



STAFF REPORT – CITY COUNCIL MEETING

October 19, 2022

TO: Honorable Mayor and City Council Members

FROM: David Loya, Director of Community Development

PREPARER: David Loya, Director of Community Development

DATE: October 12, 2022

TITLE: **Provide Direction for Amendments to the Short-Stay Vacation Rental Program.**

RECOMMENDATION:

Staff recommends the Council direct staff to amend the Short-Stay Vacation Rental Ordinance No. 1545 and return in December for Adoption.

INTRODUCTION:

The Council initiated amendments to the Short-Stay Vacation Rental Ordinance on June 22, 2022. The Council discussed changes to the cap, changes to the exemptions, proximity limitations, a desire to issue permits by unit, limitations on total permits any one owner can have, phone number posting requirements, regulations for hotels, and how transient occupancy taxes are collected. This report brings forward information requested by the Council as well as input from the public on amendments to the Vacation Rental Ordinance. Staff is seeking specific direction for amendments to the ordinance at this meeting.

BACKGROUND:

The Council provided direction on June 22, 2022, to research regulations related to hotels and on options for allowing application-based services to collect Transient Occupancy Tax (Tax). In addition, in that meeting the Council identified areas for further discussion. This report provides responses to those requests and collates the public comment received to date on these issues. In addition to the comment letters the City has received (Attachment A), staff held a listening session open to the public on October 5, 2022.

DISCUSSION:

Cap/Exemptions

The City currently has a cap of 100 Short-Stay permits with exemptions for long-term tenancy or owner occupancy. The Council previously considered eliminating the exemptions and either setting the cap at a fixed number (150 permits was floated) or a percentage of total housing stock (2% was floated). Eliminating the exemptions would simplify the permit process for staff and the public.

However, at the listening session, several attendees indicated that the ownership exemption ensured that the beneficiary of the permit use would be community members and that the allowance provided additional homeownership opportunities.

While there are no data to identify the magnitude of this exemption on these factors, it does stand to reason that the ownership exemption has or can provide these net benefits. Operators also indicated that Short-Stay rentals with owner occupancy are more likely to be operated in ways that have fewer impacts on the neighborhood. We currently have 52 owner occupancy permits.

The rental tenancy exemption has had some unintended outcomes. There are few operators that have multiple units on a site with the majority of the units being operated as Short-Stay rentals providing less long-term housing. Even just one unit that is occupied by long-term tenants allow the parcel to be exempt from the cap. This yields less potential benefit for the long-term housing market. There are 44 properties with a long-term tenancy exemption. Of those, three have multiple units with more than half in Short-Stay use. Seven of the properties have more than two units on the property with only one being operated as a Short-Stay rental. So, while currently only 10 of the 44 parcels operate in a way that does not meet the intention of the program, it is not currently a significant proportion of the units in the Short-Stay rental market. Although, it could become a problem in the future.

Eliminating the cap would simplify the program. Owners and long-term tenants would still be able to apply and compete for permits, but the guarantee that any owner can convert would be eliminated. It is unlikely that a significant proportion of the Accessory Dwelling Unit (ADU) housing stock would convert to this use, but eliminating the exemption ensures a limitation on the number of conversions.

Direction to staff:

1. Should the exemption for long-term tenancy be eliminated?
2. Should the exemption for owner occupancy be eliminated?
3. If one or both exemptions are eliminated, what should the cap on permits be?

Proximity Limitations

The City does not currently regulate proximity. Some neighbors feel their neighborhoods have been significantly impacted by Short-Stay rental conversions. Some jurisdictions require separation of 300' or more. This would be approximately no more than one Short-Stay per block.

Proximity limitations would complicate, not simplify, the program. However, we do have the ability to regulate proximity.

Direction to staff:

1. Should the ordinance include a proximity limitation?
2. If so, what metric should be used?

Operator Limitation

The Council considered whether to limit the total number of Short-Stay permits any one individual could hold in June 2022. There are only a few operators that hold several permits. In effect, they are operating a business. The majority of permits are held by individual property owners. This does not seem to be a significant issue.

