

Agenda Item# 15.1
For City Council Meeting of August 9, 2022

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR ROGERS AND CITY COUNCIL
FROM: SHARI MEADS, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: SHORT-TERM RENTALS ZONING TEXT AMENDMENTS
URGENCY ORDINANCE AND FEE ADOPTION RESOLUTION

AGENDA ACTION: ADOPTION OF AN URGENCY ORDINANCE AND RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council: 1) adopt an urgency ordinance to amend Title 20 of the Zoning Code, Chapter 20-48, Short-Term Rentals, to set a maximum number of 215 non-hosted Short-Term Rental Permits to be issued citywide and to clarify that enforcement penalties apply to permit holders and operators in good standing; and 2) by resolution, assign existing service fees to short-term rental permit renewal applications and authorize the Director of Planning and Economic Development to approve future fee adoptions and changes to the Short-Term Rental Permitting Process.

EXECUTIVE SUMMARY

On October 13, 2021, the City Council adopted Ordinance No. ORD 2021-011 on an urgency basis, adding Chapter 20-48, Short-Term Rentals to the Zoning Code (Short-Term Rentals Ordinance) to establish a regulatory framework for short-term rentals (STRs) to reduce safety risks during wildfire events, preserve housing stock and the residential characteristics of neighborhoods, and prevent STR activities from becoming a nuisance to, or threatening the public health, welfare, or safety of neighboring residents. Chapter 20-48 also facilitates the collection and payment of Transient Occupancy Tax (TOT) and Business Improvement Area (BIA) assessments.

Despite having regulations in place, certain non-hosted STR activities continue to generate police and code enforcement complaints related to noise, occupancy, and large events. Staff provided the Economic Development Subcommittee with an update on the STR Program including permitting status, enforcement issues, and potential ordinance amendments to address immediate issues related to public health, welfare, or safety during a special meeting held on May 17, 2021. Longer-term ordinance amendments were also discussed.

In response to Economic Development Subcommittee direction, the proposed Short-Term Rentals Urgency Ordinance (Urgency Ordinance) will (1) set a maximum number of 215 non-hosted Short-Term Rental Permits to be issued citywide and (2) clarify that

SHORT-TERM RENTALS URGENCY ORDINANCE

PAGE 2 OF 6

enforcement penalties apply to permit holders and operators in good standing. The proposed Resolution will establish a Short-Term Rental Permit (STR Permit) annual renewal fee by assigning existing service fees to short-term rental renewal applications.

The Santa Rosa City Charter authorizes the City Council to adopt an urgency ordinance if necessary to preserve the public peace, health, or safety if the ordinance contains the reasons for its urgency. An urgency ordinance requires a 5/7 Council vote and is effective immediately after adoption.

BACKGROUND

STRs are rooms or residences that are rented and occupied for less than 30 days. STRs can be hosted or non-hosted. Hosted STRs are rentals where the homeowner is present during the rental period and non-hosted STRs are rentals where the homeowner is absent during the rental period.

Prior to October 13, 2021, the City of Santa Rosa did not have regulations addressing STRs, other than prohibiting the short-term rental of accessory dwelling units (ADUs) completed after January 11, 2018. Prior to October 2021, it was estimated that more than 350 STRs were operating within the City limits without regulations or operational standards.

On August 10, 2021, and September 14, 2021, the Economic Development Subcommittee, based on public testimony and data presented, directed staff to take immediate action to preserve the public peace, welfare, health, and safety by regulating STRs to address community compatibility, public safety threats due to wildfires and other potential emergencies requiring evacuation, limited housing stock, and the COVID-19 pandemic.

On October 13, 2021, the City Council adopted Ordinance No. ORD 2021-011 on an urgency basis to add Chapter 20-48, Short-Term Rentals to the Zoning Code.

As of May 2, 2022, a total of 255 STR Applications had been submitted. Of those, 196 (77%) represented non-hosted STRs and 59 (23%) represented hosted STRs. At that time, a total of 124 STR related complaints had been received, with 108 resulting in the creation of a Code Enforcement Case.

