

**ORDINANCE NO. 1151**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO AMENDING MUNICIPAL CODE TITLE 10 (PLANNING AND ZONING) CHAPTER 3 (ZONING) ARTICLE 3 (LAND USE REGULATION) TABLE 3A TO ALLOW LARGE FAMILY DAY CARE HOMES AS A PERMITTED USE AND AMEND ARTICLE 17 DEFINITIONS FOR DAY CARE FACILITIES**

WHEREAS, in October 2019 California enacted Senate Bill 234 (Skinner) that modified existing law to require a Large Family Daycare Home, which may provide care for up to 14 children, as a residential use of property for purposes of all local ordinances; and

WHEREAS, the Town Council seeks to amend the Town zoning regulations to make them consistent with SB 234 by allowing Large Family Daycare Homes as a permitted residential use of property in all zones in Town; and

WHEREAS, the Town of San Anselmo Planning Commission held a duly noticed public hearing on January 6, 2020 and on February 1, 2021, and heard all public testimony related to the proposed Ordinance and recommended that the Town Council adopt the proposed Ordinance; and

WHEREAS, the Town Council held a duly noticed public hearing on February 9, 2020, and heard all public testimony related to the proposed Ordinance; and

WHEREAS, the Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

**SECTION 1: CEQA** This ordinance can be considered statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to California Health and Safety Code Section 1597.45(d) that provides that 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.

**SECTION 2. FINDINGS AND DETERMINATIONS.**

- A. Reasonable control and regulations of activities related to the health, welfare, and safety of children in child care is necessary.
- B. Under California law, family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses.
- C. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.
- D. It is determined that the Municipal Code relating to family day care facilities must be amended to provide clarity and comply with California law, while providing standards that are necessary to protect persons in or attending childcare facilities or other types of

childcare arrangements.

**SECTION 3:** Title 10 (Planning and Zoning), Chapter 3 (Zoning) of the San Anselmo Municipal Code, Section 10-3.301 Land Use Regulations Table 3A is amended to delete the following uses in the following rows:

LAND USES	DISTRICT	R-1-H	R-1-C	R-1	R-2	R-3	P	C-1	C-2	C-L	C-3
Day Care Centers		C	C	C	C	C	C	C	C	-	C
Day Care, Large Family		C	C	C	C	C	C	C	C	-	C
Day Care, Small Family		P	P	P	P	P	<sup>(5)</sup> P	C	C	-	C

**SECTION 4:** Title 10 (Planning and Zoning), Chapter 3 (Zoning) of the San Anselmo Municipal Code, Section 10-3.301 Land Use Regulations Table 3A is amended to add the following uses in the following rows:

<u>LAND USES</u>	<u>DISTRICT</u>	<u>R-1-H</u>	<u>R-1-C</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>P</u>	<u>C-1</u>	<u>C-2</u>	<u>C-L</u>	<u>C-3</u>
<u>Day Care Center</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>-</u>	<u>C</u>
<u>Daycare Home, Family</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

**SECTION 5:** San Anselmo Municipal Code Title 10 (Planning and Zoning), Chapter 3 (Zoning) Article 17 (Definitions) is amended as follows:

The following new section 10-3.1702 is added immediately after “10-3.1701 - Purpose and intent. It is the purpose and intent of this article to define certain words and phrases utilized in this chapter.”

10-3.1702 – Definitions.

The following words and phrases, when used in the context of this chapter, shall have the following meanings:

The remainder of the section shall remain as drafted, except as noted in Sections 5 and 6 of this Ordinance, below.

**SECTION 6:** San Anselmo Municipal Code Title 10 (Planning and Zoning), Chapter 3 (Zoning) Article 17 (Definitions) is amended to delete the following existing definitions for day care center and large and small family daycare homes:

"Day care center" means any state licensed facility of any capacity, other than a large family or small family day care home, in which less than twenty-four (24) hour per day non-medical care, protection, and supervision is provided for

children in a group setting, which includes infant center, childcare center, nursery school, preschool, and extended day care facility. Also includes "child care center."

Day care, large family day care home. "Large family day care home" means a home which regularly provides care, protection, or supervision of nine (9) to fourteen (14) children, under the age of eighteen (18) years, and including children under the age of ten (10) who reside at home, in the provider's own home for periods of less than twenty-four (24) hours per day, while the parents or guardians of the children are away.

Day care, small family day care home. "Small family day care home" means a home which regularly provides care, protection, or supervision of eight (8) or fewer children, under the age of eighteen (18) years, and including children under the age of eighteen (18) who reside at the home, in the provider's own home for periods of less than twenty-four (24) hours per day, while the parents or guardians of the children are away. A small family day care home is a state mandated residential use of the property.

#### **SECTION 7:**

San Anselmo Municipal Code Title 10 (Planning and Zoning), Chapter 3 (Zoning) Article 17 (Definitions) is amended to add the following new definitions:

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis, as defined in California Health and Safety Code Section 1596.750 as amended. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

"Day care center" means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, and includes child care centers licensed pursuant to California Health and Safety Code Section 1596.951, as defined in Health and Safety Code Section 1596.76 as amended.

"Family daycare home" means a child day care 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, as defined in Health and Safety Code Section 1596.78 as amended. 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.

"Large family daycare home" means a child day care 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 California Health and Safety Code Section Section 1597.465 and as defined in regulations.

"Small family daycare home" means a child day care 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.

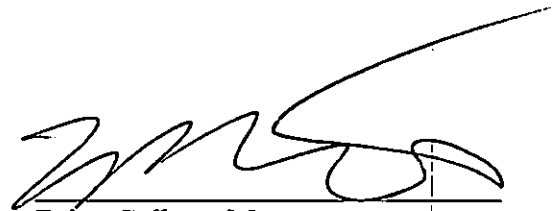
**SECTION 8:** Severability. The Town Council hereby declares every section, paragraph, sentence, clause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

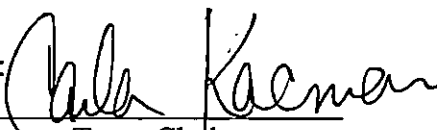
**SECTION 9:** Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Sections 3 through 8 be made a part of the San Anselmo Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

**SECTION 10:** This Ordinance shall go into effect thirty (30) days from its adoption and shall be posted or published as required by State law.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on February 9, 2021, and was adopted at a regular meeting of the San Anselmo Town Council on February 23, 2021, by the following vote:

AYES: Colbert, Fineman, Burdo, Burke, Greene  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
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Brian Colbert, Mayor

ATTEST:   
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Carla Kacmar, Town Clerk