

From: [Sonoma County Coalition of Hosts](#)
To: [Meads, Shari](#)
Subject: [EXTERNAL] Hi Shari - Would like to share hosts talking points with you
Date: Thursday, June 1, 2023 10:59:33 AM
Attachments: [image.png](#)



Hi Shari. Hope your June is off to a good start!!!

We wanted to share with you and the planning department the talking points we have compiled from hosts, so far. We'll forward any additional points as they come in and hope that you will consider them.

There are rumors the city council will allow current hosts with multiple permits to keep all their permits. Is this true? We hope it is. This issue is creating a lot of anxiety among the few hosts it affects.

— We oppose the CAP of 198 permits citywide. We believe that all homeowners (and renters if their landlord allows) should be able to engage in this economic activity if they do so within the current noise and nuisance standards.

— If we read the proposed legislation correctly, those homeowners who have received their permits, have operated responsibly, and paid their taxes will be required to relinquish non-hosted permits if they have more than one inside of city limits. We believe that it is a dangerous precedent to set for the city of Santa Rosa to take away rights previously granted to people to operate their short-term rentals. Please text Amanda Hagar at 707-483-5860 if you have not already joined the group that this affects most closely.

— A spouse, legal domestic partner or common law partner, should be able to assume a hosted or non hosted rental permit in the event that the primary permit holder becomes incapacitated or dies. A legal guardian should be able to assume a hosted or non hosted rental permit in the event the primary permit holder becomes incapacitated.

— If we are correct, the planning commission may be recommending that no outdoor barbecues of any kind can be used at a short-term rental. We believe that if

barbecues and outdoor kitchens meet current safety standards at any home in Santa Rosa, then there should be no discrimination as to which families may operate them. They should be allowed for cooking, pleasure, religious, ceremonial, warmth or similar purposes. To deny a few hundred homes from cooking a meal, when more than 65,000 homes in Santa Rosa are able to engage in that very activity. If it is unsafe for visitors to operate a barbecue, then it is unsafe for all residents.

— Those with a current STR permit for an approved ADU may be in danger of losing your right to host. We are unsure as to the recommendation from the planning commission whether this will be enacted. Please attend the upcoming meeting to retain your rights to host.

— We oppose the 1000 ft limit between non-hosted STR's. This arbitrarily allows one neighbor to take away the rights of homeowners near them to engage in this economic activity.

— Ten days to appeal a denial of a permit is unfair and too short. While the city takes more than 6 months or longer to consider permit applications, and does not make staff readily available for in-person meetings, families need more time to consider whether mounting an appeal is worth their time and resources. Their ability to research their grounds for appeal and discuss with relevant professionals is greatly curtailed.

— Code enforcement, fire, police, or building personnel may request an inspection of your home (hosted and non-hosted) at any time. Is this legal? How does this not cross with guests' right to privacy?

— Should the city have a requirement for renewal notice reminders, given that permit holders have already paid fees that are meant to cover the administration of this program? We think they should.

From: [David Long](#)
To: [Hartman, Clare](#); [CityCouncilListPublic](#)
Cc: [PLANCOM - Planning Commission](#); [Short Term Rentals](#); [Jones, Jessica](#); [Meads, Shari](#); [Dunston, Daryel](#)
Subject: [EXTERNAL] Essay on the Short-Term Rental Ordinance Failure
Date: Monday, May 22, 2023 1:27:50 PM
Attachments: [STR Ordinance Consistency Failure 230522.pdf](#)

Hi Clare and Council Members,

After attending and listening to the April 27th Planning Commission meeting, I felt compelled to write the attached essay. It focuses on the reasons why the Short-Term Rental Ordinance is not consistent with the Zoning Code and fails to support the General Plan. It provides evidence to support the claims made and offers suggestions for change to the ordinance that will correct mistakes that have been made over the past two years by staff and Council..

Because the essay is six pages, it is organized into sections to make reading a bit easier. I hope everyone who receives the essay can find the time to read it and will feel comfortable engaging with me if there are any points to rebut.

Thank you,
David Long
Save Our Santa Rosa

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Thanks!
David Long



The Short-Term Rental Ordinance is Failing – Here are the Reasons Why

by David Long, representing Save Our Santa Rosa

May 22, 2023

CLAIMS

1. The Short-Term Rental Ordinance is ***not*** consistent with the Zoning Code and does not support the General Plan's Land Use and Livability element.
2. This inconsistency is rooted in the fact that Non-Hosted Short-Term Rentals are commercial businesses that are dissimilar to all other business uses listed in Zoning Code Chapter 20-22, Table 2-2.
3. To date, Staff has provided poor guidance to the City Council and the Planning Commission with respect to representing that the Short-Term Rental Ordinance is consistent with the General Plan and Zoning Code. This poor guidance has led to improper decisions by the City Council and Planning Commission.
4. Inconsistency with the General Plan and especially with the Zoning Code, is the key reason why the City Council should amend the Short-Term Rental Ordinance to prohibit Non-Hosted Short-Term Rentals in all residential zoning districts.

