

ORDINANCE NO. 2768

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
ADOPTING A NEGATIVE DECLARATION AND APPROVING AMENDMENT
NO. A-151-09, AN AMENDMENT TO TITLE 9 OF THE GARDEN GROVE MUNICIPAL
CODE RELATING TO GROUP HOMES, BOARDING/LODGING FACILITIES, AND CHILD
DAY CARE FACILITIES

City Attorney Summary

This Ordinance updates the City of Garden Grove's Municipal Code zoning definitions regarding group home facilities to conform with current state law definitions for these facilities. The Municipal Code land use matrix is also amended by the Ordinance to conform with the revised definitions.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND
DETERMINES AS FOLLOWS:

WHEREAS, the case, initiated by the City of Garden Grove, proposes an amendment to Title 9 of the Garden Grove Municipal Code Section 9.04.60 (Definitions), Sections 9.08.20.030, 9.12.20.030 and 9.16.20.030 (Uses Permitted), and Sections 9.08.20.050, 9.12.20.050 and 9.16.20.050 (Special Operating Conditions and Development Standards), amending definitions and uses relating to group homes, boarding/lodging facilities, and child day care;

WHEREAS, the City of Garden Grove City Council has considered the proposed Negative Declaration together with comments received during the public review process. The record of proceedings on which the City of Garden Grove City Council decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of proceedings is the Director of Community Development. The City Council of the City of Garden Grove finds on the basis of the whole record before it, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment. Therefore, the City of Garden Grove City Council adopts the Negative Declaration;

WHEREAS, pursuant to Resolution No. 5699, the Planning Commission of the City of Garden Grove, at a Public Hearing on November 19, 2009, recommended adoption of a Negative Declaration and approval of Amendment No. A-151-09 to the City Council;

WHEREAS, pursuant to legal notice, a Public Hearing was held by the City Council on January 26, 2010, and all interested parties were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS
FOLLOWS:

Section 1. Amendment No. A-151-09 is hereby adopted pursuant to the facts and reasons stated in Planning Commission Resolution No. 5699, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference with the same force and effect as if set forth in full.

Section 2. Section 9.04.60 (Definitions) is amended to modify the definition of "Boarding/Lodging Facility"; "Congregate Care Facility"; "Convalescent Center"; "Convalescent Home"; and "Foster Home" as follows:

"Boarding/Lodging Facility" means a residence or dwelling in which three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence or a residence or a dwelling rented to individuals that does not otherwise constitute a Single Housekeeping Unit. In conjunction with other factors, the presence of multiple locked bedroom doors and/or multiple doors from bedrooms to the exterior of the residence or dwelling may constitute evidence that a residence or a dwelling is a boarding house.

"Congregate Care Facility" see "Residential Care Facility for the Elderly (RCFE)."

"Convalescent Center" see "Skilled Nursing Facility."

"Convalescent Home" see "Skilled Nursing Facility."

"Foster Home" means, consistent with Health & Safety Code § 1502(a)(5), any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means, consistent with Health & Safety Code § 1502(a)(5) and §1505.2, a foster family home authorized by a licensing agency to provide 24-hour care for up to eight foster children, for the purpose of placing siblings or half siblings together in foster care or authorized by a licensing agency to provide 24-hour care for more than eight children if the foster family home specializes in the care of sibling groups and that placement is solely for the purpose of placing together one sibling group that exceeds eight children.

Section 3. Section 9.04.60 (Definitions) is amended to include definitions for "Child Day Care Center"; "Family Day Care Home"; "Intermediate Care Facility"; "Half-way House"; "Residential Care Facility for the Elderly (RCFE)"; "Single-Housekeeping Unit"; and "Skilled Nursing Facility", to be placed in alphabetical order, and to read as follows:

"Child Day Care Center" means, consistent with Health & Safety Code § 1596.76, any child day care facility licensed pursuant to Health & Safety Code § 1596.80 et seq. other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, which provide care, protection and supervision to children, for periods of less than twenty-four (24) hours per day.

"Family Day Care Home" means, consistent with Health & Safety Code § 1596.78(a), a home licensed pursuant to Health & Safety Code § 1596.80 et seq. 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 day care home or a small family day care home. "Large family day care home" means, consistent with Health & Safety Code § 1596.78(b), a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home. "Small family day care home" means, consistent with Health & Safety Code § 1596.78(c), a home that provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home.

"Intermediate Care Facility" means, consistent with Health & Safety Code § 1250(d), a health facility licensed pursuant to Health & Safety Code § 1253 et seq. that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

"Half-way House" means a facility that offers temporary housing to two or more probationers or parolees after their release from an institution, such as a prison, a hospital or a rehabilitation facility, to facilitate reintegration into society, and may provide supportive or monitoring services.

"Residential Care Facility for the Elderly (RCFE)" means, consistent with Health & Safety Code § 1569.2, a housing arrangement chosen voluntarily by persons 60 years of age or over (or persons under 60 years of age with compatible needs as established in Health & Safety Code § 1569.2(k) and § 1562.316), or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility.

"Single Housekeeping Unit" means the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the

makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

"Skilled Nursing Facility" means, consistent with Health & Safety Code § 1250(c), a health facility licensed pursuant to Health & Safety Code § 1253 that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. "Skilled Nursing Facilities" are sometimes commonly referred to as "convalescent homes" or "nursing homes".

Section 4. Section 9.04.60 (Definitions) is amended to eliminate the following definitions:

"Day Care Centers" and "Family Day Care Homes" shall be defined as set forth in State of California Health and Safety Code Sections 1596.78 and 1596.78, respectively.

"Day Care Facility" (State licensed) means larger-sized day care facilities for children in excess of the numerical limits set forth in California State Health and Safety Code Section 1596.78.

