



City Council Meeting Agenda Report

Item # _____

Meeting Date: November 25, 2019

Subject: Introduction of an Ordinance Adding Chapter 5.92 to the Daly City Municipal Code and Adoption of the Short-Term Rental Fees

Recommended Action

Introduce the attached revised Ordinance adding Chapter 5.92 to the Daly City Municipal Code adopting regulations for Short-Term Rentals and adopt Resolution approving Short-Term Rental Permit Fees.

City Council Discussion

On October 14, 2019, the proposed Ordinance and Short-Term Rental Permit Fees were introduced to the City Council. After receiving public input and discussion with staff, the City Council directed staff to review the comments received and revise the Ordinance accordingly. The Council continued discussion of the Ordinance to their meeting on October 28, 2019. At their meeting on October 28, 2019, the Council continued discussion of the Ordinance to tonight's meeting to allow for enough time for a time-sensitive item on the agenda that evening. A detailed discussion of the comments is provided in the Public Comments section and revisions to the Ordinance based on public and City Council comments are provided in the Revisions to the Ordinance section of this staff report.

Background

In April 2018, the City Council convened a Task Force to discuss issues and potential regulations related to short-term rentals (i.e. homeowners renting their entire home or individual rooms within their home on a short-term basis (i.e., 30 days or less)). At the Task Force meeting on April 25, 2018, staff provided an overview of the short-term rental market in Daly City, the associated potential revenue loss, and steps other cities have taken to address the impacts of short-term rentals. Task Force members expressed their concerns and made suggestions such as requiring owner-occupancy, not allowing short-term rentals in City-approved accessory dwelling units, and limiting the number of days a homeowner can use their home as a short-term rental.

On March 11, 2019, the Task Force findings and an overview of the current short-term rental market in Daly City were presented to the City Council. Upon review of the information presented and input from staff and the public, the City Council directed staff to develop a Short-Term Rental Ordinance.

On October 14, 2019, the proposed Ordinance and Short-Term Rental Permit Fees were introduced to the City Council. After public input was gathered and discussion with staff, the City Council directed staff to review the comments received and revise the Ordinance accordingly.

The Council continued discussion of the Ordinance to their meeting on October 28, 2019. At their meeting on October 28, 2019, the Council continued discussion of the Ordinance to tonight's meeting to allow for enough time for a time-sensitive item on the agenda that evening.

The following report will summarize the ordinance development process, public comments received and proposed changes to the Ordinance.

Discussion

Staff retained the consulting and data collection services of Host Compliance, a firm that provides short-term rental compliance monitoring and enforcement solutions to local governments, to advise staff through the ordinance formulation process. Host Compliance provided a list of cities of comparable size and population density to Daly City for staff to review such as Pasadena and West Hollywood in Southern California and Bellingham in Washington. Staff also reviewed the Short-Term Rental Ordinances of other Bay Area cities such as Redwood City and Berkeley and contacted staff from some cities to gather feedback on their experience with the implementation process. Host Compliance also provided data on the scale and scope of the short-term rental market in Daly City. As of October 8, 2019, there were 485 short-term rental units in Daly City and 702 active listings on various platforms.

In August, staff met with representatives from Airbnb, a hosting platform that provides a means through which a host may offer a dwelling unit, or portion thereof, for home-sharing, to learn about voluntary collection agreements (VCA), an agreement between a city and a hosting platform where the hosting platform collects TOT on behalf of the city. VCAs do not typically require hosting platforms to disclose any information on each short-term rental advertised on their platforms and the TOT collected for each short-term rental. The hosting platform will simply submit the TOT collected as one payment to the city on a pre-established basis. In addition, hosted and un-hosted stay limits are not typically enforced by a hosting platform. Airbnb is in the process of reviewing the City's TOT regulations to determine the feasibility of a VCA with the City of Daly City.

In mid-September, staff sent courtesy notices for the October 14, 2019 meeting to property owners who were identified hosts of short-term rentals in Daly City, the Short-Term Rental Task Force, and other interested parties. Information on the proposed Ordinance and the scheduled public hearing was also included in the City water bills and online such as the City website and social media platforms. For tonight's meeting, staff sent courtesy notices and posted information online during the second week of November.

Public Comments

Staff received public comments related to the Ordinance both in writing and verbally at the City Council meeting on October 14, 2019. The comments came from various perspectives including hosts of short-term rentals, residents living near short-term rentals, and other interested parties.