BACKGROUND

In early 2020, the City of Santa Rosa recognized that Short-Term Rentals were creating problems for its residents. As one of the last governmental entities in Sonoma County to make this recognition, the City readily admits that they were “late to the party.” Even so, it took the City 18 months to start taking action on the problem.

Beginning in August 2021 and continuing to the present, City staff, with periodic direction from Council Members, have been the primary creators of Ordinance language intended to bring Short-Term Rentals under control. This Ordinance language is found in three separate documents,

1. ORD-2021-011, presented to the Council on October 12, 2021,
2. ORD-2022-008, presented to the Council on August 9, 2022; and
3. Staff Report for Proposed Zoning Code Text Amendments, presented to the Planning Commission on April 27, 2023

ORD-2021-011 and ORD-2022-008 were adopted, with minor revisions, by the Council. The proposed Zoning Code Text Amendments were approved by the Planning Commission, with one “friendly amendment”, and moved to Council for consideration at a public hearing in July 2023.

Each of the above documents include declarations of consistency with the General Plan and Zoning Code; however, not until questioned by Planning Commissioners on April 27, 2023, was the determination of consistency a subject of meaningful presentation, discussion or debate during a public hearing.

The General Plan sets forth a vision for the City and establishes goal and policies to help ensure that the vision is realized. The Zoning Code implements the goals and policies of the General Plan by

classifying and regulating the uses of land and structures within the City. The purposes of the Zoning Code are to protect and to promote the public health, safety, and general welfare of residents, and preserve and enhance the aesthetic quality of the City. Therefore, proposed standards for a new type of land use, such as Short-Term Rentals, that is not specifically listed in the Zoning Code, must first and foremost be internally consistent with the Zoning Code. Firmly establishing that consistency is the only way to ensure the new land use standards are in support of the General Plan.

The following section presents evidence that all three of the documents listed above fail to achieve internal consistency with the Zoning Code and therefore do not support the General Plan, especially with respect to its Land Use and Livability element.

EVIDENCE

Declarations of General Plan support, and consistency with the Zoning Code and General Plan are found in the following locations within each of the above-referenced documents:

1. ORD-2021-011: Section 1, Opening Paragraph, and Paragraphs A. and C.
2. ORD-2022-008: Section 1, Paragraphs A., B. and D.
3. Staff Report for Proposed Zoning Code Text Amendments: Analysis, Paragraph 3., Subparagraphs A. and C.

Zoning Code Inconsistencies

Paragraph C. of ORD-2021-011 states, “The proposed amendments are internally consistent with other applicable provisions of this Zoning Code, in that the amendments will provide definitions and standards for short-term rentals.” This is little more than a self-serving statement. Providing new definitions and standards for a use not previously allowed in the Zoning Code and placing them in Division 4 STANDARDS FOR SPECIFIC LAND USES, does not in and of itself prove or establish consistency. Use of the term “internally consistent” implies that the proposed amendments have been fully integrated with and are related to the existing Zoning Code without conflict. The examples below provide reasoning and proof that “internal consistency” was neither achieved nor discussed with the Council and demonstrate why **ORD-2021-011 and subsequent amendments are *not* internally consistent with the Zoning Code.**

Evidence Example ZC-1

Prior to and continuing since October 12, 2021, Zoning Code Chapter 20-70, DEFINITIONS, defines a Dwelling Unit as,

“A room or group of internally connected rooms that have living, sleeping, cooking, eating and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.”

In writing ORD-2021-011, staff added a second, conflicting definition for a Dwelling Unit,

“A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living sleeping, eating, cooking, and sanitation”

This second definition omits reference to “one household on a long-term basis”, clearly for the explicit purpose of allowing Non-Hosted Short-Term Rentals to operate in residential neighborhoods, the domain of the overwhelming majority of “dwelling units” in the City.

Although Zoning Code Chapter 20-12.020 stipulates Division hierarchy for resolving ed conflicts such as this, which places the second definition in control; nonetheless, ORD-2021-001 created a conflict, and a discrepancy in definitions remains. This discrepancy causes confusion and worse yet, is a clear indication that staff, in writing ORD-2021-011, improperly leveraged the long-standing definition of “dwelling unit” that helps define the traditional character of residential neighborhoods, to enable the conversion of homes into Non-Hosted Short-Term Rentals. In doing so, staff consciously chose to favor the Short-Term Rental industry over the overwhelming majority of City residents and in doing made it impossible to attain two of the stated purposes of ORD-2021-011 – “to preserve the City’s limited housing stock” and “to retain the residential character of neighborhoods.” This proves failure to establish internally consistency.

Evidence Example ZC-2

On a larger scale, the City cannot simply use Division 4, as was done for Short-Term Rentals, as a repository for standards associated with a new land use that was not previously included in another Division of the Code, ***without*** establishing a reasonable degree of consistency with standards in other Divisions pertaining to existing land uses that may be strongly impacted by the new land use. No such degree of consistency was established when Chapter 20-48 SHORT-TERM RENTALS was added to Division 4.

