



CITY COUNCIL STAFF REPORT



December 7, 2021

ITEM TITLE

Short-Term Rentals: Consideration of Adopting a Short-Term Rental Ordinance, Adopting Related Permit Fees, and Adding Enforcement Staffing

Report Number: 21-0240

Location: No specific geographic location

Department: Development Services

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

A) Place an ordinance on first reading adding Chapter 5.68 (Short-Term Rentals) to the Chula Vista Municipal Code, establishing regulations, standards, and a permitting process for Short-Term Rentals **(FIRST READING)** and B) Adopt a resolution amending Chapter 4 (Business Fees) of the City's Master Fee Schedule to add Short-Term Rental permitting fees, adding 1.0 Code Enforcement Officer II to the Development Services Department, and appropriating funds therefor. **(4/5 VOTE REQUIRED)**.

SUMMARY

The popularity of the short-term rental (less than thirty (30) days) of residential dwelling units ("Short-Term Rentals") in the City of Chula Vista has grown rapidly in recent years. This has led to an increase in complaints from neighbors regarding nuisance activities and the loss of neighborhood character. On August 25, 2020, the City Council made a referral to staff to bring forward an overview of Short-Term Rentals. The requested overview was presented to the City Council on March 16, 2021. At that time, staff recommended, and the City Council supported, conducting stakeholder outreach and returning with a comprehensive ordinance to regulate the operation of Short-Term Rentals. Stakeholder outreach has been conducted and an ordinance adding Chapter 5.68 (Short-Term Rentals) to the Chula Vista Municipal Code, establishing regulations, standards, and a permitting process for Short-Term Rentals is recommended for adoption (the "Short-Term Rental Ordinance" or the "Proposed Ordinance").

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

Short-Term Rentals, in which hosts can make a spare room or an entire dwelling unit available to potential renters for a period of less than thirty (30) days are becoming increasingly popular. These transactions are usually made through a residential hosting platform website such as Airbnb, VRBO, Homeaway, Flipkey, and others. This type of vacation rental lodging has, to a certain extent, supplanted traditional lodging options such as hotels and bed-and-breakfasts. This increase in popularity has coincided with a larger rise in the “sharing economy” in which people rent cars, homes, beds, or other goods directly from other individuals, generally through internet hosting sites. These activities can generate significant financial benefits and enrich the lives of the hosts. At the same time, the City has received a significant number of complaints regarding operation of certain Short-Term Rentals in the City, generally relating to noise, parking, and trash impacts.

On August 25, 2020, the City Council made a referral to staff to bring forward an overview of Short-Term Rentals. On March 16, 2021, a presentation regarding Short-Term Rentals and potential regulatory approaches was made to the City Council. The City Council directed staff to conduct additional stakeholder outreach and to return with a regulatory ordinance that establishes 1) a simple and low-cost permitting process for Short-Term Rentals; 2) reasonable “good neighbor” rules of conduct for Short-Term Rental operators and their guests; and 3) significant penalties for “bad actors” that do not comply with the ordinance. Since the discussion with City Council in March, staff has conducted stakeholder outreach and continued to research best practices in this rapidly evolving regulatory space.

Stakeholder Outreach

The Development Services Department held two listening sessions in August 2021 to solicit community input on the contents of the draft ordinance. Events were held on August 25th at the Friendship Deck at the Civic Library and on August 26th at Salt Creek Recreation Center. In addition, an online survey was conducted. Both the in-person event and the online survey were promoted via the City’s website and social media. The online survey was available from August 11th through October 26th, and a total of 110 online survey submissions were received. In person attendees of the listening sessions were generally evenly distributed between operators and proponents of Short-Term Rentals and opponents. Respondents to the online survey skewed toward non-operators and opponents. Results of the online survey are summarized in Attachment 1. Airbnb and Vrbo have also reviewed the draft ordinance and provided feedback.

