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ZA MEMORANDUM NO. 138

March 2, 2022

TO: Department of City Planning Staff  
Department of Building and Safety Staff  
Interested Parties

FROM: *EM*  
Estineh Mailian, Chief Zoning Administrator, Department of City Planning

SUBJECT: **Implementation of SB 234 "Keeping Kids Close to Home Act"**

This Zoning Administrator Memorandum explains the background and implementation of SB 234 which was approved by the California State Legislature and signed into law by Governor Gavin Newsom on September 8<sup>th</sup>, 2019. SB 234 took effect January 1<sup>st</sup>, 2020.

**Background**

In response to the rising costs and onerous licensing requirements the California Legislature has eased the permit process for large family daycare homes with the passing of SB 234. The state has found that family childcare homes are an accessible and affordable way to provide care for children in a normal residential setting while addressing the cultural and linguistic needs of families. Conveniently located in neighborhoods, daycare home providers are critical to California's economy by providing flexible and extended hours so parents can work. Section 1597.40(a) of the California State Health and Safety Code states that 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. Therefore, more than restricting written instruments, this bill also requires large family daycare homes to be treated as a residential use of property for the purposes of all local ordinances. Furthermore the bill prohibits a local jurisdiction from imposing a business license, fee or tax for operating a daycare home.

## **Applicable California State Health and Safety Code**

Section 1596.78 of the California State Health and Safety Code states that:

*(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.*

Section 1597.42 of the California State Health and Safety Code states that:

*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.*

Section 1597.45 of the California State Health and Safety Code states that:

- (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.*

## **Conclusion**

Based on the provisions of SB 234 and changes to the California State Health and Safety Code, the Departments of City Planning and Building and Safety will no longer require forms and code sections that implement unique and specific treatment of Large Family Day Care Homes. Per Section 1597.45 paragraph (a) large family day care homes cannot have special conditions

applied for their operation that are different from those required of small family day care homes; as follows:

- LAMC 12.22 A.3(b)(1) Conditions to operate a large family day care home
- LAMC 12.22 A.3(b)(2) Notice of Intention to operate a large family day care home
- LAMC 12.22 A.3(b)(3) Exemption from Concentration and Spacing Conditions for a large family day care home
- LAMC 12.22 A.3(b)(4) Violation of Conditions to operate a large family day care home
- LAMC 12.24 X.25 CUP for granting a Large Family Day Care Home within 300 feet of any existing Large Family Day Care Home

Therefore, effective immediately, Large Family Day Care Homes will no longer require additional and exceptional requirements to operate.

EM:HSC:BK:dw

cc: California Department of Social Services, Community Care Licensing Division