Evidence Example ZC-3

Zoning Code Chapter 20-22 RESIDENTIAL ZONING DISTRICTS does not list Short-Term Rentals as an allowable land use and staff has failed to establish that Non-Hosted Short-Term Rentals are similar to one or more commercial business uses listed in Chapter 20-22.

In response to questions posed to staff at the April 27, 2023 Planning Commission meeting by Commissioners Cisco (beginning at 1:24:44 in the video recording of the meeting) and Petersen (beginning at 2:05:40), staff states that,

1. Non-Hosted Short-Term rentals are businesses.
2. Types of businesses that are allowed in residential zoning districts include home occupation that meet certain criteria, adult day care of various sizes, and small, community-serving retail
3. Analysis by staff shows that Short-Term Rentals fit in alongside the above uses and therefore are consistent with the General Plan. (Zoning Code is not specifically mentioned but is drawn into the conversation by inference).
4. Any land use not included in Zoning Code tables (i.e., Chapter 20-22, Table 2-2) would not be allowed in any residential zoning district
5. Bed and Breakfast inns are permitted in residential zoning districts but not simply by right – they require a Minor Conditional Use Permit.

In addition to being commercial businesses, Non-Hosted Short-Term rentals are transient lodging facilities. According to Chapter 20-22, Table 2-2, the only type of transient lodging facility allowed in Residential Zoning Districts is a Bed and Breakfast inn (B&B). All other transient lodging facilities (hotels and motels) are only allowed in Commercial Zoning Districts and often require a Minor Conditional Use Permit.

All business uses listed in Table 2-2 that could even remotely be considered similar to Non-Hosted Short-Term Rentals have the following common traits that firmly set them apart therefrom.

1. First, they all provide on-site supervision. For example,
 - a. Daycare facilities (both child and adult) and community care facilities have on-site supervision for the entire time they operate during the day.
 - b. Bed and Breakfast inns rent only a few bedrooms to individuals or couples, and the owner or manager of the inn is on site every day to check guests in and out, prepare and serve breakfast, supervise daily housekeeping, provide afternoon refreshments and ensure that guests are comfortable, and respectful of the property and the neighborhood. This is in many respects similar to a Hosted Short-Term Rental.
2. Second, most of the allowable business uses require the business owner to apply for and be issued a Minor Conditional Use Permit (MUP). The process for receiving a such permit requires public notification and a public hearing if requested in writing by one or more interested persons. Furthermore, there is an appeal process available to the public to challenge the issuance of a MUP. Therefore, requiring a MUP gives neighbors an opportunity to weigh in on any proposed non-residential usages.
3. Third, at the time ORD-2021-011 was adopted, all these uses were listed in Table 2-2 of the Residential Zoning Code.

The only business uses listed in Table 2-2 that do not have all of the above traits are Supportive and Transitional Housing. Those two uses have other traits that set them even further apart from Non-Hosted Short-Term Rentals.

1. They are occupied by targeted populations, such as persons with mental disabilities, substance abuse or chronic health problems, and homeless persons
2. They are generally linked to on-site and off-site supportive services which not only provide a level of supervision, but also provide case management, mental health treatment, life skills training and counseling for the occupants.
3. The occupants are generally housed for 6 to 24 months, or longer.

Non-Hosted Short-Term Rentals exhibit none of the above traits and staff misrepresented their similarity to other business land uses that are allowed in residential zoning districts; therefore ORD-2021-011 and subsequent amendments, both adopted and proposed, are not internally consistent with the Zoning Code.

Lack of General Plan Support

Paragraph A. of ORD-2021-011 falls significantly short of establishing that it supports the General Plan because it fails to address what are arguably the two most important qualities for residential

neighborhoods – “Livability” and protecting traditional character. Those two qualities are discussed in the Evidence Examples below.

Evidence Example GP-1

“Livability” is defined in the General Plan as “those qualities of the city that affect everyday living; such as how well the city works for its residents and workers, as well as how comfortable and enjoyable neighborhoods are.” When staff drafted ORD-2021-0011 they knew that Non-Hosted Short-Term Rentals were causing severe livability problems in residential neighborhoods and that many residents were not comfortable with having Non-Hosted Short-Term Rentals in close proximity to their homes. Even with this knowledge, staff failed to include measures in ORD-2021-011 to immediately correct livability problems. Instead, the terms allowed an unlimited number of Non-Hosted Short-Term Rentals to apply for and be issued operating permits. Therefore, **ORD-2021-011 does not support the “Livability” aspect of the General Plan.**

In the 10 months following adoption of ORD-2021-011, the City realized that the Ordinance’s enforcement measures were not returning livability to residential neighborhoods so they adopted ORD-2022-008 to initiate a cap of 198 Non-Hosted Short-Term Rentals. Placing a cap on a problem that already exists does nothing to improve that problem. At best, it can only prevent the problem from worsening. Despite adoption of ORD-2022-008, livability problems caused by Non-Hosted Short-Term Rentals persist in many residential neighborhoods, now more than one and a half years following the adoption of ORD-2021-011. Therefore, **ORD-2022-08 was and is not consistent with the “Livability” aspect of the General Plan.**

The City may rebut the above claims by saying that the enforcement measures included in ORD-2021-011 and ORD-2022-008 were intended to return livability to residential neighborhoods. That is a weak argument for two reasons.