This item was originally agendized for the November 9, 2021 City Council meeting. While the item was not heard at that time, significant public input was gathered via the City’s eComment portal, as summarized in

Attachment 2. Staff also met with additional members of the community to hear their perspectives and input on the Proposed Ordinance. As a result of the input provided via eComments for the November 7 City Council meeting and additional community engagement, an alternative ordinance has been drafted for the City Council's consideration this evening, as described in detail in the "Proposed Ordinance - Alternative" discussion below.

Community Benefits

Short-Term Rentals bring benefits to those who operate them and their guests. The activity makes efficient use of space by allowing residents to host guests in a room or unit when it might otherwise go unused. The City has heard testimony from individuals who use Short-Term Rentals as a way to afford staying in their own homes as well as to have meaningful, culturally enriching interactions with visitors from around the world. Given the significant housing affordability challenges in the region, Short-Term Rentals provide an option to reduce the housing cost burden for some families.

For visitors, Short-Term Rentals often offer a more affordable and flexible option than a traditional hotel. Many types of travelers benefit from a more residential environment, including families with children, travelers with pets, and large groups. Kitchens are often available as part of Short-Term Rentals, which is an added benefit to many travelers. Many visitors also enjoy the experience of being a local neighborhood, as opposed to a typical commercial hotel district. As such, Short-Term Rentals have the potential to bring tourists to neighborhoods that may be underserved by hotels and therefore ordinarily do not receive tourist dollars.

Community Concerns

There are two key areas of concern relating to Short-Term Rentals: nuisance activity and impact on the City's housing stock.

Nuisance Activity

Short-Term Rental nuisance activities that have been reported include instances of loud noise, parties, trash, inconsiderate guests, excessive coming and going, and impacts to on-street parking availability. More broadly, some neighbors of Short-Term Rentals feel that these activities change the very character of their residential neighborhoods, as long-term residents are replaced with short-term guests.

Impacts to Housing Stock

Many have expressed concern regarding the potential impact of Short-Term Rentals on an already strained housing market. To the extent that rental housing units are removed from the long-term housing market to be used solely for short-term purposes, overall residential housing supply is reduced, and the lack of housing is exacerbated. When units intended for long-term rental are lost to short-term rental, the City's housing production goals are undercut. For every unit that is converted to short-term use, another unit must be created to make up for the loss. Any decrease in the supply of residential units available for the City's permanent residents may put upward pressure on prices. Recent research published in the Harvard Business Review found "...that a 1% increase in Airbnb listings is causally associated with a 0.018% increase in rental rates and a 0.026% increase in house prices. While these effects may seem very small, consider that Airbnb's year-over-year average growth is about 44%. This means that, in aggregate, the growth in home-sharing

through Airbnb contributes to about one-fifth of the average annual increase in U.S. rents and about one-seventh of the average annual increase in U.S. housing prices.”¹

Proposed Ordinance -Original

Eligible Dwelling Units

The Proposed Ordinance employs a “primary-residence only” framework in order to limit the previously described community concerns, while still providing an avenue for the many positive benefits of Short-Term Rentals. As proposed, Chula Vista residents would be allowed to rent out the entirety of their primary residences for up to ninety (90) days per year (“Whole-Home Rental”). They would also be allowed to rent out any portion of their primary residence, without any time limit (“Partial-Home Rental”).

Applicants will be able to document their primary residence by providing at least 2 of the following:

1. Motor vehicle registration;
2. Driver’s license;
3. Voter registration;
4. Tax documents showing the residential unit as their residence; or
5. Utility bill.

Under the Proposed Ordinance, long-term tenants (renters or lessees) would also be allowed to operate Short-Term Rentals, with the approval of the landowner. This approval must be in writing, on a form to be provided by the City. This allows tenants of multifamily projects, duplexes, and tenants of certain Accessory Dwelling Units (“ADUs”), Junior Accessory Dwelling Units (“JADUs”) to participate in this aspect of the sharing economy. In these circumstances, each individual unit that can be demonstrated to be someone’s primary residence would be treated as an individual dwelling unit for purposes of implementing the Short-Term Rental Ordinance.

