



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: November 23, 2015 **REPORT NO. PC-15-109**

ATTENTION: Planning Commission, Agenda of December 3, 2015

SUBJECT: SHORT TERM VACATION RENTAL AND HOME SHARING
ORDINANCE: LAND DEVELOPMENT CODE/LOCAL COASTAL
PROGRAM AMENDMENT (PROCESS 5)

SUMMARY

Issue: Should the Planning Commission recommend approval to the City Council of the Short Term Vacation Rental and Home Sharing ordinance that amends the City's Land Development Code (LDC) and Local Coastal Program?

Staff Recommendation: Recommend approval to the City Council of the proposed code amendments, including Chapter 13, Article 1; Chapter 14, Article 1; and Chapter 15, Article 13.

Environmental Review: The Development Services Department (DSD) has completed a California Environmental Quality Act (CEQA) Section 15162 – Subsequent EIRs and Negative Declaration consistency evaluation in compliance with Public Resources Code 21166 for the proposed amendments to the Land Development Code (LDC) pertaining to short term vacation rentals. A short term vacation rental is the rental of a dwelling unit for a term of less than one calendar month where the property owner does not live in the dwelling unit. Home sharing is an activity whereby the property owner or resident host provides lodging accommodations for boarders, lodgers, or visitors in their home in exchange for compensation.

The evaluation was performed to determine if conditions specified in CEQA Guidelines Section 15162 would require preparation of additional CEQA review. DSD has determined that the proposed amendments are consistent with the original LDC Environmental Impact Report (EIR) No. 96-0333/SCH No. 96081056, certified by City Council on November 18, 1997, Resolution No. 98-288; as well as the City of San Diego General Plan Program EIR No. 104495/SCH No. 20006091032, certified by City Council March 10, 2008, Resolution No. 2008-685; and would not result in new impacts.

Fiscal Impact Statement: Costs associated with implementation of the regulations in the future will be covered by project applicants.

Code Enforcement Impact: The proposed amendments would improve predictability and consistency in the regulation and enforcement of short term vacation rentals, home sharing accommodations, and bed and breakfast establishments, which will benefit property owners, neighborhoods, and tourists.

Housing Impact Statement: The proposed amendments include regulatory controls to help preserve long term housing by setting a maximum of 25 percent of dwelling units in a multiple dwelling unit structure which may be rented out on a short term basis for occupant stays less than 30 consecutive days to minimize impacts to housing. Allowing home sharing is an example that can accommodate long term housing needs while accommodating short term accommodations for paying visitors. Other controls, such as limiting short term rental of restricted affordable housing, could help minimize the effect of housing impacts that result from the whole house short term rental.

BACKGROUND

Community Planners Committee (CPC): On September 22, 2015, CPC passed the following motion on a 24-3-2 vote:

"The CPC supports hosted home sharing in concept. Whole house rentals for less than 30 days are Visitor Accommodations and the City should enforce the Municipal Code."

Code Monitoring Team (CMT): On September 9, 2015, CMT recommended that a subcommittee be established. Generally there was agreement that there is a difference in impact between hosted and non-hosted rentals; that companion units should not be rented short term; that STVR use should not be in Single Family zones; that the responsible party (owner and tenants that sublet) should be held accountable; and that code enforcement must be aggressive.

Technical Advisory Committee (TAC): On September 9, 2015, TAC passed the following motion on a 6-2-4 vote:

Form a subcommittee to 1) identify impacts of Short Term Vacation Rentals 2) discuss potential penalties for STVR code violations 3) discuss whether STVRs are appropriate in Single Family or Multi Family zones.

Generally there was agreement that effective Code Enforcement was the key to accommodating STVRs in Single Family zones and that companion units should not be rented short term. A few committee members did not wish to restrict STVRs in Single Family zones. A few members expressed support of STVRs in Single Family zones if they were required to obtain Neighborhood Use Permits.

DISCUSSION

The proposed ordinance creates a separately regulated use category:

Short term vacation rental of a dwelling unit (whole home rental) for less than 30 consecutive calendar days that provides for exclusive transient use in Single Family Residential (RS) Zones. The proposed ordinance modifies the existing boarder/lodger regulations to *allow* home sharing (owner occupied rentals).

The proposed ordinance also requires that an operator shall designate a local contact who shall be responsible to actively discourage and prevent any nuisance activity at the short term vacation rental, including excessive noise, disorderly conduct, overcrowding, and excessive accumulation of refuse.

To address the issues of frequency and occupancy Councilmember Zapf has proposed the following for “Short Term Vacation Rental of a Dwelling Unit” Section 141.0315 b) limited use regulations:

- 1) Limited use regulations: A maximum of 2 occupants per bedroom plus 2 occupants may stay in a dwelling unit in Single Family Residential (RS) zones.
- 2) A minimum night stay of no fewer than 21 nights in Single Family Residential zones.
- 3) If an owner wishes to deviate from 21 night minimum stay in RS zones, then the owner must secure a Neighborhood Use Permit (NUP)
- 4) The new use category “Short Term Vacation Rentals” be changed to “Short Term Rentals” to clarify that the regulations apply to all short term stays of any purpose.

For Boarder, Lodger and Home Sharing Accommodations Section 141.0301:

- 1) No minimum night stay in all residential zones

The draft ordinance, with the additional clarification on frequency and occupancy of single dwelling units in RS zones, addresses the quality of life issues associated with Short Term Vacation Rentals in Single Family Residential zones. The purpose of the San Diego Municipal Code governing Single Family Residential zones is “to promote neighborhood quality, character, and livability” (131.0403). With guests turning over less frequently in Single Family zones and by limiting the number of guests allowed during a stay, there would be significantly less impact on the neighborhood. The impacts which would be reduced include: noise, parking, trash and occupancy. The proposed regulations would “allow reasonable use of property while minimizing adverse impacts to adjacent properties” (131.0403).

In addition to the input received from CPC, CMT and TAC, input was received via calls, mail and e-mail, as well as at April 22 and May 29 Smart Growth & Land Use Committee meetings.

Some members of the public believe that a permit should be required for all short term rentals as part of the TOT registration process. The concept is that part of the fee associated with the permit (i.e. \$150) could be utilized for Code Enforcement and/or additional PISOs.

Some members of the public have voiced support for the proposed RS zone regulations to be applied to single dwelling units in RM zones as well.

Some members of the public advise that Short Term Vacation Rentals are Visitor Accommodations and thus are not currently allowed in Single Family Residential zones. Furthermore, they do not want to see Short Term Vacation Rentals become codified in the Municipal Code, but rather they want the current Municipal Code to be enforced.

Councilmember Cate has advocated for three PISO officers to be dedicated to responding to Short Term Vacation Rental and Home Sharing nuisance issues.

In the case that either a minimum night stay is enforced, or a neighbor to neighbor interaction facilitated by a PISO is enacted, then effective enforcement will be required for either program's success.

Conclusion:

Recommend the City Council Adopt the Regulations for Short Term Vacation Rentals and Home Sharing and the direction provided in Councilmember Zapf's memo on Frequency, Occupancy, and Eligible Housing Types.

Respectfully submitted,



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PURDY

Attachment: Draft code language