1. In writing the Ordinances, City staff conducted extensive research into the experiences and methods used by other municipalities, which almost universally showed that most enforcement measures were largely ineffective.
2. City staffing levels at the time of Ordinance adoption were not sufficient to implement the enforcement measures nor to handle to influx of the new Short-Term Rental applications in a timely and effective manner.

Evidence Example GP-2

The General Plan envisions residential neighborhood character to be shaped primarily by the types of uses allowed to operate in those neighborhoods. Non-Hosted Short-Term Rentals were recognized as a commercial business use by staff and Council members during public meetings that occurred several months in advance of the Council adopting ORD-2021-011, and that recognition has not waived. Business uses are discussed in the General Plan only in Mixed Use areas - they are not mentioned as an element of residential areas. Therefore, **ORD-2021-011 and ORD-2022-008 were and are not consistent with the aspect of the General Plan that addresses intended uses for residential areas.**

CONCLUSION

The City of Santa Rosa readily admits that it failed to recognize, in a timely manner, the growing Short-Term Rental problem within its boundaries. To the City's credit, once the problem was recognized, they moved relatively swiftly to create and adopt standards and regulations to address the problem. However, despite good intentions, City staff, City Council and to some extent, the Planning Commission have collectively failed to properly craft, evaluate and implement those standards and regulations. In doing so, they also collectively failed to adhere and remain faithful to the General Plan and Zoning Code.

Over the course of the past three years, the character of several residential neighborhoods has been harmed and residents' daily lives have been severely damaged – all due to the City allowing hundreds of Non-Hosted Short-Term Rentals to continue operating nearly unabated.

By now, staff almost certainly realizes that errors in judging the Zoning Code and General Plan consistency have occurred, so the proper, admirable and public-serving course of action would be to correct those errors rather than continue attempting to defend them.

Correction can readily be accomplished by doing the following.

1. In its next report and presentation to Council regarding the Short-Term Rental Ordinance amendment, City staff should accurately recap conversations that occurred at the April 27, 2023 meeting of the Planning Commission. Commissioner Petersen was entirely correct in his line of questioning and reasons for his dissenting vote on whether to move amendments as written on to Council. All other Commissioners, except Commissioner Sanders, clearly leaned towards Commissioner Petersen's desire to recommend a ban on Non-Hosted Short-Term Rentals, but were reluctant to do so because they (incorrectly) believed that taking such bold action without direction from Council was inappropriate.
2. Remove all residential zoning districts from the list of allowed locations for Non-Hosted Short-Term Rentals found in Zoning Code Section 20-48.040.A.2. This will accomplish four important objectives that benefit the City and the overwhelming majority of its residents.
 - a. All potential and future Non-Hosted Short-Term Rentals will be prohibited in residential neighborhoods.
 - b. As many as 198 existing Non-Hosted Short-Term Rentals will become non-conforming uses and when their permits expire, renewal will not be allowed.
 - c. Enforcement of the Short-Term Rental Ordinance will be simplified, much easier to accomplish, and require far less effort by staff.
 - d. Zoning Code internal consistency and General Plan support will be restored.

From: [Danny Baldocchi](#)
To: [CityCouncilListPublic](#); [Alvarez, Eddie](#); [Stapp, Mark](#); [MacDonald, Dianna](#); [Fleming, Victoria](#); [Rogers, Chris](#); [Okrepkie, Jeff](#); [Rogers, Natalie](#)
Subject: [EXTERNAL] Support from Airbnb
Date: Wednesday, June 14, 2023 5:21:32 PM
Attachments: [Santa Rosa Letter.pdf](#)

Dear Mayor and Councilmembers,

I wanted to introduce myself either in person or virtually at your last council meeting but I was pulled away by another project. I am a new member of the Public Policy team at Airbnb and wanted to email you all so that you have my contact information. Please don't hesitate to reach out. I also wanted to share a more detailed message (both below and attached) about the updates to your local short-term rental regulations, which we are supportive of.

Please don't hesitate to reach out if you have any questions or concerns and hopefully I can make it up from Oakland soon to introduce myself in person.

June 14, 2023

Santa Rosa City Council
100 Santa Rosa Avenue
Santa Rosa, California 95404

RE: Item #12.7, Short-Term Rental Ordinance Amendments

To the Mayor and Members of the Santa Rosa City Council:

On behalf of Airbnb and our Host community, thank you for your careful and deliberate consideration of short-term rentals. Short-term rentals are not only an economic lifeline for local hosts, but also a source of economic opportunity for Santa Rosa's small businesses.

After reading through the ordinance, we are pleased that many of the proposed regulations continue to serve the needs of local hosts on our platform as well as the community they live and work in. We encourage you to pass this ordinance to protect the rights of Santa Rosa residents to share their home while fairly regulating a growing industry through a reasonable permitting process.

