



Contra
Costa
County

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: September 19, 2017

Subject: Report on Options for Short-Term Rental Regulation within Unincorporated areas of Contra Costa County

RECOMMENDATION(S):

A. ACCEPT report on options for regulation of short-term rental of dwellings within unincorporated areas of the County.

B. PROVIDE initial, general direction to staff from the Department of Conservation and Development on the preparation of an ordinance regulating the short-term rental of private dwellings within the unincorporated areas of the County.

FISCAL IMPACT:

Estimated staff cost of preparing an ordinance to regulate and permit short-term rental activities and other provisions is expected to be within the \$30,000 - \$50,000 range, but could be higher or lower depending upon the amount of additional research required, the complexity of regulatory approach chosen and the type and duration of the public process. These staff costs will be assumed by the Department of Conservation and Development (Land Development Fund).

BACKGROUND:

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **09/19/2017** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

Contact: Francisco Avila,
925-674-7801

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 19, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

In response to concerns raised that new, state-mandated easing of restrictions on constructing accessory dwelling units could lead to an increase in short term rentals rather than more permanent housing, the Board of Supervisors (Board) has directed the Department of Conservation and Development (DCD) staff to evaluate preparing an

BACKGROUND: (CONT'D)

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ordinance which would regulate short term rental of dwellings. A new short-term rental ordinance could complement a taxing mechanism that is covered in a separate Board Order for September 19, 2017 from the Finance Committee.

This report will provide Board members with summary information regarding the:

- Existing County regulation,
- Types and amount of rentals currently being offered within the County,
- Arguments in favor and against the short-term rental of dwellings,
- A review of other jurisdictions' regulatory approaches,
- Presentation and discussion of three distinctly different hypothetical ordinance approaches the Board may elect to pursue, and
- A general description of potential next steps going forward.

A desired outcome of this report is for the Board to provide County staff with initial direction on how to proceed on this matter, including guidance on the drafting of a short-term rental ordinance.

EXISTING COUNTY REGULATION

The County currently does not issue permits for short-term rentals nor does it grant requests for business licenses for such activities.

TYPES OF RENTALS CURRENTLY OFFERED WITHIN THE COUNTY

Based on research performed by staff, there are many short-term rental options advertised within the unincorporated area of the County. Some of those options include: single rooms, multiple rooms, studios, apartments, condos, guest houses, tiny homes, and entire residences. On-line rental listings may include limitations on the number of guests, number of days available, and whether pets are allowed or not. According to a cursory review of several on-line services, there are an estimated 200 rental listings in the unincorporated County. Typically, these rentals are located within single-family neighborhoods, in proximity to convenient transportation and other amenities.

ADVANTAGES AND DISADVANTAGES OF SHORT-TERM RENTALS

Pros

- The practice allows property owners to take advantage of an unused asset of their property (a bed, a room, an empty apartment), allowing them to earn extra income.
- For travelers, the system may sometimes be cheaper than traditional short term accommodation. (e.g. hotels and motels).
- Affords travelers additional options in length of stay.

- Short-term rentals potentially allow travelers to be in closer contact with other cultures and communities by renting a bedroom or a home that is immersed in a community
- Potential increased supply of accommodation options could promote travel, lead to increased economic activity and boost tax revenues.

Cons

- Some observers warn that as the price increases in some touristic areas, some individuals will prefer to remove affordable housing from the market in preference of more profitable short-term rentals. New flexibility in constructing accessory dwelling units intended to boost housing supply could instead lead to more short term rentals.
- Many jurisdictions receive an important part of their income by taxing overnight stays. Short-term rentals harm their local budgets if not regulated and taxed appropriately.
- A criticism of the practice is that it can lead to unfair competition between individual homeowners and traditional industry players such as hotels, motels, hostels and bed and breakfasts who are strictly regulated, if the short term rentals are not regulated or taxed.
- In cities where hotels can only be established in defined areas to avoid tourism-related inconveniences to the local population, short-term rentals are making these regulations ineffective as tourists can find accommodation in areas where hotels are not typically allowed.
- Impacts to neighborhoods such as parking issues and replacement of neighbors with overnight guests

REVIEW OF SHORT-TERM RENTAL ORDINANCES

Staff conducted a review of many short-term rental ordinances for jurisdictions within the County and State in general. The review revealed a wide-range in approaches to the regulation of the industry. Below are summaries of several restrictive and permissive ordinances that reflect the wide variety of short-term rental regulation.

San Francisco

- To qualify, the short-term rental unit must be registered and not be subject to the affordable housing restrictions or commitments.
- Property owners must maintain Short-Term Residential Rental Registry (Registry). Property owners must apply to be included on the Registry. Applications are noticed to property owners and occupants of parcels within 300 feet of the subject rental space. The Registry includes a database of information regarding permanent residents who are permitted to offer residential units for short-term rental. Renewal of registration must occur every two years.
- The permanent resident must occupy the residential unit for no less than 275 days of

the calendar year.