The benefits of short-term rentals expressed in the comments include guests contributing to Daly City's economy when they visit local retail and commercial uses, opportunities for owners and tenants to earn supplemental income which can assist with home maintenance costs and other financial needs, and more flexibility to check on the conditions of the home and use the home for

family and other personal needs compared to long-term rentals. Comments also indicated hosting platforms allow hosts to screen their guests which have resulted in law-abiding and respectful guests.

The concerns related to short-term rentals expressed in the comments are the nuisances they have created for Daly City residents and neighborhoods. Neighborhoods are changing as homes are converted from long-term rentals to short-term rentals. Some homes are functioning as hotels and hostels with multiple bookings per night. Guests are not respectful of neighbors and their properties and contribute to the parking issues in Daly City. Loud parties often occur late into the night and early morning. Trash is left out for several days and eventually spews out onto neighboring properties and sidewalks due to wind and wild animals. The nuisances created by short-term rentals have increased police activity and overall safety concerns in residential neighborhoods.

The comments received also included suggestions for the Ordinance such as eliminating the owner-occupancy requirement, increasing the day limit for un-hosted stays, requiring explicit written permission from the owner for tenant-operated short-term rentals, and adding a grandfather clause for hosts already operating short-term rentals. However, other comments were in support of the Ordinance as proposed.

Revisions to the Ordinance

As proposed, the Short-Term Rental Ordinance aims to prevent long-term rental units from being replaced with short-term rentals, protect affordable housing units from conversion, preserve and protect neighborhood character and livability from nuisances that are often associated with short-term rentals, provide alternative forms of lodging, and generate City revenue to share City infrastructure cost and other public expenditures by operation of short-term rentals under established standards.

The proposed revisions to the Ordinance and staff's response to the concerns and suggestions raised by the public and City Council and are summarized below. The first draft and the revised draft of the Ordinance are included in this report as Attachment A and B respectively.

1. Staff was informed by the California Coastal Commission (CCC) that a Local Coastal Program (LCP) Amendment is required to apply the Ordinance to properties located in the Coastal Zone. Therefore, the Ordinance will not apply to properties within the Coastal Zone until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the California Public Resources Code.
2. After reviewing the Short-Term Rental Ordinances of other cities and consulting with Host Compliance, it was determined many cities allow both owners and tenants to rent their primary residences for home-sharing. In addition, both the tenant and host would be responsible for any nuisance violations arising at a property during short-term rental activities. The Ordinance was revised to allow both owners and tenants to rent their primary residences as short-term rentals. However, the primary residency requirement has not changed. The dwelling unit must be the owner or tenant's primary residence which means they must reside there for a minimum of nine months per year.

3. Since a tenant would now be allowed to rent their primary residence as a short-term rental, the Ordinance was revised to permit short-term rentals in duplexes and properties with multiple rental units in addition to single-family residences, condominiums, duplexes, and townhomes. For owner-occupied properties with multiple rental units, the owner of such property may only host a short-term rental in the dwelling unit that is their primary residence.
4. The unpermitted property types were not changed. Short-term rentals would not be permitted on properties with accessory dwelling units, inclusionary housing or other income-restricted housing units. However, the Ordinance was revised to clarify that vacation rentals, defined as a dwelling unit that is not a primary residence and which is available for temporary lodging for compensation, are also prohibited.
5. The Ordinance aims to prevent long-term rental units from being replaced with short-term rentals. Since the Ordinance was revised to remove the owner-occupancy requirement and now allow tenant-operated short-term rentals, staff does not recommend a change in the day limit for un-hosted stays (i.e. the host is off-site during the guest's stay). Therefore, the un-hosted stays would be limited to a maximum of 90 days per year while hosted stays (i.e. the host is on-site throughout the guest's stay) would have no limit to the number of days per year.
6. The Ordinance includes restrictions that would limit the number of days, guests, and bookings for short-term rentals. These restrictions may help with the parking issues in residential neighborhoods and therefore staff does not recommend increasing the parking requirement for short-term rentals. Therefore, as proposed, no additional parking would be required for short-term rentals, but existing on-site parking spaces must be made available to guests.
7. Prospective hosts, owners and tenants who intend to use their primary residences as a short-term rental, would be required to obtain a Short-Term Rental Permit from the Planning Division and an annual business license from the Finance Department which includes payment of all quarterly Transient Occupancy Taxes (TOT) associated with the short-term rental. The Ordinance was revised to require a notarized supplemental authorization form to be submitted with the Short-Term Rental Permit application if the host is not the owner of the dwelling unit or property.
8. The business license and Short-Term Rental Permit will expire on September 30th of each year and may be renewed if the host meets all the renewal requirements. However, failure to comply with any provision of the Ordinance could lead to the property becoming ineligible for renewal at the next renewal period or suspension of the Short-Term Rental Permit.
9. The Ordinance was revised to clarify that short-term rentals with a business license operating on or before the enactment of this Ordinance would be considered existing, unpermitted uses. Since an amnesty period ending on September 30, 2020 after the effective date of this Ordinance is being provided, staff does not recommend a grandfather