Pursuant to Assembly Bill 68 (and as implemented by Chula Vista Municipal Code Chapter 19.58), ADUs and JADUs for which permits were applied for on January 1, 2020 or later cannot be rented for periods of less than thirty (30) days. As a result, these units may not be permitted as Short-Term Rentals. ADUs and JADUs for which permits were applied for prior to January 1, 2020 and other similar habitable accessory units (casitas, guest houses, etc., regardless of permitting date) are eligible to be permitted. To the extent that these units house a long-term tenant or the property owner, they would be treated like any other Short-Term Rental unit (Whole-Home Rental for up to 90 days per year, unlimited Partial-Home Rental). To the extent that these units are not a primary residence, they are combined with the associated single-family residence and treated as a single dwelling unit for purposes of this ordinance. This means that the entirety of the property (both the single-family dwelling and the accessory dwelling) could be rented out for up 90 days per year as a Whole-Home Rental, or one of the units could be rented out at any time, without any limit, so long as the remaining unit on the property were to be occupied (functioning then as a Partial-Home Rental).

¹ Harvard Business Review. *Research: When Airbnb Listings in a City Increase, So Do Rent Prices.*
<https://hbr.org/2019/04/research-when-airbnb-listings-in-a-city-increase-so-do-rent-prices>

Limiting Nuisance Behavior & Protecting Guest Safety

The Proposed Ordinance includes extensive requirements for operators of Short-Term Rentals (the “Permittees”), designed to encourage “Good Neighbor” behaviors and to protect the safety of the rental’s guests. These include requiring the identification of a local contact person (if other than the Permittee) that will be available by telephone twenty-four (24) hours per day, seven (7) days per week to respond to complaints regarding the use, condition, operation or conduct of occupants of the Short-Term Rental Unit (the “Local Contact Person”). The Local Contact Person must be on the premises within one (1) hour of contact, if requested by an Enforcement Officer (as defined in the ordinance) or the City’s Police Department.

Each Short-Term Rental Unit will be required to post a Good Neighbor Handout inside the permitted residence that includes emergency contact information for the Permittee and the Local Contact Person (if different). The Good Neighbor Handout will provide information pertinent to the neighborhood where the Short-Term Rental is located, including, but not limited to, occupancy limits, parking restrictions, restrictions on noise and amplified sound, trash collection schedule, and fire evacuation routes. In addition, the Permittee will be required to complete and deliver a Good Neighbor Letter to their neighbors. The letter will be in a form provided by the City and will provide notice of their intent to operate a Short-Term Rental and include fields for them to provide their emergency contact information. Examples of a Good Neighbor Handout and Good Neighbor Letter are provided as Attachment 3.

The maximum occupancy for Short-Term Rentals will be limited to two (2) persons per bedroom, plus two (2), up to a maximum of ten (10) persons (excluding children under the age of twelve (12)). For events exceeding the maximum authorized occupancy, the Permittee may apply for a Short-Term Rental Event Permit (an “STR Event Permit”). Up to twelve (12) STR Event Permits may be issued per year for each Short-Term Rental Unit. Each STR Event Permit will have a maximum term of twelve (12) hours. Events exceeding this period would require an additional STR Event Permit.

The Proposed Ordinance allows for inspection of the rental property but does not impose a regular inspection requirement. Should the City respond to a complaint, or proactively conduct an inspection, and find that the unit is not being operated in conformance with the requirements of the ordinance, significant penalties may be assessed.

The minimum stay authorized by the Proposed Ordinance is one (1) night.

Permitting Framework

Short-Term Rental Permits (applications and renewals) will be issued by the Development Services Department, as will the previously described STR Event Permits. The Proposed Ordinance describes considerations in approving or denying permit applications and establishes an appeal procedure for same.

