



## CITY COUNCIL AGENDA REPORT

### PUBLIC HEARINGS AGENDA ITEM NO. L.2.

**DATE:** December 3, 2019

**TO:** City Council

**FROM:** Jeffrey Lambert, Community Development Director, (805) 385-7882, jeffrey.lambert@oxnard.org

**SUBJECT:** Planning and Zoning Permit No. 19-580-04 - Zoning Text Amendment to Create Regulations for Short Term Rentals. (5/10/10)

#### RECOMMENDATION

That the City Council:

1. Conduct a public hearing;
2. Determine the zoning text amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations;
3. Introduce by title only and waive further reading of the following Ordinances by title only approving the following amendments to Chapters 7 (Nuisances), 16 (Zoning Code) and 17 (Coastal Zoning) of the Oxnard City Code:
  - a. Chapter 7: modify Section 7-56 (Civil Fines: Amounts) to establish fine amounts for violations;
  - b. Chapter 16: add Article XI to Chapter 16 regarding short-term rentals; add Subsection (19) to Section 16-21 (B) to the Residential Single-Family Zone and amend Section 16-148, Table 16-148 of the Downtown Code, add short-term rentals as an allowed, by right residential use in the DT-E, DT-G and DT-C zones subject to Article XI of Chapter 16;
  - c. Chapter 17: add Section 17-53 to Chapter 17 in Article IV regarding short term rentals and amend Chapter 17 of the Oxnard City Code by adding Subsection (B) (10) to Section 17-10; R-B-1, Single-Family Beach, Sub-Zone; Subsection (B) (10) to Section 17-11. R-W-1, Single-Family Water-Oriented, Sub-Zone; Subsection (B) (10) to Section 17-12. R-W-2, Townhouse Water-Oriented, Sub-Zone; Subsection (B) (10) Section 17-13; R-2-C, Coastal Multiple-Family, Sub-Zone; Subsection (B) (10) to Section 17-14; R-3-C, Coastal Medium Density Multiple-Family, Subsection (B) (3) to Section 17-15; CPC, Coastal Planned Community Sub-Zone; and Subsection (B) (9) to Section 17-25; R-BF, Beachfront Residential, Sub-Zone regarding allowing short-term rental units subject to Section 17.53;
  - d. Incorporate the following revisions to the ordinances that were proposed at the November 5, 2019 hearing: (1) include a 200' separation between STRs, (2) remove language that prohibits outdoor amplified music during quiet hours and rely on the existing sound regulations in Chapter 7, Article XI, (3) prohibit STRs in the Colony and Harbour Island HOAs, and (4) include exemptions for existing timeshare properties.

#### BACKGROUND

##### *Executive Summary*

*On November 5, 2019, the City Council held a public hearing regarding the Short Term Rental ordinances. Based upon City Council input and public comment, as well as subsequent staff analysis, the proposed Short Term Rental ordinances have been modified as follows: (1) include a 200' separation between STRs, (2) remove language that prohibits outdoor amplified music during quiet hours and rely on the existing sound regulations in Chapter 7, Article XI, (3) prohibit STRs in the Harbour Island development (in addition to prohibiting STRs at The Colony), and (4) allow STRs in timeshare properties that were in existence as of January 1, 2019. Because of the directed changes to the STR ordinances, the ordinances are being brought back to the City Council for consideration as a new first reading of the ordinances.*

**ANALYSIS/DISCUSSION**

The proposed ordinances establish a comprehensive set of operating requirements and performance standards for STRs. STRs include both vacation rentals and homeshares; both are defined as dwellings that are rented for a period less than 30 days. However, a homeshare must be the owner’s primary residence and the owner must be present in the dwelling while it is being rented. Owners of vacation rentals need not be present when renting out the dwelling.

There will be two separate STR ordinances. The non-coastal ordinance will be placed in Chapter 16-Zoning Code (Attachment 2) and the coastal ordinance in Chapter 17-Coastal Zoning (Attachment 3). A third ordinance makes modifications to civil fine established within Chapter 7-Nuisances (Attachment 4).

**City Council Recommendations**

The following table summarizes the City Council’s position as stated at the November 5th hearing.