We would also like to share some additional information regarding concerns that were raised during the Planning Commission and City Council meetings:

- Airbnb has **banned parties** at homes offered by hosts on our platform, a policy that began at the beginning of the COVID-19 pandemic but was [codified as our official policy in 2022](#). The policy includes consequences for guests who attempt to violate these rules, varying from account suspension to full removal from the

platform. However, Airbnb is not the only short-term rental platform that exists in Santa Rosa, which means that we can only work with our own hosts to build a more collaborative and respectful relationship with neighbors.

- **The average host in Santa Rosa is a 48-year-old woman who rents just one property.** Over the past year, ~ 63% of our hosts are women, ~ 84% rent just one property, and ~ 32% are over 60 years old. They are an important fabric of the Santa Rosa community.

Additionally, we understand that the original unhosted short-term rental permit cap was set based on the number of applications submitted and pending at the time regulations were first introduced. We recommend that additional permits are made available so that hosts in good standing who mistakenly fail to renew would not be locked out of continuing their business legally. In Santa Rosa, Airbnb is an important economic tool for Hosts who use this supplemental income to help pay their mortgage, save for their kids' college funds, or renovate their home.

Home sharing has allowed Californians to navigate the economic upheaval of the pandemic and keep up with increasing costs of living. Home sharing also offers numerous benefits to a community, from additional tax revenue for city services, to spreading the benefits of tourism to neighborhoods not served by hotels, to helping local families earn supplemental income.

Again, we thank you for developing an ordinance that clearly defines short-term rentals and creates a simple permitting process for the local host community. We look forward to our continued partnership and collaboration.

Sincerely,

Danny Baldocchi
Airbnb Public Policy, US West

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Danny Baldocchi
Public Policy, US West





June 14, 2023

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Santa Rosa, California 95404

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Sincerely,

Danny Baldocchi
Airbnb Public Policy, US West

From: [Eric Fraser](#)
To: [CityCouncilListPublic](#); [Fleming, Victoria](#); [Rogers, Chris](#); [Alvarez, Eddie](#); [Rogers, Natalie](#); [MacDonald, Dianna](#); [Stapp, Mark](#); [Okrepkie, Jeff](#)
Cc: [Carter, Charles](#); [Holton, Jeffrey](#); [Weeks, Karen](#); [Cisco, Patti](#); [Sanders, Terrence](#); [Duggan, Vicki](#); [Peterson, Julian](#)
Subject: [EXTERNAL] City Council Item #12.7, Responses to Staff Report re STR Ordinance Second Reading, Part 1
Date: Sunday, June 18, 2023 11:08:29 AM

Dear City Council and Planning Commission:

Truth in Tourism comments to the Staff Report in RED:

Agenda Item #12.7
For Council Meeting of: June 20, 2023

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: CLARE HARTMAN, DIRECTOR, PLANNING AND ECONOMIC
DEVELOPMENT
SUBJECT: SHORT-TERM RENTALS ORDINANCE AMENDMENTS – SECOND
READING (PART 1)

AGENDA ACTION: ORDINANCE ADOPTION

RECOMMENDATION

This ordinance, introduced as part of a broader package of amendments at the June 6, 2023, Regular Meeting by a 6-1-0 vote (Fleming no), amends the text of Section 20- 48.040 of Title 20 of the Santa Rosa City Code, Chapter 20-48, Short-Term Rentals, to provide a 30-day grace period, following the adoption of the ordinance, to submit applications to renew expired Short-Term Rental Permits issued during the first year of the Short-Term Rental Ordinance.

On June 6, 2023, after a duly noticed public hearing, Council introduced a series of amendments to the text of Chapter 20-48, Short-Term Rentals. Council directed that (a) staff return as quickly as possible with an amendment to provide the 30-day grace period set forth in this proposed ordinance, and (b) staff return at a later date with a comprehensive ordinance setting forth the remaining amendments introduced on June 6 th . The ordinance presented here is thus the first step of a two-part ordinance adoption.

Why the two-step process? Wouldn't the substantive changes require another public hearing? It's obvious that the City has made many

missteps in the rush and subterfuge in the War on STRs? How about establishing a working group in good faith?

EXECUTIVE SUMMARY

See extensive notes below in “Background”.

The City’s Short-Term Rentals (STR) Ordinance was adopted on October 13, 2021. On August 9, 2022, the Council adopted minor amendments to limit the number of nonhosted STRs within the City and to provide code enforcement regulations. On April 27, 2023, following community engagement and based on Council direction, the Planning Commission held a public hearing and voted 4-2, with one member absent, to recommend that the Council adopt amendments to the Ordinance to address technical changes and add new and revised definitions and policies.

