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Staff Report for the Second Reading of the City of San Leandro City Council Ordinance to Add Chapter 4-40 to the San Leandro Municipal Code Regulating Hosted Short Term Rentals of Residential Dwelling Units

SUMMARY AND RECOMMENDATIONS

On May 20, the City reviewed, accepted public comments, and approved the first reading of the City of San Leandro Ordinance to Add Chapter 4-40 to the San Leandro Municipal Code Regulating Hosted Short Term Rentals of Residential Dwelling Units. Staff recommends the City Council approve for second reading an ordinance to add Chapter 4-40 to the Municipal Code, regulating hosted short term rentals.

BACKGROUND

Based on direction received from the City Council at its May 6, 2019 meeting, staff prepared a revised ordinance to regulate hosted short term rentals for City Council consideration. The ordinance includes provisions to allow hosted short term rentals for up to 180 days per year, notification by the City to adjacent neighbors of a proposed short term rental, and clarifications to the good neighbor policy.

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 short term rental landlord or operator is responsible for the operation of the short term rental, the safety of the residential dwelling unit, and remittance to the City of transient 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 present 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 present 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.

Analysis

As presented and discussed at the City Council’s May 6, 2019 meeting, hosted short term rentals would be allowed in residential dwelling units throughout the City. Hosted short term rentals would be subject to obtaining a permit, obtaining a business license, and payment of transient occupancy taxes. They would be subject to specific standards, including an updated good neighbor policy listed in Section 4-40-130 of the proposed ordinance.

The updated standards identified include:

- Hosted short-term rentals will be limited to a total of 180 calendar days per permit term
- An updated “good neighbor policy” posted in the host’s dwelling unit that identifies the maximum occupancy, smoking regulations, compliance with all laws, instructions on managing noise or any other disturbance, parking restrictions, provisions for quiet arrival and departure of renters, neighborhood information, emergency procedures, and property upkeep, including but not limited to trash disposal
- The ordinance requires the City notify adjacent neighbors of the proposed hosted short term rental and contains clarification regarding the appeal process

The City is in the process of hiring a third party data monitoring firm to consistently and regularly track hosted and non-hosted short term rentals and to inform and assist City staff with enforcement and tax collection.

Previous Actions

Ordinance 2017-003 on March 17, 2017 prohibited Accessory Dwelling Units (ADUs) from being used for short term rentals. The City Council held a work session on July 23, 2018 for first reading of a Loud and Unruly Gathering Ordinance. Prior to the most recent work session 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. On September 4, 2018, the City Council extended the temporary land use moratorium on non-hosted short term rentals to July 22, 2019. The City Council held a work session on this topic on December 10, 2018. The City Council approved the first reading of an ordinance to prohibit non-hosted short term rentals and directed staff to revise the proposed hosted short term rentals ordinance at its May 6, 2019 public hearing.

Staff updated the ordinance presented on May 6, 2019 and re-submitted it for City Council review on May 20, 2019. Councilmember Lee motioned, seconded by Councilmember Ballew, to revise the proposed ordinance by increasing the number of allowable rental days from 180 days to no limits on days. Vice Mayor Lopez, seconded by Mayor Cutter, made a substitute motion to approve the second reading of the ordinance as recommended by staff which passed by a vote of 4-2.

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

The proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of the State CEQA Guidelines regarding existing facilities, specifically operation and leasing of existing structures, and under the "general rule" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment.

Legal Analysis

The City Attorney's Office drafted the updated ordinance regulating hosted short term rentals.

Fiscal Impacts

Hosted short-term rentals will be subject to a fourteen percent (14%) Uniform Transient Occupancy Tax as per Chapter 2-10 of the Municipal Code. A City business license with Transient Occupancy Registration will be required of anyone operating a short-term rental business. The average short term rental listing in San Leandro is approximately \$75 a night, generating \$10.50 in revenue. Given the low number of listed properties, the amount of tax revenue generated by enabling hosted short term rentals is projected to be relatively small and not likely to fully recover the cost of processing and enforcement.

The City will incur additional staff time and postage costs to perform neighbor notification services. Neighbor notifications routinely generate follow-up questions that contribute to the Permit Center's customer service workload.

The annual cost of third party short term rental data monitoring and tax collection assistance services are approximately \$3,500 to \$13,000 per year with the lower amount being for basic data monitoring services and the upper end for tax collection enforcement assistance. Pricing varies with the number of short term rental properties. San Leandro appears to fall within the lower volume range (e.g., under 150 units).

ATTACHMENT

- Ordinance to add Chapter 4-40 to the San Leandro Municipal Code to Regulate Hosted Short Term Rentals of Residential Dwelling Units.

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