- Must have additional insurance and a business license.
- Requires quarterly reporting of the number of days a unit has been rented as a short-term rental.
- Requires that hosting platforms convey all pertinent requirements of the ordinance, including tax liabilities to new property owners listing on the platform.
- Provides provisions for code enforcement and administrative penalties.

San Luis Obispo

- Defines a "homestay rental" as owner occupied and provided for fewer than thirty consecutive days.
- Maximum of four adult guests.
- Prohibits vacation rentals, which involve rental of a non-owner-occupied dwelling.
- Homestay permit required, application review fee of \$305.00.
- Business license required.
- Transient Occupancy Tax required.
- Property owner must provide annual occupancy verification.
- Requires a minimum of one guest parking space in addition to their required residential parking.
- At all times when a homestay rental is occurring, the property owner must be within a fifteen minute drive and accessible 24 hours by phone to respond to complaints regarding the homestay.
- Limited to the owner occupied building on the subject property.
- Prohibits homestay rentals in guest houses or guest quarters.
- Prohibits on-site advertising.

Santa Monica

- Rental unit must qualify as habitable space.
- Limits property owners to one home rental within City limits (e.g., proof of residency).
- Must obtain a business license.
- Prohibits advertising on outside of rental units.
- Collects Transient Occupancy Taxes.

Sacramento

- Requires a Short-Term Rental Permit or a Conditional Use Permit.
- The operator of a short-term vacation rental, from their primary residence, is required to apply for a short-term rental permit, pay an annual business tax as a hotel of \$50, and collect and remit Transient Occupancy Tax of 12% from renters.
- Limits rental of accessory buildings to 90 days per year. If more than 90 days per year a conditional use permit will be required.

Richmond

- Collects Transient Occupancy Taxes.

- Has not adopted any short-term rental specific ordinance.
- Treats short-term rentals as any other rental property.

The approach jurisdictions have taken varies greatly. In general, most jurisdictions have adopted an ordinance, collect a Transient Occupancy Tax and require a business license to operate. In the case of San Luis Obispo, their ordinance limits rentals to owner occupied residences and prohibits all other short-term rentals including vacation rentals. This approach would be an example of a more restrictive regulation, which would aid in protecting single-family neighborhood characteristics. In contrast, the City of Richmond has not adopted an ordinance specific to short-term rentals. The City of Richmond does collect Transient Occupancy Taxes, but treats all short-term rental operations as if they were a typical rental property. This approach is much more permissive, while still generating revenue for the jurisdiction and affording the most flexibility for property owners to adjust to rental demands.

PREPARATION OF COUNTY REGULATIONS ON SHORT-TERM RENTALS

The purpose of this report is to provide Board members with information regarding the implications, impacts and provisions of adopting an ordinance regulating the short-term rental industry within the County. As detailed above, there are a wide variety of approaches jurisdictions have taken. This section lists key components, and provides and analyzes sample approaches.

Key Potential Provisions that Could Be Included In or Omitted From Regulations

1. Restrict the number of days a rental unit can be rented within a calendar year,
2. Require property owners to register with the County, get a business license and/or get a permit,
3. Notification to neighbors prior to granting certain permits and/or to provide the contact information of the property owner for nuisance complaints,
4. Require owner occupancy of unit being rented or of property generally (hosted vs. non-hosted),
5. Establish penalties,
6. Require payment of transient occupancy tax, business license tax and/or business license or permit fee,
7. Require owner to be nearby during all rentals,
8. Prohibit renting of accessory dwelling units and/or other accessory structures,
9. Prohibit on-site advertising,
10. Limit the number of guests per stay,
11. Limit short-term rental activities to certain zoning districts,
12. Require at least one additional parking for each unit rented,
13. Limit one rental unit per property owner within County boundaries,
14. Require quarterly/semi-annual/annual reporting of days a unit has been rented,
15. Prohibit rental of any unit that is subject to an Affordable Housing Agreement.

Sample Options

Below are three Sample Ordinance Options that staff has prepared to facilitate discussion. Review of each option can assist the Board in identifying key elements that staff can include in an initial draft ordinance. For the purposes of this review, short-term rentals are those lasting 30 days or less.

Sample Ordinance Option 1, would be the most restrictive approach and could involve the following:

- Allow short-term rentals within owner occupied primary dwelling units only (hosted rentals).
- Require proof of residency (e.g., utility bills).
- Require property owners to provide one additional parking space, beyond what is normally required for the property.
- Prohibit the short-term rental of accessory buildings, Accessory Dwelling Units and any other building or structure.
- Limit the number of days a short-term rental space can be occupied to 90 days a year, - no exceptions.
- Require ministerial permit, payment of all taxes and fees and contact information in notice to neighbors

Sample Ordinance Option 2, an intermediate approach, could involve the following:

- Allow short-term rentals within primary dwelling units (host or no-host).
- Allow short-term rentals within accessory buildings, Accessory Dwelling Units and any other legal building or structure (hosted only; e.g. owner must occupy primary residence).
- Limit the number of days that a unit can be rented to 90 days a year.
- Require ministerial permit and payment of all taxes and fees but no notice to neighbors.
- Allow exceedances/exceptions through a land use permit process

Sample Ordinance Option 3, the most permissive option, could involve the following:

- Allow short-term rentals of all dwelling units whether hosted or not, but require a ministerial permit if owner not to occupy any portion of premises
- Place no limits on number of days that a building or structure can be rented per year.
- Require payment of all taxes and fees but no permits (except as noted above) and no noticing.

