

## **LEGISLATIVE DIGEST**

[Planning Code - Definitions, Family, Dwelling Unit]

**Ordinance amending the Planning Code to define a “Family” as a “Household”; eliminate numeric limits on unrelated family members and requirements that family members share meals; classify certain types of community care, elderly, congregate care, and recovery facilities as Residential Uses; include certain groups of six or fewer people and associated operators as a “Household”; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

### **Existing Law**

Planning Code Section 102 defines a Family as:

- a single and separate living unit, consisting of either one person, or two or more persons related by blood, marriage or adoption or by legal guardianship pursuant to court order, plus necessary domestic servants and not more than three roomers or boarders;
- a group of not more than five persons unrelated by blood, marriage or adoption, or such legal guardianship unless the group has the attributes of a family in that it (a) has control over its membership and composition; (b) purchases its food and prepares and consumes its meals collectively; and (c) determines its own rules or organization and utilization of the residential space it occupies.

Under the Planning Code’s definition of a Dwelling Unit, a Dwelling Unit can only be occupied by a Family, as defined by Section 102, unless the Dwelling Unit is used for “employee housing” for six or fewer employees, as defined in California Health and Safety Code Section 17021.5.

Group Housing is a “Residential Use that provides lodging or both meals and lodging, without individual or limited cooking facilities or kitchens, by prearrangement for 30 days or more at a time and intended as Long-Term Housing, in a space not defined as a Dwelling Unit.” (Planning Code § 102.) A group occupying Group Housing or a Hotel, Motel, or any other building or portion thereof other than a Dwelling Unit, is not considered a Family under Section 102.

Under Section 102, Institutional Uses include Residential Care Facilities. The California Health and Safety Code and the California Welfare and Institutions Code require that certain types of residential care facilities serving six or fewer people be defined as a Residential Use

in a jurisdiction's zoning code. The California Health and Safety Code also requires that the residents and operators of certain facilities be considered a "Family" in a jurisdiction's zoning ordinance.

#### Amendments to Current Law

This ordinance would amend Planning Code Section 102 to redefine a "Family" as a "Household" and define a "Household" as "one or more persons that (a) share living expenses, such as rent or mortgage payments, food costs, and utilities, and (b) maintain for all its members no more than nine leases, rental agreements, licenses, or other contractual agreements for exclusive use of all or a portion of the premises." A "Household" would also incorporate the residents and operators of the following facilities:

- A residential facility serving six or fewer persons (California Health & Safety Code Sections 1502 and 1566.3);
- Alcoholism or drug abuse recovery or treatment facilities serving six or fewer persons (California Health & Safety Code Sections 11834.02 and 11834.23(b));
- Residential care facilities for the elderly serving six or fewer persons (California Health & Safety Code Sections 1569.2 and 1569.85);
- Intermediate care facilities for the developmentally disabled serving six or fewer persons (California Health & Safety Code Sections 1250 and 1267.8);
- Any group of people required under state or federal law to be considered a "Family" or "Household" for purposes of local land use regulations.

This ordinance would amend the definitions of Institutional Use and Residential Use under Planning Code Section 102 to classify the following facilities as Residential:

- A residential facility serving six or fewer persons (Health & Safety Code Sections 1502, 1566.3);
- Alcoholism or drug abuse recovery or treatment facilities serving six or fewer persons (Health & Safety Code Sections 11834.02 and 11834.23(b));
- Residential care facilities for the elderly serving six or fewer persons (California Health & Safety Code Sections 1569.2 and 1569.85);
- Intermediate care facilities for the developmentally disabled serving six or fewer persons (California Health & Safety Code Sections 1250 and 1267.8);
- Congregate living health facility serving six or fewer persons (California Health & Safety Code Sections 1250, 1267.16); and
- A state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer persons with mental health disorders or other disabilities or dependent and neglected children that provides care on a 24-hour-a-day basis, (California Welfare & Institutions Code Section 5116).

#### Background Information

This ordinance contains findings describing the need to expand the definition of a “Family” to include unrelated individuals who do not prepare meals together. Living with housemates is often more affordable than living in smaller units and provides important community ties, particularly for young adults. Like related families, housemate households can live together for many years, particularly in high-cost cities like San Francisco. This ordinance also implements Policy 7.2.6 of the City’s Housing Element, which included a goal that the City modify the definition of “Family” to “ensure that it provides zoning code occupancy standards specific to unrelated adults and complies with fair housing law.”

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