clause which would allow existing short-term rentals to continue to operate without complying with this Ordinance.

Fees

Pursuant to Sections 5.16.020 and 5.15.050 of the Daly City Municipal Code, businesses and individuals who operate businesses or long-term property rentals in Daly City must pay a minimum of \$110.00 annually. Additional language applies to gross receipts. Since this payment scheme is already universally used for business licenses in Daly City, the Finance Department recommends the same fee apply for business licenses for short-term rentals.

Pursuant to Resolution No. 13-170, the hourly cost of Planning services is \$165.00. Planning staff anticipates the review of a new Short-Term Rental Permit will amount to approximately one hour of staff time and one-half hour for the renewal of a Short-Term Rental Permit. However, Planning staff anticipates some reviews may amount to more than one hour of staff time. Therefore, the Finance Department recommends that the Planning Permit fees be set at \$165.00 for a new Short-Term Rental Permit and \$82.50 for the renewal of a Short-Term Rental Permit. For reviews that exceed one hour of staff time, fees will be charged at the hourly rate for Planning services. Furthermore, Planning staff will review the fee for the renewal of a Short-Term Rental Permit after the first renewal period in 2020 to determine if the reviews exceed one-half hour of staff time and should be revised.

Environmental Assessment

Pursuant to Title 14 of the California Code of Regulations, Section 15378, staff has determined that the proposed Short-Term Rental Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project as defined by the Act, in that it does not have a potential for resulting in a detrimental physical change in the environment, directly or ultimately, as provided in Title 14, Section 15378(a). The Ordinance is also exempt under the definition of “project” in Section 15378(b)(3) in that it concerns general policy and procedure making.

Findings

Staff recommends that the City Council approve the proposed Short-Term Rental Ordinance subject to the following findings:

1. The project is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project as defined by the Act. The Ordinance is also exempt under the definition of “project” in Section 15378(b)(3) in that it concerns general policy and procedure making.
2. Notice of the public hearings was published in the local newspaper on September 29, 2019 and November 14, 2019.

3. The Ordinance addresses the potential impacts related to short-term rentals in Daly City and incorporates the information presented to the City Council at their March 11, 2019 meeting and input from staff and the public.
4. Staff has reviewed the public comments related to short-term rentals received in writing and verbally at the City Council meeting on October 14, 2019 and revised the Ordinance accordingly.
5. The Ordinance seeks to generate City revenue as a contribution to City infrastructure costs and other public expenditures associated with the operation of short-term rentals under established standards.
6. The Ordinance focuses on preventing long-term rental units from being replaced with short-term rentals and protecting affordable housing units from conversion to short-term rentals.
7. The Ordinance aims to preserve and protect neighborhood character and livability from nuisances that could be often associated with short-term rentals.

RECOMMENDATION

Staff recommends that the City Council:

1. Introduce the attached Ordinance adding Chapter 5.92 to the Daly City Municipal Code adopting regulations for Short-Term Rentals.
2. Adopt Resolution approving the proposed Short-Term Rental Permit Fees.
3. Affirm the Environmental Assessment.

Respectfully submitted,



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Tatum Mothershead
Director of Economic and
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Todd High
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Attachments

Attachment A – First Draft of Short-Term Rental Ordinance from October 14, 2019 Meeting

Attachment B – Second Draft of Short-Term Rental Ordinance from October 28, 2019 Meeting

Attachment C – Proposed Draft of Short-Term Rental Ordinance