



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: February 27, 2018

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

RECOMMENDATION(S):

- A. ACCEPT report on public input on options for short-term rental regulation within unincorporated areas of the County.
- B. PROVIDE 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 costs of preparing a Short-Term Rental Ordinance and other provisions is expected to be within the \$30,000 - \$50,000 range, or higher 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 covered by the existing approved Budget for the Department of Conservation and Development (Land Development Fund).

BACKGROUND:

In response to concerns stemming from state-mandated easing of restrictions on accessory dwelling units (ADUs) and the potential that short-term rental of ADUs could impact the residential character of neighborhoods and reduce the amount of permanent housing

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **02/27/2018** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

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: February 27, 2018

Contact: Francisco Avila,
925-674-7801

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

By: , Deputy

cc:

generated through ADU's, the Board of Supervisors (Board) has directed the Department of Conservation and Development (DCD) to begin

BACKGROUND: (CONT'D)

preparation of an ordinance which would specifically regulate short-term rental of private residential dwellings. The Board has also directed DCD to begin to work with Airbnb to develop a Voluntary Collection Agreement (VCA), to assist in collection of Transient Occupancy Tax (TOT) on short-term rental activities.

This report includes a summary regarding:

- Review of the September 19, 2017, Board discussion on this topic and initial direction,
- Review of community feedback regarding potential regulatory options,
- Summary of remaining issues on which staff is seeking Board direction,
- Status update on the County's VCA and TOT, and
- A general description of potential next steps.

A desired outcome of this hearing is for the Board to provide County staff with specific direction on key regulatory elements to include in a draft short-term rental ordinance.

SEPTEMBER 19, 2017, BOARD OF SUPERVISOR'S HEARING

At the September 19, 2017, Board meeting, staff presented a wide range of regulatory options available to the County. The presentation included a brief summary of regulatory approaches of several other jurisdictions and three hypothetical approaches prepared by staff that ranged from more permissive to more restrictive. After accepting staff's presentation, the Board discussed the matter, framed its preferences and directed staff to gather community input via the County's Municipal Advisory Committees. The Board expressed initial interest in the following regulatory elements, subject to further input and review:

1. Consider allowing non-hosted rentals. (Non-hosted rentals do not require the property owner to be present. Hosted rentals require the property owner to occupy the property while the rental occurs).
2. Consider requiring that the rental unit must be the property owner's principal residence (e.g., prohibit property owners from renting ADUs on a short-term basis).
3. Consider a 90-day per year limit on all short-term rental units.
4. Noticing of neighbors about ministerial approval of short-term rental activity at a particular property, including contact information of rental unit representative that is responsible for responding to nuisance complaints.
5. Limit the number of vehicles allowed according to the available number of parking spaces provided on-site.
6. The number of beds should set the occupancy limit for the specific rental unit.
7. Consider a Land Use Permit or other discretionary permit for exceptions (e.g., insufficient parking or rental activity exceeding 90 days per year).
8. Consider requiring property owners to obtain a business license in order to operate short-term rental properties.
9. Consider requiring performance standards to be met or permit to be revoked.
10. Prohibit special events (e.g., parties, weddings, etc.).
11. Require the collection of a Transient Occupancy Tax on all short-term rental activity.
12. Require a ministerial permit to operate rather than a discretionary alternative.

The Board also directed staff to begin preparation of a Voluntary Compliance Agreement with Airbnb.

REVIEW OF COMMUNITY INPUT

At the direction of the Board, DCD staff sought community input regarding potential short-term rental regulation by forwarding a questionnaire to the various County Municipal Advisory Councils (MACs). The survey results are presented in Attachment 1. The responding MAC's considered the questionnaire during their December 2017, and January 2018, meetings and returned completed forms containing their vote on regulatory options and concerns in general. Individual MAC voting results are presented in Attachment 2. Copies of responses and other submitted materials are also attached for review.

Along with the MAC's responses, multiple individuals provided completed questionnaires and comments to staff. The results of the separately submitted surveys are also summarized in Attachment 1. Kensington residents provided the vast majority of individual comments. The comments have been divided between responses using the County's form (10 respondents, nearly all from Kensington) and those comments provided by the Kensington Property Owners Association (KPOA). The KPOA prepared an independent survey focusing on short term rental of ADUs and forwarded it to 391 individuals, 169 respondents returned comments (KPOA November 30, 2017, report attached).