The City Manager is authorized to establish additional administrative rules, regulations, and standards governing the issuance, denial, or renewal of Short-Term Rental Permits and Short-Term Rental Event Permits, which will be published to the City’s website and maintained and available to the public in the Office of the City Clerk.

Hosting Platform

The Proposed Ordinance establishes certain responsibilities for the hosting platforms that advertise and facilitate Short-Term Rentals (the “Hosting Platforms”). Under the Proposed Ordinance, Hosting Platforms are required to discontinue and remove any listing of an unpermitted rental upon written or electronic notification from the City. The Hosting Platforms are also required to provide certain information to any Person listing a Short-Term Rental on their site, including the requirements of the Short-Term Rental Ordinance and the City’s TOT requirements.

The Proposed Ordinance requires the Hosting Platform to collect TOT at the same time they facilitate the rental transaction, and to remit TOT to the City on a monthly basis. It also requires monthly reporting of certain rental transaction information to the City. Lastly, certain records must be maintained by the Hosting Platform for a period of four (4) years from the date of the transaction, which must be delivered to the City upon request for auditing purposes.

Violations and Penalties

Citations for violation of the Short-Term Rental Ordinance may be issued by the City’s Police Department or any Enforcement Officer. When a violation occurs, it is not necessary to first issue a warning before a citation may be issued.

Potential violations are classified as either major or minor. Major violations include:

- 1) operating a Short-Term Rental without a permit;
- 2) exceeding the maximum occupancy of the Short-Term Rental Unit without securing a Short-Term Rental Event Permit;
- 3) occupants engaging in loud or disorderly conduct outside between the hours of 10:00 p.m. and 9:00 a.m.;
- 4) failure of the Permittee, their Agent, and/or the Local Contact Person to respond within one (1) hour and reasonably cooperate;
- 5) unpermitted use of a garage as a game room or for sleeping purposes;
- 6) criminal activities by the Permittee, their Agent, the Local Contact Person, or any Occupant on the premises;
- 7) any other violation of the Short-Term Rental Ordinance determined by the City Manager to constitute a serious threat to the public health or safety of the community; and
- 8) four (4) minor violations of any type in connection with the same Short-Term Rental Unit or Short-Term Rental Property during any continuous twelve (12) month period.

Minor violations include:

- 1) failure to obtain the signature of the Responsible Person acknowledging the rules;
- 2) failure to pay transient occupancy tax (“TOT”) for the Short-Term Rental; and
- 3) all other violations of law, ordinance, resolution or permit condition that does not constitute a “major violation”.

Penalty amounts are summarized in the table below. Subsequent penalty amounts assume additional violations within a twelve (12) month period.

Table 1 – Ordinance Violation Penalties (Not-to-Exceed)

Applies To	Minor/Major Violation	1st	2nd	3rd & 4th	5th and +
Owner, Long-Term Tenant, Permittee, Permittee's Agent, Local Contact Person, Responsible Person, Occupant(s)	Minor	\$100	\$500	\$1,000	\$1,500
	Major	\$1,000	\$2,000	\$4,000 + Possible Revocation	\$5,000 + Possible Revocation
Hosting Platform	Any	\$500	\$1,000	\$2,000	\$2,000

In addition to the penalties described above, any person violating the provision of the Short-Term Rental Ordinance would be guilty of a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than six months, or by both a fine and imprisonment. At the sole option of the City Prosecutor, any violation of the Proposed Ordinance may be cited and prosecuted as an infraction, and each day that a violation continues, it is deemed to be a new and separate offense. No proof of knowledge, intent, or other mental state is required to establish a violation. Provisions for public nuisance abatement are also included.