Evaluating the Sample Options

These sample ordinance options describe different approaches the Board may pursue in the crafting of a new short-term rental ordinance. The anticipated pros and cons associated with the sample options are summarized in Table 1 (attached). In short, the preliminary comparison of the sample options demonstrates there may at times be tradeoffs between important goals such as facilitating tourism, minimizing neighborhood

traffic impacts, increasing tax revenue, and reducing illegal rental activities. Below is a brief evaluation of each sample ordinance option.

Sample Ordinance Option 1, would create the least impacts to neighborhoods as it limits the number of units that can be rented on a single property and requires the property owner to occupy the property during the guest's stay. Additionally, this option would require that one additional off-street parking space be provided for rental guests. This parking space could be allowed within the required setbacks (e.g., in front a garage). This approach would aid in reducing parking impacts in already congested parking areas of the County. With this option, prohibiting the rental of all Accessory Dwelling Units and other accessory buildings will protect potential affordable housing alternatives in the County.

Sample Ordinance Option 2, would allow greater flexibility in the type of rentals that a property owner can offer. Besides a principal dwelling unit, a property owner may elect to rent a cabana, or tiny house located on the property. The impacts to neighbors may increase with this option as multiple renters may occupy a single property at the same time, which could potentially generate additional noise and traffic. This option may also reduce the amount of affordable housing within the County as property owners may elect to offer accessory buildings as short-term rentals instead of traditional long-term rental units. Limits to the number of days a unit can be rented would still apply with this option, which would moderate the rental activity at any given property.

Sample Ordinance Option 3, would allow the most flexibility by permitting property owners to rent an entire residence, portions of a residence or accessory buildings. This option would not require the property owner to be on-site during the rental activity if granted a permit. Additionally, this option would not limit the number of days per year a property owner would be allowed to rent the property. Impacts to the neighborhood would be greatest with option as the number of vehicles, guests and days of rental activity within a year would not be limited.

As described above, the approach to regulating short-term rental activities varies greatly. To achieve the desired level of regulation, the Board may elect to mix and match provisions from the various sample options.

Next Steps

1. Upon acceptance of general Board direction, staff will begin preparation of a Draft Short-Term Rental Ordinance.
2. The required California Environmental Quality Act (CEQA) review will be completed and circulated for comment.
3. The Draft Short-Term Rental Ordinance will be presented to the County Planning Commission for their review and recommendations prior to scheduling the hearing before the Board of Supervisors.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board elects to prohibit the rental of private property on a short-term basis entirely, the County may experience increased code enforcement activity in response to illegal short-term rental properties, and will not receive any Transient Occupancy Tax from the use.

CLERK'S ADDENDUM

ACCEPTED the report on options for regulation of short-term rental of dwellings within unincorporated areas of the County. PROVIDED initial, general direction to staff from the DCD on the preparation of an ordinance regulating the short-term rental of private dwellings within the unincorporated areas of the County, with the following concerns and preferences:

- a) the great diversity in the unincorporated areas, that “one size fits all” may present problems in implementation in issues such as parking, and limiting the number of guests allowed.*
- b) Permitting should reasonably protect neighbors without creating an undue beauracratc burden*
- c) That enforcement not become a major difficulty, creating a scenario in which all fees and taxes created are spent on processing permits and enforcement*
- d) Prohibit short term rental of any Accessory Dwelling Unit under a ministerial permit*
- e) Prohibit rental of any unit that is subject to an Affordable Housing Agreement*
- f) Restrict the number of days a rental unit can be rented within a calendar year (90)*
- g) Notification to neighbors prior to granting permits and provision of the contact information of the property owner for nuisance complaints*
- h) Require the owner to be nearby during all rentals*
- i) Set occupancy parameters by the number of beds available in the unit*
- j) Require payment of transient occupancy tax, business license tax and/or business license or permit fee*

DIRECTED staff get input from the municipal advisory councils, presenting them with outline of today’s conclusions for consideration; and RETURN to the Board by the end of February with an ordinance representative of the least restrictive way to have a balance between community protection and utilizing the income opportunity of short-term rental for the Board's consideration.

ATTACHMENTS

San Francisco Ord.

San Luis Obispo Ord.

Santa Monica Ord.

Sacramento Ord.

Richmond Ord.

Table 1

Power Point Presentation