"Preschool" means an establishment or facility, which may include, but is not limited to, a child care facility, nursery, or Montessori type of facility, caring for 15 or more children, which provides care, protection and supervision to children, for periods of less than twenty-four (24) hours per day, while the parents or guardians of such children are away.

Section 5. Sections 9.08.20.030, 9.12.20.030 and 9.16.20.030 (Uses Permitted), Table 1: City of Garden Grove Land Use Matrix, is amended to modify the title of the following uses:

"Community Residential Care Facility" shall be amended to "Community Care Facility, Residential"

"Preschool" shall be amended to "Child Day Care Center"

Sections 9.08.20.030 and 9.12.20.030 (Uses Permitted), Table 1: City of Garden Grove Land Use Matrix, is amended to modify the title of the following uses:

"Day Care Home Family" shall be amended to "Family Day Care Home (1-14 children)"

The Land Use Matrix shall be amended as follows, and the new titles shall be subsequently placed in alphabetical order:

Section 9.08.20.030 (Uses Permitted)

USES	R-1
RESIDENTIAL	
Community Residential Care Facility, Residential	
6 Persons or Less	P
Day Care Home,	P*
Family Day Care Home (1-14 Children)	
7 Children or Fewer (Small)	p*
7-14 Children (Large)	p*
Preschool Child Day Care Center	C

Section 9.12.20.030 (Uses Permitted)

USES	R-2	R-3
RESIDENTIAL		
Community Residential Care Facility, Residential		
6 Persons or Less	P	P
7 Persons or More	-	C
Day Care Home,	p*	p*
Family Day Care Home (1-14 Children)		
7 Children or Fewer (small)	p*	p*
7-14 Children (Large)	p*	p*
Preschool Child Day Care Center	C	C

Section 9.16.20.030 (Uses Permitted)

USES	O-P	C-1	C-2	C-3	M-1	M-P	O-S
RESIDENTIAL							
Community Residential Care Facility, Residential							
(7 Persons or More)	C	C	-	-	-	-	-
Preschool Child Day Care Center	-	C	C	-	-	-	-

Section 6. Sections 9.08.20.030, 9.12.20.030, and 9.16.20.030 (Uses Permitted), Table 1: City of Garden Grove Land Use Matrix, is amended to introduce "Intermediate Care Facility"; "Residential Care Facility for the Elderly (RCFE)"; and "Skilled Nursing Facility," under the Residential Use Section, and placed in alphabetical order, as follows:

Section 9.08.20.030 (Uses Permitted)

USES	R-1
RESIDENTIAL	
Residential Care Facility for the Elderly (RCFE) (6 Persons or Less)	P

Section 9.12.20.030 (Uses Permitted)

USES	R-2	R-3
RESIDENTIAL		
Intermediate Care Facility	-	C
Residential Care Facility for the Elderly (RCFE)		
6 Persons or Less	P	P
7 Persons or More	-	C
Skilled Nursing Facility	-	C

Section 9.16.20.030 (Uses Permitted)

USES	O-P	C-1	C-2	C-3	M-1	M-P	O-S
RESIDENTIAL							
Intermediate Care Facility	C	C	-	-	-	-	-
Residential Care Facility for the Elderly (RCFE) (7 Persons or More)	C	C	-	-	-	-	-
Skilled Nursing Facility	C	C	-	-	-	-	-

Section 7. Sections 9.08.20.030, 9.12.20.030 and 9.16.20.030 (Uses Permitted), Table 1: City of Garden Grove Land Use Matrix, is amended to eliminate the following uses "Convalescent Center"; "Congregate Care Facility"; and "Day Care Residential Facility Adult" from the Land Use Matrix.

9.08.20.030 (Uses Permitted)

USES	R-1
RESIDENTIAL	
Day Care Residential Facility, Adult	
— 6 Persons or Fewer	€*

9.12.20.030 (Uses Permitted),

USES	R-2	R-3
RESIDENTIAL		
Convalescent Center		€
Congregate Care Facility	€	€
Day Care Residential Facility, Adult		
— 6 Persons or Fewer	€*	€*
— 7 Persons or More		

9.16.20.030 (Uses Permitted),

USES	O-P	C-1	C-2	C-3	M-1	M-P	O-S
RESIDENTIAL							
Convalescent Center	€	€	-	-	-	-	-
Day Care Residential Facility, Adult							
— 7 Persons or More	€*	€*	€*	-	-	-	-

Section 8. Sections 9.08.20.050 and 9.12.20.050 (Special Operating Conditions and Development Standards) shall be amended to eliminate Day Care Home (small family), and to modify the title of Day Care Home, (large family), Seven to Fourteen Children, as follows, and placed in alphabetical order, and subsequently re-numbering the subsection accordingly:

~~B. Day Care Home (small), Seven or Fewer Children. Subject to the requirements of the state of California~~

B €. Day Care Home, (large family), Seven to Fourteen Children **Family Day Care Home (1-14 children).** Subject to the requirements of the state of California.

Section 9.16.20.050 (Special Operating Conditions and Development Standards) shall be amended to eliminate Day Care Home (small family) and Day Care Home, (large family), Seven to Fourteen Children, and subsequently re-numbering the subsection accordingly:

~~M. Day Care Home (small family), Seven or Fewer Children. Subject to the requirements of the state of California.~~

~~N. Day Care Home, (large family). Seven to Fourteen Children. Subject to the requirements of the state of California.~~

Section 9. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 10. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted with the names of the Council Members voting for and against the same, pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the ____ day of _____.

ATTEST:

MAYOR

CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on January 26, 2010, with a vote as follows:

AYES: COUNCIL MEMBERS: (5) BROADWATER, DO, JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (0) NONE
ABSENT: COUNCIL MEMBERS: (0) NONE