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Staff Report to Extend to One Year An Urgency Ordinance that Places a Temporary Moratorium on Non-Hosted Short-Term Rentals Land Uses

SUMMARY AND RECOMMENDATION

Staff recommends the City Council approve a time extension of the initial 45-day temporary urgency ordinance establishing a moratorium on non-hosted short-term rentals land uses for up to ten months and fifteen days for a total of one year from the date of inception.

BACKGROUND AND DISCUSSION

To provide an opportunity to further examine and address issues related to short-term rentals, the City Council unanimously approved an urgency ordinance on July 23, 2018, which placed a temporary moratorium on non-hosted short-term rental land uses. The ordinance reinforces the City’s current prohibitions and provides a more clear enforcement tool until permanent regulations can be established and implemented. State law provides an initial forty-five (45) day effective period for temporary urgency ordinances unless a further extension of time is later approved. Staff is requesting that the City Council adopt an Ordinance to extend the time period of the moratorium up to ten months and fifteen days for a total of one year from its initial effective date, ending July 22, 2019. Staff will utilize this period to conduct public outreach and develop for City Council review and approval new draft short-term rental regulations.

Relevant Definitions

A “short-term rental” is the rental of a residential dwelling unit (or portion thereof) to paying occupants on a short-term basis. Short-term rentals can vary from the rental of a single bedroom or common area to an entire home or apartment. The duration of occupancy may also vary, but short-term rentals are generally defined as the rental of any property or portion thereof for less than 30 days. Short-term rentals are typically advertised and booked online through various short-term rental listing services or

rental agencies. The property owner is responsible for the operation, safety, and remittance of transit occupancy taxes (TOT).

There are two different types of short-term rentals. A “hosted” short-term rental is one where the host or owner is domiciled in the home while it is being rented, such as with the rental of an individual bedroom. A “non-hosted” short-term rental is one where the host or owner is not domiciled in the home and the entire house or apartment unit is rented out, such as with a vacation home rental. These differ from a “Bed and Breakfast,” which is defined and regulated in the City’s Zoning Code as a single or multifamily dwelling converted into a formal lodging business having six or fewer rooms. Hosted and non-hosted short-term rentals tend to be clearly differentiated on short-term rental websites, as renters want to know if they are renting the “entire home” or just a portion thereof.

Analysis

Extending the current moratorium on non-hosted short-term rentals for up to an additional ten months and fifteen days to one year in total will provide staff, the community, and the City Council adequate time to address the issue. Staff will use this time period to conduct further public outreach and garner feedback to help develop policies leading towards City Council review and approval of a new short-term rentals ordinance.

Timeframe

The process will begin with a community meeting to be held in the Karp Room of the San Leandro Public Library on September 24, 2018 at 6 pm to discuss issues and receive feedback regarding short-term rentals. A public survey will be presented at the community meeting and made available during the following weeks thereafter, provided in print and with multilingual options. Staff will then return to City Council for a follow-up work session to present the results sometime in late November or December with the goal of having a draft short-term rentals ordinance ready for adoption early next year.

Summary of Moratorium

During the effective period of the temporary urgency ordinance, any residential property owner in the City of San Leandro whose domicile is not at the San Leandro property that he or she owns and intends to rent is prohibited from renting the residential property, or having an intermediary rent the property, for a term of less than 30 days.

The California Constitution vests the City with the power to impose a moratorium on non-hosted short-term rentals to protect the public health, safety, and welfare of its citizens, and to regulate zoning. The California Government Code enables the City, through passage of an urgency ordinance, to immediately protect and preserve the public peace, health, and welfare by prohibiting any uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the legislative body, planning commission or planning department is considering.

Previous Actions

Ordinance 2017-003 on March 17, 2017 prohibits Accessory Dwelling Units (ADUs) from being used

for short-term rentals. The City Council held a work session on July 23, 2018 regarding the urgency ordinance, and a first reading of a Loud and Unruly Gathering Ordinance. Prior to the most recent special meeting of the City Council on July 23, 2018 during which the current urgency ordinance was adopted, the City Council held a work session to discuss the issue of short-term rentals on November 13, 2017.

Applicable General Plan Policies

Land Use 1.9 - Multi-Family Housing Upkeep. Maintain and enforce high standards of property upkeep for existing and new multi-family rental housing development.

Land Use 1.9.B - Maintenance of Rental Properties. Pursue ordinance revisions and incentives to ensure that landlords are held accountable for the appearance, maintenance, and safety of rental properties, including yard areas and structures.

Land Use 3.10 - Market Rate Housing. Encourage the provision of a significant amount of market-rate ownership and rental housing as part of an effort to maintain and diversify the City's economic base.

Economic Development 5.9 - Hospitality. Expand the hospitality sector in San Leandro, including hotels and visitor services such as conference and meeting facilities.

Housing Policy 56.10 - Efficient Use of Housing Stock. Support programs that encourage the more efficient use of existing single-family homes, for instance, roommate matching and shared housing programs. This could also include opportunities for local homeowners to rent out rooms in their homes for short-term stays, thereby providing an extra source of income which makes their own housing more affordable.

Housing Policy 56.11 - Second Units. Recognize second units as an essential part of the City's housing stock and a resource for lower income households, students and young adults, seniors, extended families and small households. Second units established prior to the adoption of the 1961 zoning code should be recognized as legal dwelling units and measures to legalize unregistered units developed after 1961 should be explored.

Housing Policy 59.01 - Zoning Regulations. Ensure that the development standards, use restrictions, parking requirements, and other regulations contained in the San Leandro Zoning Code enable the production of housing for all income groups. Overly restrictive or redundant requirements should be strongly discouraged.

Environmental Review

A time extension of an interim ordinance is not a "project" within the meaning of section 15378 of the State CEQA Guidelines, because it has no potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment. Furthermore, a time extension of an interim ordinance is categorically exempt from CEQA under CEQA Guidelines section 15308 because it is a regulatory action taken by the City, in accordance with Government Code section 65858, to assure maintenance and protection of the environment pending consideration of further amendments to the City's municipal codes, including its Zoning Code.

Legal Analysis

The City Attorney's Office drafted the urgency ordinance establishing the land use moratorium.

Related Legislative Files:

- Original Urgency Ordinance Establishing Moratorium on Non-Hosted Short-term Rentals of Residential Properties (18-368)
- Short-Term Rentals Study Session (17-616)
- Proposed Extension of an Urgency Ordinance Establishing Moratorium on Non-Hosted Short-Term Rentals of Residential Properties (18-413)

ATTACHMENT(S)

- Staff Report and Attachments from the July 23, 2018 City Council Short-term Rentals Work Session (18-322)

PREPARED BY:

Andrew J. Mogensen, AICP
Planning Manager

Richard D. Pio Roda,
City Attorney