Effective Date

Assuming its ultimate adoption, the Proposed Ordinance would be effective on February 1, 2022, with the exception of Sections 5.68.040 (Permit Required), 5.68.080 (Renewals), 5.68.120 (Short-Term Rental Event Permit), and 5.68.150 (Responsibilities of Hosting Platforms). The remaining sections would take effect and be in force as of July 1, 2022. This approach provides time for current operators to come into permitting compliance, while providing immediate enforcement tools to address nuisance behaviors. Violations of the effective sections of the Short-Term Rental Ordinance in the interim may be cause for denial of a future Short-Term Rental Permit application.

Modifications

Minor edits to the Proposed Ordinance published in November have been incorporated in the version presented this evening. These edits include clarifying the permitting process, adding code references, and pushing the effective date for the ordinance out from January 1 to February 1, as described above. These cleanup edits are also reflected in the alternative ordinance discussed below.

Proposed Ordinance -Alternative

Based upon community feedback received at the November 7, 2021 City Council meeting and continued stakeholder dialog, an alternative ordinance has been drafted for the City Council's consideration (the "Alternative Ordinance"). The Alternative Ordinance is generally consistent with the original Proposed Ordinance, with the following key changes:

- Allows for the operation of one (1) additional Short-Term Rental Property for each Chula Vista resident (a Non-primary Residence Short-Term Rental);

- Allows for both Partial-Home Rental and Whole-Home Rental of the Non-Primary Residence Short-Term Rental, without any limit on the number of days per year said unit may be rented; and
- Imposes a two (2) night minimum rental period for Whole-Home Non-Primary Residence Short-Term Rentals. The existing no minimum stay provision for Partial-Home Rentals or Whole-Home Primary Residence Rentals is preserved.

This modification would allow for each Chula Vista resident to operate both their Primary-Residence property (including all accessory units on the property) as a Short-Term Rental as well as one (1) additional property (and all accessory units on the second property). Non-residents would be barred from operating Short-Term Rental Units in the City. A maximum of two (2) properties could be operated by any single resident.

Current Short-Term Rental Inventory

The City currently contracts with Host Compliance for Short-Term Rental compliance monitoring. At this time, their primary focus is on registration of Short-Term Rental Units (for purposes of the City Transient Occupancy Tax ("TOT") Ordinance) and collection of TOT. For the following discussion, please note that each Short-Term Rental may be reflected multiple times in the Host Compliance data, as each unit may have multiple options and may be listed on multiple platforms (e.g., a single-family residence may be offered on VRBO as a Whole-Home Rental, and also offered on Airbnb as a one-bedroom Partial-Home Rental and as a two-bedroom Partial-Home Rental; this property would then be included 3 times in the Host Compliance report).

There are currently 125 active, registered Short-Term Rental listings in Chula Vista (104 Whole-Home Rentals and 21 Partial-Home Rentals). An additional 128 active Short-Term Rental listings are currently operating without registering or remitting TOT to the City (80 Whole-Home Rentals and 48 Partial-Home Rentals). Efforts are underway to bring these units into compliance, which would bring the City to a total of 253 active Short-Term Rental Units. Host Compliance has identified an additional 1,258 Short-Term Rental listings that are no longer offered (676 Whole-Home Rentals and 582 Partial-Home Rentals). An additional 98 listings have been identified but not yet conclusively determined to be operating as Short-Term Rentals. The actual number of Short-Term Rental Units in the City of Chula Vista is most likely somewhere between 300 and 500, when you include certain units which may only be offered seasonally (e.g., during Comic-Con, Spring Break, etc.).

Table 2 – Short-Term Rental Unit Listing Inventory

Description	Whole-Home	Partial-Home	Total
Active, Registered	104	21	125
Active, Unregistered	80	48	128
Subtotal Active	184	69	253
No Longer Advertised	676	582	1,258
Undetermined	63	35	98
Subtotal Inactive	739	617	1,356
Grand Total Identified	923	686	1,609

Proposed Fees

The following fees are recommended in order to offset the reasonably anticipated cost of providing Short-Term Rental permitting services.