On June 6, 2023, the Council considered the proposed amendments and directed staff to make several changes to the Ordinance, organized in two groups. First, provide a one-time 30-day grace period for Permit holders whose Permits were issued within the

SHORT-TERM RENTALS ORDINANCE AMENDMENTS – SECOND READING PAGE 2 OF 5

first year of the Ordinance and expired without a Renewal application being timely submitted. Second, revise the Ordinance to: (a) provide a permanent 30-day grace period for submitting renewal applications, (b) clarify that allowed outdoor burning at non-hosted STRs only includes natural gas and propane appliances, (c) clarify that outdoor burning limitations do not apply to hosted STRs, (d) provide for transfer of STRs to family members under certain circumstances, (e) allow Owners with multiple STR Permits to retain those permits, (f) require hosted STR Permit applicants to file an affidavit that they will live on site, (g) provide a tiered violation penalty schedule, (h) require a fine for first violations of TOT/BIA and operating without a Permit, (i) clarify that after a third violation a Permit is revoked permanently, (j) keep a cap on non-hosted STRs, starting with current level and reduced over time through natural attrition, prohibit new non-hosted STR Permit applications, and provide for reconsideration of the cap by Council in two years, and (k) require the City to send renewal reminder notifications to Permit holders. Council directed staff to return with the second reading of the first group of revisions (part 1, above) at the June 20, 2023 Council meeting, and to return with the second group of changes (part 2, a through k, above) for a second reading at a future Council meeting.

With so many changes required, why did the City Council enact the original ordinance on June 6, 2023?

BACKGROUND

STRs are a type of transient lodging where a dwelling unit, or portion thereof, is rented for a period of less than 30 days. STRs can be hosted or non-hosted. For hosted STRs the homeowner lives and sleeps on site and for non-hosted STRs the homeowner does not live and sleep on site during the rental period.

For a “hosted” STR, the homeowner should be allowed to name other individuals including family members, tenants, and any others with an affidavit that they will be living on the property, with the permission of the homeowner.

Prior to October 13, 2021, the City of Santa Rosa did not regulate STRs, other than prohibiting ADUs constructed after January 11, 2018 from being rented for less than 30 days, and requiring the remittance of Transient Occupancy Tax (TOT) and Business Improvement Area (BIA) assessments for rentals of less than 30 days.

We can prove that this statement, “Prior to October 13, 2021, the City of Santa Rosa did not regulate STRs”, is untrue by referencing responsive City of Santa Rosa public documents. For examples, we know and can prove that the City requested participation in Airbnb’s Voluntary Collection Agreement program with extensive discussions about STR impacts, and that Planning and Economic Development Department (PED) included in the permit application process considerations for short term renting in at least one major development many years prior to October 13, 2021. We are also continuing a research premise that the SRTBIA is being illegally collected from STRs. Lastly, note the correct interpretation of the law that only ADUs constructed after 1/11/18 are restricted from being STRs.

On October 13, 2021, the City Council adopted Ordinance No. ORD 2021-011 to add Chapter 20-48, Short-Term Rentals to the Zoning Code to establish a regulatory framework for STRs. The Ordinance was adopted on an urgency basis, consistent with Government Code section 36937(b) and 36934, which allows the Council to adopt an ordinance to take effect immediately if findings can be made that the ordinance is necessary for the immediate preservation of public peace, health, or safety.

Abuse of Urgency Ordinance processes - TWICE! - STILL has legal questions and consequences, as well as one that frames concepts of

“good faith” and transparency in government. The Urgency Ordinances were not conceived in good faith, probably violated the Brown Act several times, ushered in major abuses to civil rights and property rights within the ordinance language but also in the administration thereof, and was an assault on many classes of homeowners and other people:

- 1) Homeowners who purchased their homes prior to 10/13/21.
- 2) Homeowners who purchased a home at any time with an ADU permitted prior to 1/11/18.
- 3) Homeowners who have a history of collecting and remitting TOT at any time prior to 10/13/21.
- 4) Tenants, with a lease longer than 30 days, who have a history of collecting and remitting TOT at any time prior to 10/13/21.
- 5) Short-term Renters who have a history of paying TOT/SRTBIA to a Santa Rosa homeowner at any time, since the beginning of those taxation schemes.

We believe all these people have standing to hold the City of Santa Rosa financially responsible for damages caused by the City’s War on STRs.

On August 9, 2022, the City Council adopted Ordinance No. ORD-2022-008 on an urgency basis to set a maximum number of 198 non-hosted STR Permits to be issued citywide and to clarify that enforcement penalties apply to permit holders and “operators in good standing.” The City Council also, by Resolution No. RES-2022-177, established a STR Permit renewal fee and authorized the Director of Planning and Economic Development to approve future fee adoptions and changes to the STR Permit renewal process.

SHORT-TERM RENTALS ORDINANCE AMENDMENTS – SECOND READING PAGE 3 OF 5

On June 6, 2023, the City Council held a public hearing to consider a series of proposed amendments to the STR ordinance, Chapter 20-48. The Council directed staff to bring the amendments back in two parts for second reading and adoption as follows:

A “public hearing” - the first and only at the Planning Commission regarding STRs - is not a replacement for sensible fact gathering from stakeholders by way of a “STR Working Group” or similar ongoing effort

that is non-partisan, fact-based, and thorough.