On May 17, 2022, the Economic Development Subcommittee (EDS) directed staff to bring forward Zoning Code Text amendments to Chapter 20-48 that will allow the City to impose penalties against “operators in good standing” to address ongoing code enforcement complaints that have been received related to these STRs. “Operators in good standing” as defined in Section 20-48.030.O are STR operators who: 1) were registered to pay the City’s TOT and BIA assessments on or before October 7, 2021, or between October 8 and October 27, 2021 with proof of prior operation of the STR; and 2) submitted an STR Permit by December 3, 2021. The EDS also expressed support for establishing a process by which permit holders can renew their annual permits, provided they are compliant with all Code regulations. Finally, the EDS suggested that staff explore options by which the City could stop accepting new applications for non-

SHORT-TERM RENTALS URGENCY ORDINANCE

PAGE 3 OF 6

hosted STRs and focus on processing and permitting the pending STR Applications that meet all requirements.

As of July 1, 2022, a total of 273 STR Applications have been submitted. Of the STR Applications submitted, 205 (75%) represent non-hosted STRs and 68 (25%) represent hosted STRs. Also as of July 1, 2022, a total of 136 STR related complaints have been received. There are currently 73 open code enforcement cases related to STRs, and 42 STR-related cases have been closed to date.

ANALYSIS

Urgency Ordinance

Section 8 of the City Charter authorizes adoption of an urgency ordinance, to take effect immediately upon passage, when deemed necessary by the Council to preserve the public peace, health or safety. In addition, Government Code section 36937(b) allows the Council to adopt an ordinance to take effect immediately, if it is an ordinance for the immediate preservation of public peace, health or safety, and it contains a declaration of the facts constituting the urgency.

Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

Due to an increase in the frequency and intensity of complaints related to non-hosted STR activities since the adoption of the STR Ordinance in October 2021, as well as the number of non-hosted STRs requesting permits, it became clear that non-hosted STR activities were impacting public health, welfare and safety and limiting the long-term availability of housing within the City. The increasing complaints and high volume of non-hosted STRs informed City staff's decision to bring the discussion to the Economic Development Subcommittee on May 17, 2022.

The following summarizes the proposed Zoning Code text amendments contained in the proposed Urgency Ordinance which is attached to this staff report:

1. Section 20-48.040.A, Short-Term Rental Permit Requirements, Permit Required.

Add subsection (2.a.) to set 215 as the maximum number of non-hosted STR Permits that will be issued citywide.

The Economic Development Subcommittee expressed an interest in pausing the acceptance of new non-hosted STR Applications while allowing the continued issuance of non-hosted STR Permits for projects that are currently in review and that meet all Code requirements. Limiting the number of non-hosted STRs to 215 citywide will allow the City the ability to continue processing the STR Permits that have been submitted in good faith since the adoption of the Short-Term Rentals Ordinance, and prior to the adoption of this Urgency Ordinance, while prohibiting the submittal of new non-hosted STR Permit applications, the processing of which would exacerbate the already limited police, fire, code enforcement, and

planning staff resources and impact public health, welfare and safety. Hosted STR Applications will not be subject to this provision.

2. Section 20-48.080.B, Enforcement, Penalties. Table 48.1 Enforcement Penalties

Section 20-48.080 includes a three-step violation process that imposes a \$500 penalty for a first violation, a \$1,000 penalty for any second violation, and a \$2,000 penalty and revocation of the STR Permit for any third violation accrued within one year. Table 48.1 specifies that the penalties and permit revocation apply to STR permit holders. This section is revised to clarify that the enforcement penalties and revocations apply not only to STR permit holders but also to “operators in good standing.”

By making this revision, those operators that meet the Chapter 20-48 definition of “operator in good standing” (having registered for TOT by October 27, 2021 and applied for a STR Permit by December 3, 2021) will be subject to enforcement penalties and their “good standing” status will be revoked after three violations. The result of such revocation is the same as denial of an STR Application, which is that the “Operator is no longer considered an Operator in Good Standing and shall immediately cease renting, offering, or advertising the short-term rental” pursuant to Section 20-48.040(B)(1)(b).

