



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: September 25, 2018

Subject: Regulation of Short-Term Rental Activity Within Unincorporated Contra Costa County

RECOMMENDATION(S):

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

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

C. DIRECT staff to submit the draft ordinance, once it is prepared, to the County Planning Commission for review and recommendation to the Board of Supervisors.

FISCAL IMPACT:

Costs of preparing an ordinance to regulate and permit short-term rental activities and other provisions will be assumed by the Department of Conservation and Development (Land Development Fund). The estimated staff cost of preparing an ordinance 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. The County could establish fees for short-term

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/25/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor

ABSENT: Diane Burgis, District III
Supervisor
Federal D. Glover, District V
Supervisor

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 25, 2018

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

By: June McHuen, Deputy

Contact: Francisco Avila, (925)
674-7801

cc:

rental permits that could cover some or perhaps all costs of implementing an ordinance.

FISCAL IMPACT: (CONT'D)

An ordinance permitting such rentals would facilitate collection of transient occupancy tax (TOT) and would lead to additional tax revenue for the County.

BACKGROUND:

In response to concerns that state-mandated easing of restrictions on accessory dwelling units would lead to increased conversion of existing or future accessory dwelling units to short-term rentals instead of permanent housing, the Board of Supervisors (Board) has directed staff to initiate the process of creating an ordinance to regulate the use.

Currently, the County does not permit or allow short-term rental activity. (Short-term rental activity is defined as the rental of a private dwelling or portion thereof for a period of less than 30-days). Hotels and motels are not allowed within residential zoning districts. Unregulated short-term rental activity in residential communities has the potential to negatively impact the character of neighborhoods, the availability of permanent housing stock, and create a public nuisance. Well-regulated short-term rentals may provide revenue to owners, an attractive accommodation option for guests and potentially additional TOT revenue.

This report is the third in a series of reports to the Board on this matter and addresses the following topics:

- Review of September 19, 2017, Board meeting and direction to staff on short-term rental regulation.
- Review of February 27, 2018, Board meeting and discussion of community feedback.
- Refined regulatory framework.
- Recap of Potential Voluntary Collection Agreement with Airbnb
- A general description of potential next steps.

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

SEPTEMBER 19, 2017, BOARD OF SUPERVISORS MEETING

At the September 19, 2017, Board meeting, staff summarized the advantages and disadvantages of short-term rentals and 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 a range of regulatory options from more permissive to more restrictive. After accepting staff's presentation, the Board framed its preferences and directed staff to gather community input via the County's Municipal Advisory Committees.

FEBRUARY 27, 2018, BOARD OF SUPERVISORS MEETING

At the February 27, 2018, Board meeting, staff presented the results of community feedback on those regulatory elements that the Board initially expressed interest. The responses collected from the various Municipal Advisory Committees suggested that there was significant concurrence with the regulatory elements that had been preliminarily identified by the Board. The elements that enjoyed the most widespread support are: 90-day per year limits, notification of neighbors, requiring adequate parking, requiring a ministerial permit and a business license, payment of TOT, prohibiting special events, limiting the number of guests, and including performance standards and revocation procedures. The elements that were supported at lower levels or for which the level of support was about equal to the level of non-support are: allowing non-hosted rentals, requiring rental to be owner's principal residence and requiring/allowing a land use permit for exceptions.

The Board discussed the elements and the community feedback and directed staff to report back by September with more detail on potential requirements associated with each regulatory element.

REFINED REGULATORY FRAMEWORK

In response to Board direction, staff prepared a table outlining key potential provisions associated with the list of regulatory elements reviewed previously (see attached table). The potential provisions are intended to complement existing County requirements and to balance safeguards with the need for an ordinance that can be practically implemented. In many instances, application for a discretionary land use permit is suggested as a means for an applicant to request operating conditions in excess of the limits proposed for the ministerial permit process.

RECAP OF POTENTIAL VOLUNTARY COLLECTION AGREEMENT WITH AIRBNB

In 2017, 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 BCA concurrent with the regulations as well as any update to the TOT Ordinance.

NEXT STEPS

1. Upon the Board's acceptance of the specified regulatory approach, staff will begin preparation of a Draft Short-Term Rental Ordinance.
2. The Draft Short-Term Ordinance will be presented to the County Planning Commission for review and recommendation to the Board of Supervisors.
3. Board considers Draft Short-Term Ordinance, Voluntary Collection Agreement and any update to TOT Ordinance.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board elects to prohibit the rental of private property on a short-term basis entirely, the County will not receive any Transient Occupancy Tax from the use.

CLERK'S ADDENDUM

*The Board clarified the language for off-street parking should note that the term 'available' is preferred over 'provide'; stated a desire for an exemption for children 12 and under in regard to guest limits per rental property; and requested a more definitive or descriptive use of the word parties as related to special events. The Board **ACCEPTED** the report; **PROVIDED** general direction for staff; and **DIRECTED** staff to submit the draft ordinance, once it is prepared, to the County Planning Commission for review and recommendation to the Board.*

ATTACHMENTS

Regulation Implementation Table

PowerPoint: Discussion of Potential Regulation of Short-Term Rentals