1. First part to provide for a 30-day grace period, following the effective date of the Ordinance amendment, for Permit holders whose Permits were issued within the first year of the Ordinance and expired without a Renewal application being timely submitted; and

To compare and contrast with the major property rights violations to the classes we outlined above in the “Background” section of this presentation. Consider these items: 1) The 30-day grace period for permit renewals is actually as much as 240 days when considering when permits were first issued under the provision of the Urgency Ordinance, 2) only “51 Days” were allowed for those to exercise their rights under the City’s half-baked “In Good Standing” procedure, 3) and code enforcement has been uneven, deceptive, and acting in bad faith in protecting due process rights of those homeowners accused of violations, with time frames for appeal from zero (0) to seven (7) days.

2. The second part to address the remaining elements of the introduced Ordinance, including:

a. Allow Permit holders a 30-day grace period following the expiration of their Permit to submit a Renewal application;

REPEAT: To compare and contrast with the major property rights violations to the classes we outlined above in the “Background” section of this presentation. Consider these items: 1) The 30-day grace period for permit renewals is actually as much as 240 days when considering when permits were first issued under the provision of the Urgency Ordinance, 2) only “51 Days” were allowed for those to exercise their rights under the City’s half-baked “In Good Standing” procedure, 3) and code enforcement has been uneven, deceptive, and acting in bad faith in protecting due process rights of those homeowners accused of violations, with time frames for appeal from zero (0) to seven (7) days.

b. Prohibit outdoor burning at non-hosted STRs, with the exception of natural gas and propane appliances (such as BBQs, grills, heaters and fire pits);

c. Clarify that outdoor burning regulations do not apply to hosted STRs;

d. Allow a transfer of an STR Permits, under certain conditions, to a spouse, domestic partner, parent, child, legal guardian or beneficiary of a trust;

This should include the ability to purchase the home using an LLC, which is a common practice for residential properties offered to non-SRT renters.

e. Maintain the proposed limit of one non-hosted STR Permit per property owner but allow those with existing multiple STR Permits to retain and renew those Permits;

What is to be gained by creating competitive advantage for a handful of property owners? By allowing this, a homeowner seeking a permit for their own home to be used for short-term renting has their rights diminished over owners of multiple properties? Given the TWO bad-faith Urgency Ordinances, documented corruption in PED code enforcement, pretextual police actions, and more malfeasance in PED, when is the City going to protect the interests of all homeowners? Did bestowing these competitive advantages give any City employees or elected official financial or political advantages? How is the part-time use of a primary residence considered fairly in this bad-faith effort brought by the City's War on STRs?

We also have documented that the City's War on STRs has also been a war on scholarly facts. From our data we can see a pattern whereby STRs that are not well suited or sited quickly fade from the pool of available STRs. There are many, many, many, other verifiable facts that come from an honest appraisal of the economics of STRs, which one way or another the City will be forced to respond to.

This provision is offered because of the threats of continued legal action by the handful of multi-property owners and signals yet again how the City does not have the best interests of all its residents and property owners in mind when concocting the narrative that led to law. Of course, there should be no restrictions on the number of STRs a single owner (or LLC) should be able to own, nor any other limitations

including proximity or caps. This is because the laws of economics have historically kept the number of properties offering short term accommodations at a de minimis level (less than 1% of housing units) for at least the past 15 years, with no threat that their numbers would increase above that level.

Research has also uncovered how essential “activated” housing stock is when there is an emergency. A proven method to “activate” unused housing stock from the pool of over 2,000 second homes and over 35,000 bedrooms estimated to sit uninhabited each night in the City, is to foster a permissive yet regulated (performance standards) for residential properties, with few exceptions to STR permitting.

f. Require applicants for hosted STR Permits to provide an affidavit stating that they will be living on the property;

This procedure should suffice for allowing tenants and family members to be the “host” at a “Hosted STR”. After all, if a “Non-hosted STR” can have a person who is not the property’s owner can be a “local contact”, why can’t a local tenant also be a “host”?

g. Provide a tiered penalty schedule for violations, with one tier for minor violations and one for major violations, with a higher fine amount for major violations;

This was required, but omitted by the two flawed Urgency Ordinances. At the time of the First Urgency Ordinance, Senate Bill #60 amending Sections 25132 and 36900 of the CA Gov Code had been signed by Governor Newsom. The language is clear that there needs to be at least three categories for violations of STR regulations: Minor, Major, and for a first-time offense of the registration requirement. Leave it to the City to make a political contest, and develop self-enrichment schemes for staff and elected officials, from State Law (the City did this with Urgency Ordinances, too.)

h. Require a fine for the first penalty for TOT/BIA violations and for operating an STR without a Permit – no warnings for these violations;

Why no warning? With the number of homeowners and tenants (in multiple classes as categorized earlier in our responses to this this document) damaged by the City Urgency Ordinances, and lack of commitment to good-faith governance by staff and elected officials, the City should be quick to forgive these transgressions, and emphasize the collection of TOT (not BIA) while finding every possible way for the property to continue as a STR.