Fee Resolution

The STR Ordinance establishes a one-year permit duration for STR Permits. The ordinance allows existing permit holders to apply for a new permit annually, however, a fee for renewal of existing permits has not yet been established. Pursuant to Zoning Code Section 20-48.040(E), a STR operator shall submit a new STR Permit application annually and include information regarding TOT and BIA assessments paid during the prior year, and any violations accrued and/or penalties paid during the preceding year.

Without a renewal fee in place, existing permit holders would be charged the same fee as for an initial STR Permit application despite the more limited review necessary for a STR Permit renewal. Initial STR applications require review and verification of short-term rental characteristics that do not require annual review such as unit type, ownership type, available parking, overconcentration, location of required interior fire safety equipment, etc.

Staff recommends the adoption of an STR Permit renewal fee equal to the Over-the-Counter Temporary Conditional Use Permit application fee as set forth in the City of Santa Rosa Fee Schedule. This recommendation is based on the similar level of review anticipated for the two permit types and reflects cost recovery of processing STR Permit renewal applications as outlined above.

Where neighbor re-noticing is required, such as for changes in Local Contact information, any additional fees shall be determined by the Director of Planning and Economic Development. The determination will be based on the full cost recovery hourly rate for the staff involved as well as any hard costs associated with the public notice and postage pursuant to the City of Santa Rosa Fee Schedule Planning

SHORT-TERM RENTALS URGENCY ORDINANCE

PAGE 5 OF 6

Applications Fees procedure for where no fee is specified (see highlighted text on Page 2 of Attachment 2).

FISCAL IMPACT

Adoption of these Zoning Code text amendments and STR Permit annual renewal fee will not have a fiscal impact on the General Fund. The direct cost of Ordinance administration will continue to be covered by application fees and enforcement penalties.

ENVIRONMENTAL IMPACT

The adoption of this Urgency Ordinance and Resolution is not subject to the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15060(c)(2) and 15060(c)(3) 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 physical change to the environment, directly or indirectly. Additionally, or alternatively, the Urgency Ordinances and Resolution are exempt from CEQA under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that this Ordinance and Resolution or their implementation would have a significant effect on the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On August 10, 2021, and September 14, 2021, the Economic Development Subcommittee, based on public testimony and data presented, directed staff to take immediate action to preserve the public peace, welfare, health, and safety by regulating STRs to address community compatibility, public safety threats due to wildfires and other potential emergencies requiring evacuation, limited housing stock, and the COVID-19 pandemic.

On May 17, 2022, the Economic Development Subcommittee (EDS) directed staff to bring forward Zoning Code Text amendments to Chapter 20-48 that will allow the City to impose penalties against “operators in good standing” to address ongoing code enforcement complaints that have been received related to these STRs. “Operators in good standing” as defined in Section 20-48.030.O are STR operators who: 1) were registered to pay the City’s TOT and BIA assessments on or before October 7, 2021, or between October 8 and October 27, 2021 with proof of prior operation of the STR; and 2) submitted an STR Permit by December 3, 2021. The EDS also expressed support for establishing a process by which permit holders can renew their annual permits, provided they are compliant with all Code regulations. Finally, the EDS suggested that staff explore options by which the City could stop accepting new applications for non-hosted STRs and focus on processing and permitting the pending STR Applications that meet all requirements.

NOTIFICATION

SHORT-TERM RENTALS URGENCY ORDINANCE

PAGE 6 OF 6

A public hearing notice was posted at City Hall and advertised in the Press Democrat, pursuant to Zoning Code Section 20-66.020(D), Alternative to Mailing, since the ordinance would affect properties Citywide.

ATTACHMENTS

- Attachment 1 – Proposed Amendments to Santa Rosa City Code
- Attachment 2 – City of Santa Rosa Fee Schedule dated July 1, 2022
- Attachment 3 – Ordinance No. ORD-2021-011
- Attachment 4 – Public Correspondence
- Urgency Ordinance
- Resolution

CONTACT

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