

April 26, 1991

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

SINGLE FAMILY ZONE RENTAL REGULATIONS

The ordinance before you addresses issues and problems associated with the rental of single family residences within the R-1 zone. The ordinance is designed to minimize overcrowding, inadequate parking, litter and noise which adversely affect public health and safety. The draft ordinance proposes to amend section 101.0407 by including a provision which regulates rentals of such dwelling units as a permitted use when not owner-occupied.

This approach was taken in lieu of eliminating the terms "one-family dwelling" or "single-family dwelling" from Chapter X of the Municipal Code.

The proposed ordinance adopts the rationale of the California Supreme Court in *City of Santa Barbara v. Adamson*, 27 Cal.3d 123, 164 Cal.Rptr. 539 (1980), that it is permissible to regulate the uses to which property may be put, but not to regulate such use by the occupants in terms of whether or not they are members of a "family."

During the Transportation and Land Use Committee's deliberations on single-family rentals, the Committee indicated that it was not generally desirable to allow businesses to exist within the single-family (R-1) zone. However, upon further study it was noted that traditional rights associated with single-family residential ownership included the right to rent such property under the so-called "bundle of rights" concept of property ownership. In today's mobile economy, it is often necessary for a property owner to rent out his or her single-family residence while pursuing employment elsewhere. The economics of renting out such a structure constitutes a basis for regulation and classification. Thus, the approach that is suggested is to recognize the rental of single-family residences as an already permitted use, subject, however, to regulation as is provided for in proposed section 101.0463.

The definitions contained in proposed amended sections 101.0101.17 and 101.0101.20 continue to recognize the classic definition of a "family." The definition of "family" contained in section 101.0101.20 references the Adamson decision to make it clear that the definition of "family" shall not be used as a regulatory means to prohibit unrelated persons from co-habiting, but merely as classification terminology for a structure.

The principle around which the proposed regulations revolve is whether the single-family rental structure is occupied by the owner or not. A

single-family unit occupied by an owner qualifies that structure for the homeowner's exemption for property taxes. An exemption form is generated on March 1 of each year by the County Tax Assessor. A property owner who does not occupy the single-family structure is required to notify the Tax Assessor and thereby lose the homeowner tax exemption. This, in turn, also generates a notification to the City Treasurer bringing into play the provisions of section 31.0305 relating to business taxation. The proposed ordinance establishes minimum bedroom area requirements for each resident of a rented house, as well as minimum bathroom and parking facilities, based upon the number of occupants.

Because of the overlap between the proposed rental regulation and the single-family residential rental overlay zone (SFROZ) existing in section 101.0461, it is proposed that SFROZ be repealed when proposed 101.0463 becomes effective. The effective date is proposed to be one year following the effective date of this ordinance.

The proposed ordinance authorizes the Planning Director, in conjunction with the City Manager, to adopt implementing regulations for the administration and enforcement of this section. The ordinance also allows an administrative determination to occur which can deny a violating property owner from claiming certain state income tax deductions applicable to rental property. This procedure is also currently used by the Building Inspection Department for enforcement compliance relative to other rental structures that do not comply with certain legal requirements.

Respectfully submitted,
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