i. Clarify that after a third citation the Permit will be revoked and the property owner will not be able to reapply at any time for a new Permit;

Should be three MAJOR violations, not including operating without a permit, for revocation and extinguishing property rights.

j. Maintain cap for non-hosted STR Permits, reducing the cap through attrition as permits are vacated or revoked, do not accept new applications for non-hosted STRs, and return to Council in two years to reassess the non-hosted STR cap; and

Why continue with a cap? If gives only a handful of property owners competitive advantages (compounded for owners with multiple properties), diminish the opportunity for properties owners to participate including those with only one residence (perhaps even their principal residence), regardless of actual occupancy rates (# days /year with STR guests), is contrary to the laws of economics which demonstrate that “demand” is the major influence on “supply” in a regulated by unrestricted STR ecosystem, and has been the source of many violations of people's civil rights.

SHORT-TERM RENTALS ORDINANCE AMENDMENTS – SECOND READING
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k. Set up a program to send reminder notices to Permit holders letting them know when their Permit will be expiring.

This is among many flaws to the two Urgency Ordinances and the ordinance addressed in this staff report. This lack of professional

standards should give cause for a major reorganization of PED and City Attorney staff as this work is so outrageously defective.

PRIOR CITY COUNCIL REVIEW

See Background section of this report above.

ANALYSIS

The proposed Ordinance includes additional language to Zoning Code Section 20-48.040(E), Annual Requirement, to allow an additional 30 calendar days from the effective date of the proposed Ordinance amendment to submit a Renewal Short-Term Rental Permit application under specified circumstances. This language would apply to Permits that were issued within the first year of the original Ordinance (between October 13, 2021 and October 13, 2022) and that expired prior to the effective date of this proposed Ordinance amendment. If adopted on June 20, 2023, the effective date of the Ordinance will be July 21, 2023. As such, applicants with expired Permits that were issued in the first year of the Ordinance would have until August 21, 2023 to submit a Renewal Short-Term Rental Permit application.

If adopted, City staff will send e-mail notification to all applicable Permit holders to notify them of the 30-day window to submit a Renewal application.

The proposed Ordinance also includes language to clarify that in the event that any non-hosted Short-Term Rental Permit was issued for a property within 1,000 feet of an expired non-hosted Permit that is subsequently renewed based on this Ordinance amendment, both STRs would be able to retain their Permits regardless of the distance between them. This language has been included to address a situation where reviving an expired Permit would cause another validly issued Permit to become invalid due to the distance requirements between non-hosted STRs.

FISCAL IMPACT

Approval of this action, to amend the existing Short-Term Rentals Ordinance, does not have a direct known fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

The proposed amendment has been reviewed in compliance with the California Environmental Quality ACT (CEQA) and the City Council has determined that adoption of this ordinance is exempt from CEQA under CEQA Guidelines Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and because it is not a project as defined in CEQA Guidelines Section

15378, as it has no potential for resulting in a physical change in the environment, directly or indirectly. Additionally, or alternatively, the Ordinance is exempt

SHORT-TERM RENTALS ORDINANCE AMENDMENTS – SECOND READING

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from CEQA under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that this Ordinance or its implementation of the Amendment would have a significant effect on the environment, would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. The Ordinance is also exempt from CEQA pursuant to CEQA Guidelines section 15301 in that no new development or construction is authorized by the Ordinance and nothing in the Ordinance permits any expansion of use beyond the level of land uses already existing in the City. Single-family homes that are rented on a short-term basis will still be used as single-family homes and in a manner that is not substantially different from how they would be used if they were occupied by full-time residents or long-term renters.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On April 27, 2023, the Planning Commission held a public hearing and reviewed a series of proposed amendments to the Short-Term Rental Ordinance. During the public hearing the Commission heard from members of the public on both sides of the issue. Ultimately, the Commission voted 4-2, with one Commissioner absent, to adopt a resolution recommending that the City Council adopt the proposed text amendments to Zoning Code Chapter 20-48, Short-Term Rentals, as recommended by staff. Included in the motion was a friendly amendment to prohibit outdoor burning at short-term rentals, which includes recreational fires, firepits, outdoor fireplaces, barbeques/grills, bonfires, and other similar items. The Commission was concerned about allowing any kind of burning at STRs where out-of-area visitors may not have a full understanding of the impacts wildfires have had on the Santa Rosa community.

This information regarding outside burning is included gratuitously as it's not an issue in the SECOND READING - PART 1.

NOTIFICATION

A second reading of an Ordinance is not a public hearing, and therefore notification is not required. For the June 6, 2023 public hearing regarding this item, a one-eighth page advertisement was placed in the Press Democrat. The notice was also sent out via GovDelivery email, through the City's various social media sites, and was posted at City Hall and the City website, including the Short-Term Rental website (<https://www.srcity.org/3625/Short-Term-Vacation-Rentals>).

ATTACHMENTS Ordinance
PRESENTER Sue Gallagher, City Attorney

RESPECTFULLY SUBMITTED,

Eric Fraser

Truth in Tourism

truthintourism@gmail.com