The North Richmond MAC also discussed potential regulation of short-term rentals at their November 7, 2017, meeting. Although the North Richmond MAC did not return a completed questionnaire, they did support the ability of property owners to earn additional income by offering short-term rentals, given that proper regulation be in place to address health and safety issues.

As the data suggests there was significant concurrence with the preliminary regulatory elements among the County's many diverse communities. Major areas of alignment are: requiring a ministerial permit, notification of neighbors, requiring adequate parking, requiring a business license, payment of TOT, prohibiting special events and including performance standards and revocation procedures. To clarify, question #2 of the survey was meant to seek feedback on whether an ordinance should only apply to principal residences on a property (e.g., if an approved ordinance applying to principal residences only, would prohibit the short-term rental of ADU's or secondary dwelling units).

SUMMARY OF REMAINING ISSUES ON WHICH BOARD DIRECTION IS REQUESTED

Below please find the list of regulatory elements considered by MACs. The elements that had the lowest support from the MACs are underlined.

1. Consider allowing non-hosted rentals. (Non-hosted rentals do not require the property owner to be present. Hosted rentals require the property owner to occupy the property while the rental occurs).

2. Consider limiting rentals to the primary residence on a property (e.g., prohibit property owners from renting ADUs on a short-term basis).
3. Consider a 90-day per year limit on all short-term rental units.
4. Noticing of neighbors about ministerial approval of short-term rental activity at a particular property, including contact information of rental unit representative that is responsible for responding to nuisance complaints.
5. Limit the number of vehicles allowed according to the available number of parking spaces provided on-site.
6. The number of beds should set the occupancy limit for the specific rental unit.
7. Consider a Land Use Permit or other discretionary permit for exceptions (e.g., insufficient parking or rental activity exceeding 90 days per year).
8. Consider requiring property owners to obtain a business license in order to operate short-term rental properties.
9. Consider requiring performance standards to be met or permit to be revoked.
10. Prohibit special events (e.g., parties, weddings, etc.).
11. Require the collection of a Transient Occupancy Tax on all short-term rental activity.
12. Require a ministerial permit to operate rather than a discretionary alternative.

Staff requests confirmation from the Board on the key elements. Staff recommends developing an ordinance that allows non-hosted rentals, prohibits rentals of ADUs without a land use permit and reserves the flexibility to permit this and other exceptions through a land use permit process.

VOLUNTARY COLLECTION AGREEMENT WITH AIRBNB UPDATE

As previously mentioned, the Board directed staff to begin communication with Airbnb regarding a Voluntary Collection Agreement (VCA). The VCA is a mechanism for Airbnb to collect TOT tax on behalf of Airbnb hosts and transmit it to the County in aggregate. Staff have been in contact with Airbnb and are reviewing the VCA template provided by Airbnb. Preliminary review suggests that it may be prudent to update the County's TOT ordinance to be consistent with the VCA approach. Staff proposes to work with the Treasurer/Tax Collector on this matter.

Staff will continue to work on the VCA as the ordinance to regulate short term rentals is being drafted. To ensure consistency, staff would propose the Board consider the VCA concurrent with the regulations as well as any update to the TOT Ordinance.

NEXT STEPS

1. Upon acceptance of general Board direction, staff will begin preparation of a Draft Short-Term Rental Ordinance.
2. The Draft Short-Term Rental Ordinance will be presented to the County Planning Commission for review and recommendations to the Board of Supervisors.
3. Board considers Short-Term Rental Ordinance, VCA Agreement and any update to TOT Ordinance.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board elects to prohibit 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

The Board discussed the elements and results of the questionnaire completed by the Municipal Advisory Commissions on short-term rental regulation for Accessory Dwelling Units (see slide four of the PowerPoint presentation). The Conservation and Development Department will return to the Board in September with an outline of what a proposed ordinance would contain based on today's discussion, and provide a copy of the Special Events Ordinance for reference.

ATTACHMENTS

Attachment 1: Summary Results of Public Input on Short-Term Rentals

Attachment 2: Individual MAC Questionnaire Results

Powerpoint Presentation: Short Term Rental Ordinance

District 3 All MAC Results

El Sobrante MAC Results

North Richmond MAC Report

Kensington Residents' Comments

KMAC Member Votes

KMAC Mtg Report

KPOA Survey Report

Alamo MAC Results

Alamo Resident Comments

Discovery Bay CSD

CCCentre MAC Report

CCCentre MAC Votes