



## CITY COUNCIL STAFF REPORT

Agenda Item: H.1  
Date: August 15, 2017  
Department: Planning Department

**AGENDA TITLE:** Consideration of an Ordinance to Regulate Short-Term Rentals

**RECOMMENDATION:** Staff recommends that the City Council introduce the proposed ordinance and provide direction to staff regarding any desired changes.

<b>CEQA STATUS:</b>	The proposed code amendments are categorically exempt from CEQA under CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations) and Section 15061(b)(3) (Review for Exemption, General Rule).
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**BACKGROUND:** On July 18, 2017, the City Council considered a draft ordinance regulating short term rentals (i.e., rentals for fewer than 30 days). Currently, the City's Municipal Code does not expressly regulate short-term rentals. The draft ordinance was developed based on feedback from the April 12, July 19 and November 15, 2016 City Council meetings as well as the June 13 and June 27, 2017 Planning Commission meetings. Please see Attachment C for PC Resolution 17-04 recommending adoption of the draft ordinance.

At the July 18, 2017 meeting, the Council was generally supportive of the draft ordinance but continued the matter to a date certain pending incorporation of the following changes into the ordinance:

1. Require that staff prepare a report to City Council after the first 12 months of implementation of the short term rental ordinance;
2. Require that the property owner provide a signature on the short-term registration form, in the event that another person is acting as the operator of the rental.
3. Remove any requirement to post the short-term rental registration on the premises.
4. Require the owner/operator to affirm (not confirm) that the short-term rental was constructed in compliance with building codes.

Minutes from the July 18, 2017 City Council meeting are provided as Attachment D. Public comments received since the July 18, 2017 City Council meeting are provided as Attachment E.

**SUMMARY:** The proposed ordinance is presented as Attachment A (clean version) and Attachment B (showing tracked changes since July 18, 2017). The amendments to the City's Municipal Code would add Section 17.3.12 to the City's Zoning Ordinance and make other related amendments to Sections 17.2.3 (Definitions), 17.37.4 (Temporary Event Permit) and 3.12.020 (Uniform Transient Occupancy Tax).

Section 17.3.12 would create an annual registration system for all short-term rentals and impose certain conditions on the operation of short-term rentals.

**Registration.** All short-term rental owners (or other persons with the permission of a short-term rental owner) would be required to submit a registration form and fee to the Planning Director, either prior to operating a new short-term rental or within 60 days of the ordinance's effective

date for existing short-term rentals. The registration form would include contact information, an acknowledgement that the short-term rental complies with Section 17.3.12, an acknowledgement that the owner will list the City registration number on all rental listings, evidence of the owner's registration to pay the TOT, and a liability waiver indemnifying the City for any claims arising out of the short-term rental registration. In addition, Section 17.3.12 would require that the City's noise and parking requirements be included in any rental agreement.

Per City Council direction, a requirement has been added that the property owner provide a signature on the short-term registration form. Also, the requirement that the registration be posted on site has been removed.

Section 17.3.12 would also require short-term rentals to comply with all applicable fire, building and health codes. This section of the code has been updated based on City Council feedback to require affirmation rather than confirmation that codes are met.

Section 17.3.12 would ensure that short-term rental operators obtain a transient occupancy registration certificate and remit transient occupancy tax. Chapter 3.12 regarding TOT requires a separate registration to the Tax Administrator (the Finance Director, as designated by the City Manager), and minimum reporting and remitting requirements to facilitate monitoring and enforcement of the TOT. Section 3.12.080 establishes penalties and interest for operators who are delinquent in their tax obligation; sections 3.12.090-100 establish the administrative process by which the Tax Administrator makes this determination and sets forth an appeal process which may be followed by "an operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any."

**Use Restrictions.** Section 17.3.12 would place restrictions on the use of short-term rentals. Such rentals would not be eligible for Temporary Event Permits (Municipal Code § 17.37). Maximum short-term rental occupancy, at any one time, would be limited to two people per bedroom plus three people. Also, the operator of a short-term rental on any given parcel may arrange for no more than one rental to take place at any given time on that lot.

**Planning Commission and City Council Review.** Once 100 short term rentals have been registered, the Planning Commission shall hold a public hearing to consider the effectiveness of the ordinance in meeting its stated purpose and intent. Per City Council feedback, an additional provision has been added (Section 4 of the ordinance) requiring staff to prepare a report to City Council after the first twelve months of implementation of the ordinance.

**Public Outreach.** If the City Council adopts the ordinance, staff will conduct outreach to inform the public about the new rules related to short-term rentals. Outreach will include: direct communication with members of the public who have expressed an interest in short-term rentals; dissemination of the new rules in the Orinda Outlook email newsletter and Orinda Way mailer; a public workshop to explain the new rules and distribute registration forms and handouts; and postings on NextDoor and other social media platforms.

**NEXT STEPS:** If Council approves draft Ordinance 17-04, the Ordinance will be scheduled for a second reading on the consent calendar at the next available Council meeting.

**FISCAL IMPACT:** Staff anticipates that all City administrative costs associated with the proposed registration of short-term rentals will be recovered through fees charged to registrants. Tax collected on short term rentals may result in a modest positive fiscal impact.

**ATTACHMENTS:**

- A. Short Term Rental Ordinance
- B. Short Term Rental Ordinance\_Redline Changes
- C. PC Resolution 17-04
- D. 7.18.17 Excerpt - CC Minutes
- E. Public Comment

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Steve Salomon, Interim City Manager 8/7/2017