	HEDC Recommendation Sept. 24, 2019	City Council Revisions Nov. 5, 2019	Action
1.	Provide analysis of 100’ and 200’ separation between STRs.	The separation should be 200’ between STRs.	The ordinance requires a 200’ separation between STRs.
2.	No outdoor amplified music during quiet hours; otherwise the existing sound regulations apply (OCC Section 7-185).	Rely on existing sound regulations in Chapter 7, Article XI (Chapter 7, Article XI) 55 dBA at property line between 7 am and 10 pm. 50 dBA at property line between 10 pm and 7 am.	The ordinance requires that STRs comply with the existing sound regulations.
3.	The Colony at Mandalay Beach be added to the list of ineligible dwellings for STR permits.	Include The Colony at Mandalay Beach as ineligible units. Review CC&Rs for The Harbour Island condominiums and include as ineligible dwellings if the CC&Rs would prohibit STRs.	The Colony at Mandalay Beach and the Harbour Island condominiums are included as ineligible dwellings for STR permits.
4.	Not discussed	Include exemptions to the separation requirement and 100-day annual cap for timeshares.	Timeshares are exempt from the 200’ separation requirement and from the 100-day annual cap.

**Separation Analysis**

The City Council felt that a 100-foot separation requirement would not provide for adequate distance between STRs. Based on Staff analysis, although it is possible to achieve the 5% cap and maintain a 200 foot separation between STRs in every coastal neighborhood except the Dunes, the more likely scenario with a 200 foot separation requirement is that every coastal neighborhood will be below the 5% cap.

**Amplified Music**

The City Council was concerned that the language of the STR ordinance was not explicit enough as it relates to exterior noise. The City’s existing sound regulations state that noise levels in residential zones that are above 55 dBA between the

hours of 7 a.m. and 10 p.m. and above 50 dBA between 10 p.m. and 7 a.m. as measured at the property line of the property suspected of violating the sound regulations constitutes a violation of the sound regulations. Council recommended that the STR ordinances rely upon the existing sound regulations.

### **Ineligible Dwelling Units**

Based on the recommendations of the Housing and Economic Development Committee at the September 24, 2019 meeting, the City Attorney's Office reviewed the existing Covenants, Conditions, and Restrictions (CC&Rs) of The Colony at Mandalay Beach Owner's Association. The City's review of the existing CC&Rs resulted in a recommendation that the 440 units at The Colony at Mandalay Beach be included as ineligible dwelling units in regards to STRs. At the City Council meeting of November 5, 2019 the Harbour Island condominium association requested that the 129 units in their association also be made ineligible based on the similarity of their existing CC&Rs to the CC&Rs of The Colony. The City Attorney's office has reviewed the Harbour Island condominiums CC&Rs and agrees that the two CC&Rs are similar. The City Attorney's office recommends that these 129 units be added to the list of ineligible dwelling units in regards to STRs.

### **Timeshare Exemptions**

During the November 5, 2019 meeting, it was brought to the City Council's attention that existing timeshares operating in the Oxnard Shores neighborhood in the Coastal Zone have units that operate as short-term rentals during periods when there is availability. Timeshares are a unique form of property ownership. Units are sold as time segments which consist of a period of occupancy of not less than one week or greater than 30 days with an annual right to use the unit. The rights to use a unit for the annual period are often traded to exchange companies or granted to individuals other than the owners in exchange for a fee. Due to the unique ownership of timeshares, the City Council recommended that existing timeshares, when the right to use is traded or exchanged for a fee, shall be licensed and operate as short-term rentals and abide by all of the rules of the short-term rental ordinance except timeshares do not need to comply with the 200 foot separation requirement. Staff also recommends that the timeshares not be subject to the 100-day per year cap that will be applied to other STRs.

### **ENVIRONMENTAL IMPACT**

In accordance with the California Public Resources Code Sections 21000 et seq. and State California Environmental Quality Act (CEQA) Guidelines (Sections 15000 et seq.), Planning staff have determined that the proposed zoning text amendment is exempt from CEQA pursuant to Sections 15061 and 15305 of Title 14, Division 6, Chapter 3 of the California Code of Regulations (Attachment 7).