Table 3 – Proposed Fees

Description	Hours	Amount
Short-Term Rental Permit, Application	1.5	\$250
Short-Term Rental Permit, Renewal	1.0	\$175
Short-Term Rental Permit, Event	0.25	\$40

Because this is an entirely new program, close monitoring of actual time spent providing Short-Term Rental Permit services will be necessary and adjustments to these fees to more closely reflect actual staff effort will be brought to the City Council for consideration in the future, as appropriate.

Enforcement Staffing

The proposed ordinance establishes a new regulatory structure that will be enforced jointly by the Chula Vista Police Department and the Code Enforcement section of the Development Services Department. In order to efficiently and appropriately enforce the new ordinance, the addition of 1.0 Code Enforcement Officer II in the Development Services Department is requested. Staff anticipates penalty revenues in the early years of the program to fully offset the cost of this position. As with the permit fees, close monitoring of actual time spent enforcing the Short-Term Rental Ordinance will be necessary and additional staffing adjustments will be brought to the City Council for consideration in the future, as appropriate.

DECISION-MAKER CONFLICT

Councilmember McCann owns multiple residential rental properties and, as a result of that financial interest, it is recommended that he recuse himself. Councilmember Galvez has also indicated that she will recuse herself because she owns and operates a short-term rental property.

CURRENT-YEAR FISCAL IMPACT

Adopting the Short-Term Rental Ordinance is expected to increase TOT revenues to the City, as additional operators come into compliance with the City's TOT ordinance. Because the permit related provisions of the ordinance are not effective until July 1, 2022, this is not anticipated to have an impact in the current fiscal year.

Adopting the resolution adds 1.0 Code Enforcement Officer II to the Development Services Department (General Fund) at a cost of \$43,100 (assumes 6 months in current fiscal year). This amount is anticipated to be offset by penalties generated through enforcement of the Short-Term Rental Ordinance.

Adopting the resolution also amends the Master Fee Schedule to establish full cost recovery fees for Short-Term Rental Permit applications, renewals, and STR Event Permits. This action supports optimal cost recovery for the City, per the guidelines of the City's Cost Recovery Policy (City Council Policy No. 159-03).

Impacts to revenues in the current fiscal year will vary based upon actual requests for Short-Term Rental permitting services. No current year appropriation of these revenues is proposed.

ONGOING FISCAL IMPACT

Adopting the Short-Term Rental Ordinance is expected to increase TOT revenues to the City, as additional operators come into compliance with the City's TOT ordinance. In fiscal year 2021, the City collected approximately \$140,000 from Short-Term Rental Units. Certain existing Short-Term Rental Units will no longer be allowed to operate in the City because they are not resident owned, or exceed the two (2) property limit, which will reduce TOT paid to the City. It is expected that this will be more than offset by increased compliance and payment of TOT by currently unregistered Short-Term Rental Units.

Adopting the resolution adds 1.0 Code Enforcement Officer II to the Development Services Department (General Fund) at an annual cost of \$86,200. This amount is anticipated to be offset by penalties generated through enforcement of the Short-Term Rental Ordinance.

Adopting the resolution also amends the Master Fee Schedule to establish full cost recovery fees for Short-Term Rental Permit applications, renewals, and STR Event Permits. This action supports optimal cost recovery for the City, per the guidelines of the City's Cost Recovery Policy (City Council Policy No. 159-03). Impacts to revenues in future years will vary based upon actual requests for Short-Term Rental permitting services. If the resolution is approved, future budgets will reflect actual revenues generated by the new fees.

ATTACHMENTS

1. Online Survey Results
2. eComments Received for November 7, 2021 City Council meeting
3. Good Neighbor Document Examples
4. Cost of Service Analysis
5. Redline Master Fee Schedule Chapter 4
6. Written Communication Received as of December 2, 2021

*Staff Contact: Tiffany Allen, Director of Development Services
Megan McClurg, Deputy City Attorney*