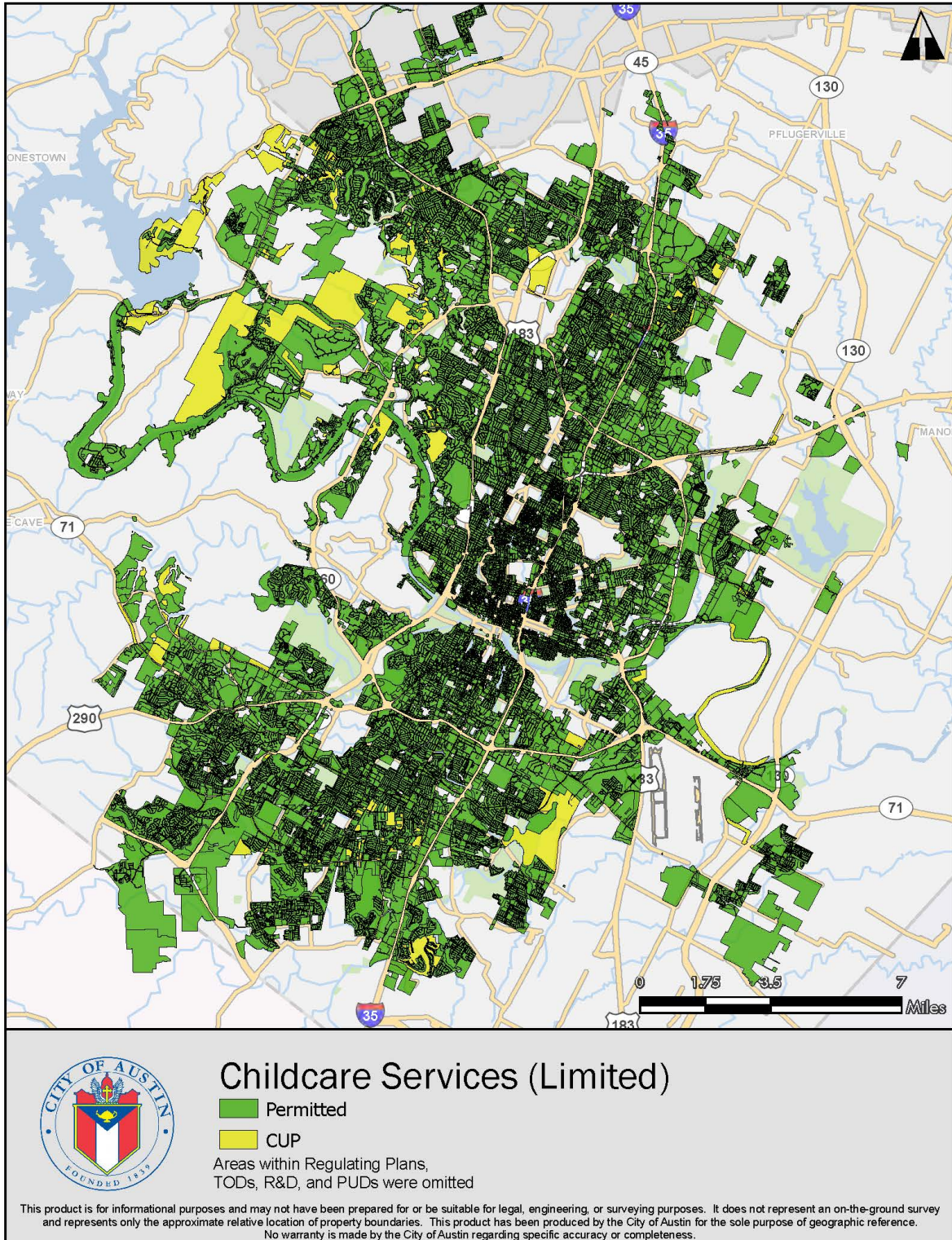


Exhibit B

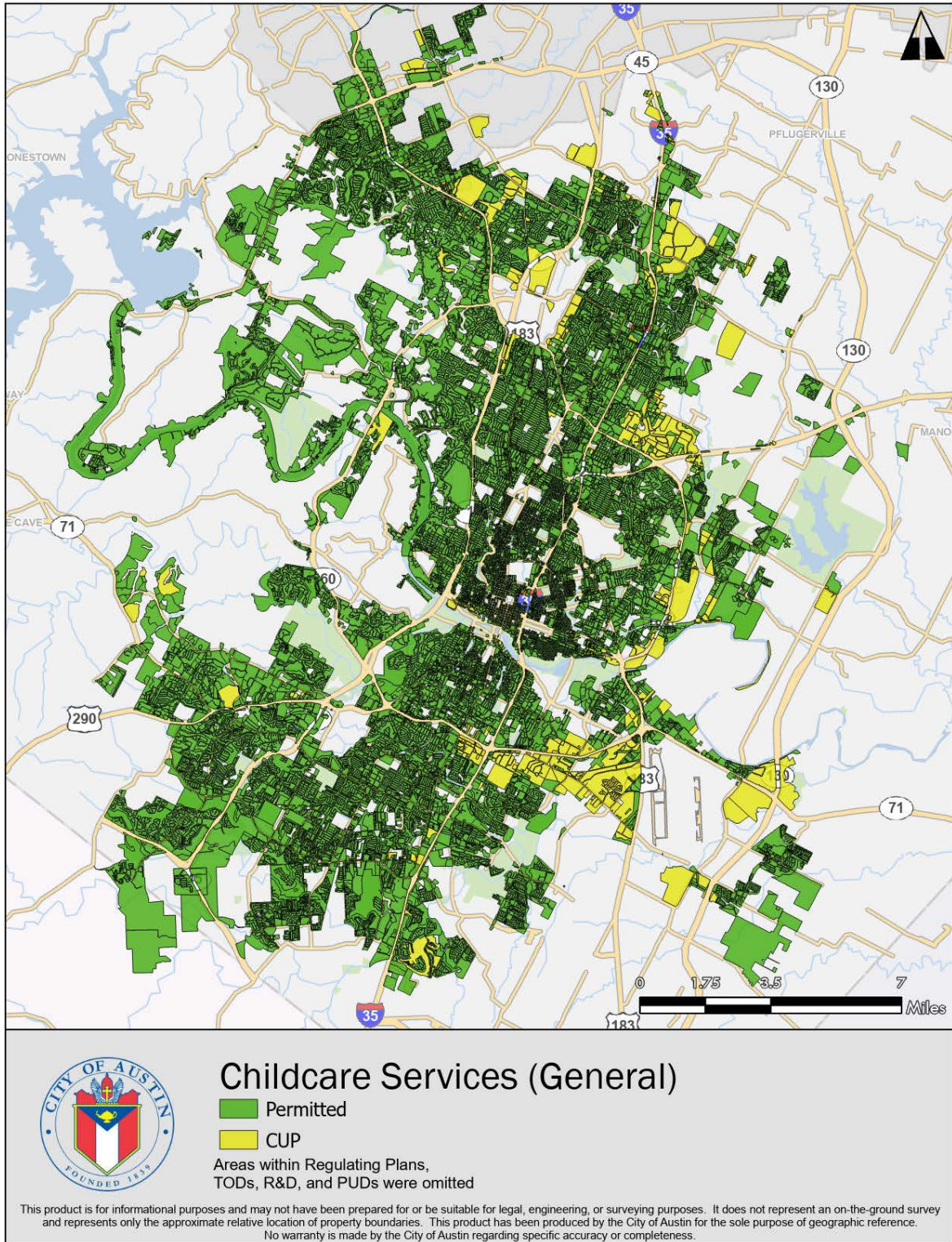


Exhibit C

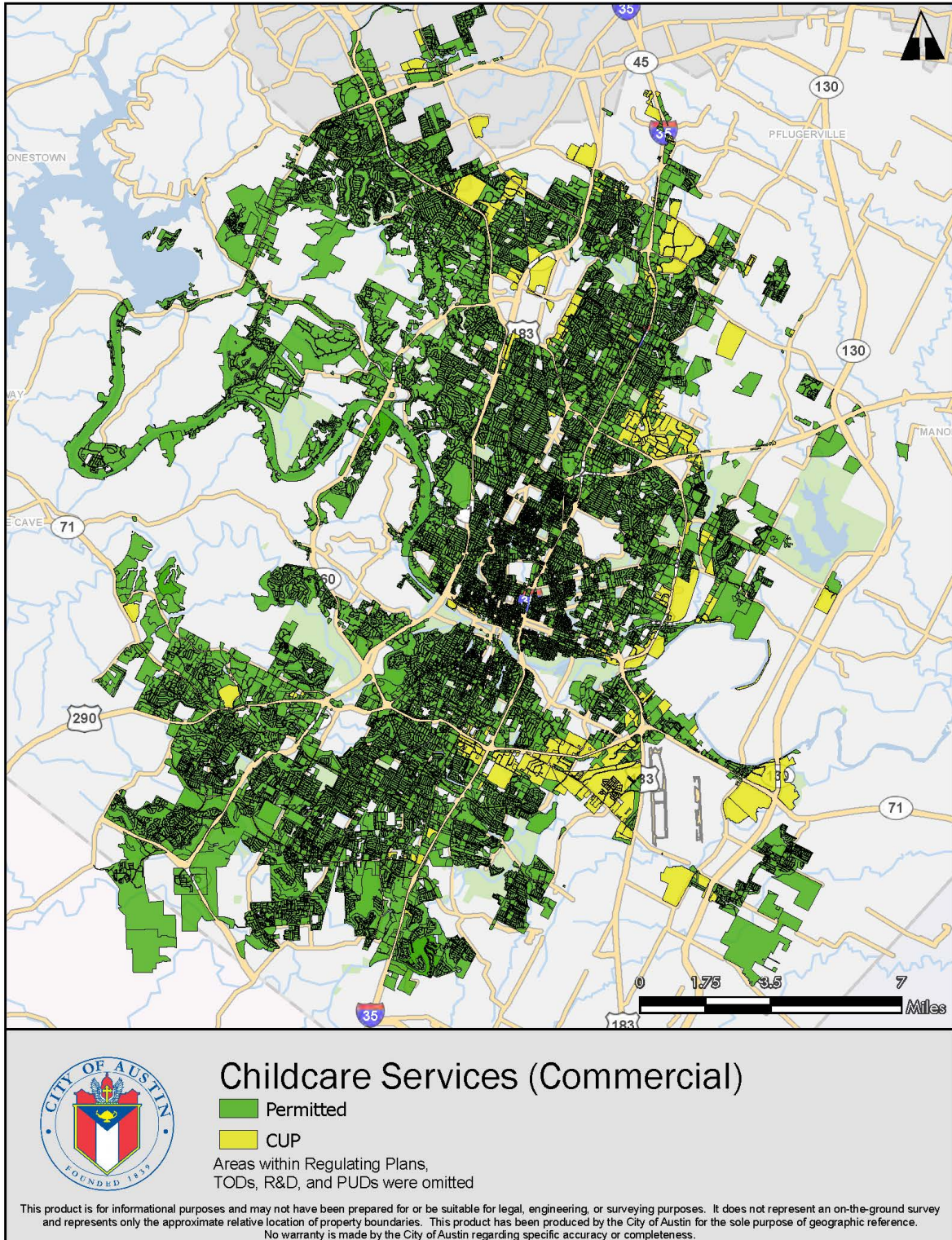
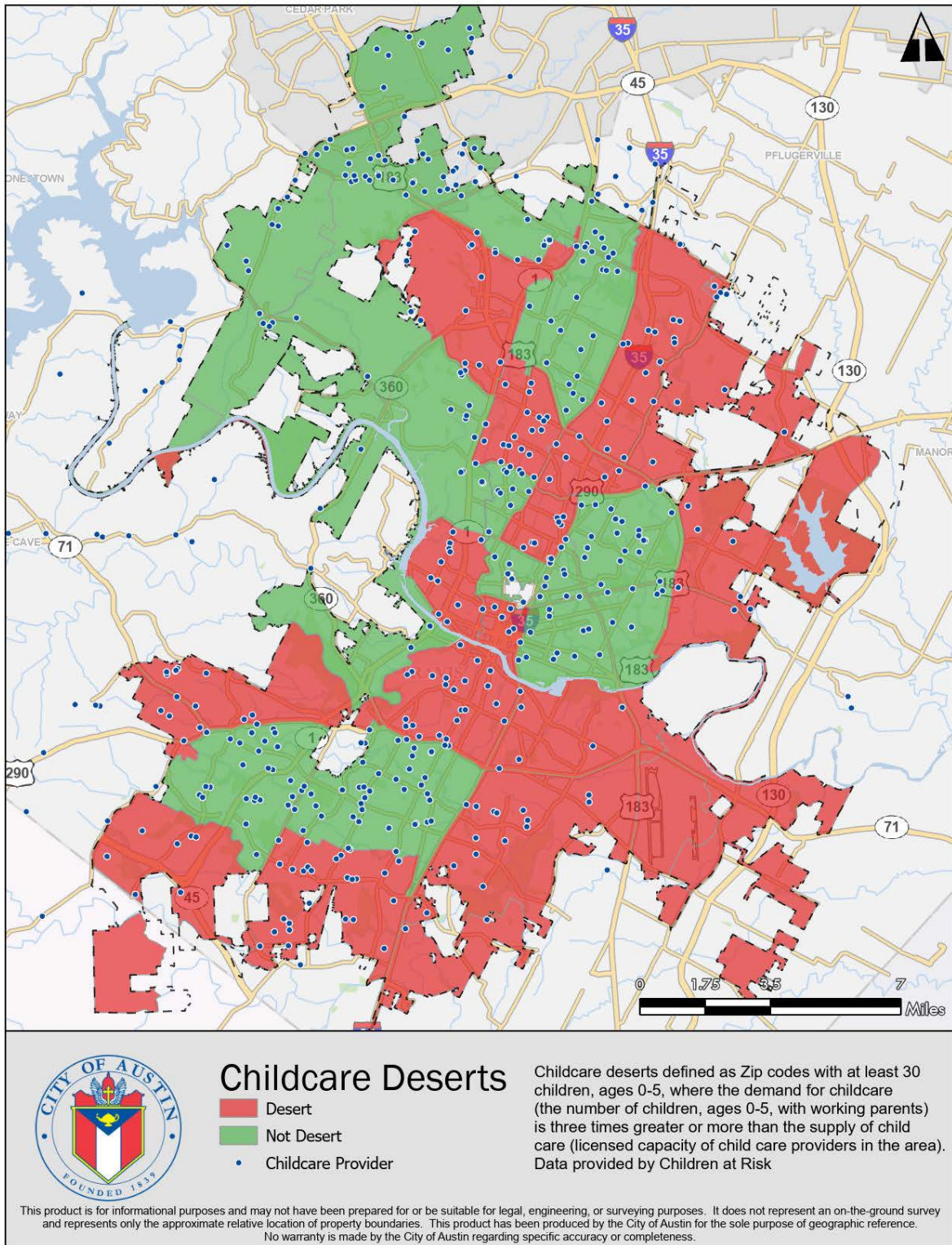


Exhibit D





**HOUSING &
PLANNING**

Affordability Impact Statement

Childcare Services

Case number: C20-2023-001

Initiated by: Resolution No. 20230124-055

Date: September 12, 2023

Proposed Regulation

The proposed ordinance directs staff to develop LDC amendments that achieve the following objectives:

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Land Use/Zoning Impacts on Housing Costs	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral
Impact on Development Cost	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral
Impact on Affordable Housing	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral
City Policies Implemented <i>(e.g. Imagine Austin, Housing Blueprint, SD23)</i>	<p>The proposal aligns with Strategic Direction 2023, Strategy 10 of Economic Opportunity and Affordability, which reads:</p> <p style="padding-left: 40px;">"Create equitable access to quality Early Childhood Education (ECE) by supporting families who do not qualify for existing free programs and cannot afford quality programs on their own, increasing availability of quality ECE programs, and encouraging living wages for ECE providers."</p> <p>The proposal also aligns with the Imagine Austin vision of Complete Communities, wherein various uses are interconnected and supportive of families with children.</p>
Other Policy Considerations	None.
Manager's Signature <u>Marla Torrado</u>	