Adding an ownership limitation would complicate the program, but staff is prepared to implement this as needed.

Direction to staff:

1. Should the ordinance include a limitation on number of permits any one owner can possess?
2. What should the number be if so?

Phone Number Posting

Current regulation provides a size requirement for listing a phone number of the operator. This was established to provide a first point of contact for problems in the neighborhood with the units. Short-Stay rentals have not posed significant issues with parties or other similar impacts to date. This requirement is almost universally unliked by operators. Staff supports removing this requirement. This would simplify the program.

Direction to staff:

1. Should the ordinance eliminate the phone number requirement?

Hotel Regulations

Some hotels advertise on Air BnB, VRBO, and other similar platforms. However, they are not regulated under the Short-Stay program because they are not housing units. There are some examples of units that are currently enrolled in the program that could be hotels or long-term rentals. This is particularly challenging for boutique hotels that are not associated with a chain. Staff recommends these be excluded from the Short-Stay program. If the Council wishes to include them, then all hotels that advertise on Short-Stay sites should be included in the program – even if they are clearly traditional hotels. If they are included in the program, Council should consider providing these venues an exemption.

Direction to staff:

1. Should hotel rooms be regulated by the Short-Stay ordinance?
2. If so, should an exemption be created for hotel Short-Stays?

Transient Occupancy Tax

Operators have requested that we allow their listing platforms to collect and remit the Taxes on their rooms. Allowing the platforms to collect the Tax relieves the operators from the burden of collecting, accounting, and remitting the Tax.

There are several operational challenges for the City allowing Tax collection by these platforms. First, each operator may use multiple platforms, which would create an accounting challenge for the City appropriately attributing the taxes. Second, each platform has a different method for remitting and accounting Taxes. Most platforms do not provide a detailed account of the tax. Instead, they send a single check. This also presents challenges for accounting. In addition, creating multiple pathways for each individual operator to remit Taxes creates operational and tracking challenges that are not insignificant. In short, we would either need to dedicate significant staff resources to accounting or we would have to accept the Tax remitted on faith that it is accurate.

Staff does not have the capacity to fully impellent this provision. If the Council would like to pursue contracts with the platforms, staff will provide an estimate of staffing costs necessary to monitor and account for the TOT.

Direction to staff:

1. Should the City pursue contracts with listing platforms (Air BnB, VRBO, Vacasa and the like)?

Historic Resource Exemption

During the listening session, a recommendation from the public to exempt listed historic properties from the cap was suggested. The City has a long record of supporting adaptive reuse of historic buildings to incentivize preservation. Adaptive reuse allows for uses that may not be offered to other similarly situated non-historic resources to ensure that the historic buildings are economically viable. There is an existing body of General Plan policy that would support an exemption for historic buildings as an adaptive reuse exemption, however The City Council did specifically not exempt one historic property from the cap when it was requested by the selling property owner.

While this would not simplify the program, staff does have the capacity to administer this exemption.

Direction to staff:

1. Should the Short-Stay cap include an exemption for Historic Landmarks?

POLICY IMPLICATIONS:

This regulation helps balance the needs for transient occupancy and housing in the City.

Short-Stay rentals can help offset the loss of hotel revenues.

COMMITTEE/COMMISSION REVIEW:

None.

ENVIRONMENTAL REVIEW (CEQA):

This action is not subject to CEQA. Any subsequent regulatory amendment would include an evaluation for CEQA.

BUDGET/FISCAL IMPACT:

The budget impact will depend on Council Direction. The program is self-funding. In increase in regulatory complexity may require a commensurate increase in fee for the program.

Several operators pointed out the fiscal impact to the City both directly from Taxes and direct spending in the community from vacationers, as well as the indirect benefits associated with the revenue streams staying in our local economy as important fiscal factors.

ATTACHMENTS:

- A. Public Comment (PDF)