### **STRATEGIC PRIORITIES**

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

Objective 1e. Develop a rental inspection program.

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

This agenda item supports the Economic Development Strategy. The purpose of the Economic Development Strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Objective 1a. Focus available resources on a comprehensive effort to promote economic activity in Oxnard, including a marketing program that communicates the City's available resources and assets.

Goal 2. Enhance business development throughout the City.

Objective 2a. Develop a strong citywide economy which attracts investment, increases the tax base, creates employment opportunities, and generates public revenue.

Objective 2c. Capitalize on historic, cultural and natural resources.

Objective 2d. Public safety will collaborate with the business community to promote an environment that supports economic development.

## **FINANCIAL IMPACT**

The City will not receive revenues from newly permitted STRs within the Coastal Zone until the Coastal Commission approves the new STR regulations within the Coastal Zone (Oxnard City Code Section 17-53) pursuant a Coastal Development Permit. The proposed STR regulations outside of the Coastal Zone (adding Article XI to Chapter 16 of the Oxnard City Code) would become effective 30 days after the City Council adopts the ordinance.

Once the recommended STR ordinances received final approval, the ordinances would raise revenue for the General Fund in four different ways:

1. Short-term rental permit (annual): Staff is currently completing a cost analysis to determine the fee amount required to fully recover the cost of administering the STR program. Since the STR permit fee would be limited to cost recovery, this revenue source would have no net impact on the General Fund. It should be noted that as the City implements provisions to limit STRs, it will be more challenging to ensure sufficient funding from fees will be in place to ensure adequate enforcement of these regulations. Staff will return to Council with a fee structure that reflects the final approved regulations.

2. Progressive fines for misdemeanor violations: Ideally, the City will not need to assess any fines because all STR owners will comply with the ordinance. To the extent they do not, however, the progressive fines could generate noticeable new revenue for the General Fund. For example, with a cap of 206 STRs in the Coastal Zone; and if only 5% of those STRs incur two fines per year, then annually the General Fund revenue would increase by \$30,900 ( $.05 * 206 * (\$1,000 + \$2,000)$ ). There will, however, be costs associated with these enforcement actions.

3. Business tax revenue: With the cap in the Coastal Zone of 206 STRs and a business license tax of approximately \$300.00 per year, the General Fund would receive \$61,800 annually for STRs in the Coastal Zone if 206 STRs were permitted within the Coastal Zone. The City would also receive a business license tax for STRs located outside of the Coastal Zone.

4. Transient Occupancy Tax revenue: There are many variables in estimating new TOT revenue to be paid by STRs. The following example is not a projection, but merely an illustration of how to estimate revenue under any given set of assumptions. Assuming 206 STRs in the Coastal Zone, 100 days per year rental, an average rental price of \$350.00 per night, the current TOT tax rate of 10% then the General Fund revenue from STRs in the Coastal Zone would be:

\$721,000.00. (206 STR's \* 100 days rented \* \$350/day \* 10% T.O.T. rate = \$721,000). The amount of revenue generated will fluctuate significantly per year based on the variables including (but not limited to) the number of STRs that are actually permitted within the Coastal Zone and within other areas of the City.

The FY 2019-20 Adopted Budget does not assume any General Fund revenue from these sources. If approved, these new revenues will be added to the next General Fund forecast.

## **COMMITTEE OUTCOME**

This item is a public hearing and was heard by the Planning Commission and presented to the Housing and Economic Development Committee (HEDC). The recommendations of both the Planning Commission and HEDC are fully elaborated in this report.

*Prepared by: Paul McClaren, Associate Planner*

## **ATTACHMENTS**

1. November 5, 2019 City Council Staff Report
2. CH 16 - Short Term Rental Ordinance
3. CH 17 - Short Term Rental Ordinance - Coastal
4. CH 7 - Fines Ordinance
5. Redline Short Term Rental Ordinance (Coastal)
6. Redline Short Term Rental Ordinance
7. Notice of Exemption
8. STR Ordinance PPT CC 12.03