



Legislation Text

File #: 18-413, **Version:** 1

An Interim **ORDINANCE** of the City Council of the City of San Leandro Adopted as an Urgency Measure, Making Findings and Extending a Temporary City-Wide Moratorium on Non-Hosted Short-Term Rentals of Residential Dwelling Units for a Period of Ten Months and Fifteen Days, to Become Effective Immediately.

WHEREAS, on July 23, 2018, the City Council adopted Ordinance 2018-015 imposing a temporary moratorium on non-hosted short-term rentals for a period of 45 days, which moratorium will expire on September 6, 2018 unless extended; and

WHEREAS, Government Code section 65858 authorizes an extension of the moratorium ordinance, after a noticed public hearing, to prohibit uses of land which may conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable period of time; and

WHEREAS, the City of San Leandro ("City") has an overriding interest in planning and regulating the use of property within the City because without stable, well-planned neighborhoods, the quality of life and the character of the City can quickly deteriorate and suffer adverse social, environmental, and economic conditions;

WHEREAS, the City Council has heard public comment at its meetings indicating that the proliferation of non-hosted short-term rentals of residential dwelling units within the City adversely affects the quality of life and the character of the City's residential communities;

WHEREAS, City of San Leandro Ordinance 2018-015 provides that a "short-term rental" is the rental of a residential dwelling unit (or portion thereof) to paying occupants on a short-term basis that is generally less than 30 days. A "non-hosted" short term rental is one where the host or owner is not domiciled at the dwelling unit and the dwelling unit is rented out to another party;

WHEREAS, as reflected in the findings of Ordinance 2018-15, the City Council finds that the failure to regulate non-hosted short-term rentals of residential dwelling units would pose a current and immediate threat to the public health, safety, and welfare of our residential communities by adversely affecting the quality of life and the character of the City's residential communities;

WHEREAS, short-term rentals pose unique challenges for enforcement and tax collection because precise information on their location, availability, cost, and actual occupancy rates are difficult to obtain;

WHEREAS, the City's Zoning Code has not expressly enabled short-term rentals;

WHEREAS, it is necessary for the City to consider revising the City's zoning ordinances to

better regulate non-hosted short-term rentals of residential dwelling units in order to protect the quality of life and the character of the City's residential neighborhoods;

WHEREAS, the City proposes extending a moratorium on non-hosted short-term rentals of residential dwelling units to support achievement of the City's long-term planning goals by studying and publicly vetting new legislation related to non-hosted short term rentals of residential dwelling units, protecting the City's investments in its planning efforts, and avoidance of immediate threats to the public health, safety, and welfare;

WHEREAS, the California Constitution, Article XI, section 7, provides cities with the authority to enact ordinances to protect the health, safety, and welfare of their citizens, and zoning regulations are a permissible exercise of this authority; and

WHEREAS, adoption of this interim ordinance does not require review under the California Environmental Quality Act (Pub. Resources, Code, §§ 21000, et seq., "CEQA") based on the following:

- a. This ordinance is not a "project" within the meaning of Section 15378 of the State CEQA Guidelines, because adoption of a temporary moratorium has no potential for resulting in either a direct or indirect physical change in the environment.
- b. This ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.

NOW, THEREFORE, the City Council for the City of San Leandro Adopts as an Interim Ordinance Under the Provisions of Government Code Section 65858 and **ORDAINS** as Follows:

SECTION 1. Incorporation of Recitals. The City Council finds that the aforementioned recitals are all true and correct and are incorporated herein by reference.

SECTION 2. Moratorium Extended on Non-Hosted Short-Term Rentals. In accordance with the authority granted the City of San Leandro under Article XI, Section 7 of the California Constitution and California Government Code Section 65858(a), from and after the date of this interim ordinance: Any residential property owner in the City of San Leandro whose place of domicile is not at the San Leandro property that he or she owns and seeks to rent shall be prohibited from renting such residential property, or having an intermediary rent such property, for a term of less than 30 days.

SECTION 3. Authority; Urgency Statement. This Ordinance is an interim ordinance, adopted as an urgency measure pursuant to Government Code section 65858(a) and is for the immediate and long-term preservation of the public peace, health, and welfare. The following facts constitute the urgency of this measure: The City has recently begun the process of developing amendments to the zoning provisions contained in the San Leandro Zoning and/or Municipal Codes to protect public peace, health, and welfare within the residential communities of the City by regulating non-hosted short-term rentals of residential dwelling units. Accordingly, there is a current and immediate threat to

the public health, safety, or welfare related to land uses that involve non-hosted short-term rentals of residential dwelling units. In order to maintain comprehensive and sound land use planning, the City seeks to study possible amendments to the zoning provisions of its municipal codes, use permit requirements, and other land use entitlement requirements in order to regulate non-hosted short-term rentals of residential dwelling units. Allowing non-hosted short-term rentals of residential dwelling units before the City has had an opportunity to update its regulations could lead to conflicts amongst various land uses and conflicts with the City's long-term planning goals.

SECTION 4. New Non-Hosted Short-Term Residential Rentals Declared Public Nuisance.

Non-hosted short-term rentals of residential dwelling units established within the city limits of the City of San Leandro, during the duration of this moratorium or any extension thereof, shall be declared to be a public nuisance. Violations of this interim ordinance may be enforced by any applicable laws or ordinances, including but not limited to injunctions, or administrative or criminal penalties under the San Leandro Municipal Code.

SECTION 5. Compliance with California Environmental Quality Act (CEQA).

This 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. It temporarily prevents certain physical changes in the environment pending study and potential adoption of zoning amendments or policies regulating non-hosted short-term rentals of residential dwelling units. Furthermore, this 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 amendments to the City's municipal codes, including its Zoning Code.

SECTION 6. Severability. If any provision of this interim ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this interim ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 7. Effective Date. This Ordinance shall become effective immediately upon adoption, if adopted by at least four-fifths vote of the City Council. It shall extend the moratorium from and after the date that Ordinance 2018-015 would have otherwise expired for a period of 10 months and 15 days for a total moratorium period of 1 year, all in accordance with Government Code section 65858(a).

PASSED, APPROVED and ADOPTED as an Interim Ordinance of the City of San Leandro at a meeting of the City Council held the 4th day of September, 2018 by the following vote: