



IMPORTANT NOTICE REGARDING June 16, 2020

Planning Commission Meeting

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic. In accordance with Executive Order N-29-20, the public may only view the meeting online and not in the Commission Chamber.

Submission of Public Comments: For those wishing to make public comments at the June 16, 2020 Commission meeting, please submit your comments via email to be read aloud at the meeting by the City Planner. Email comments must be submitted to the City Planner at jlucchesi@mtshastaca.gov. Email comments on matters not on the agenda must be submitted by 4:00 P.M. Pacific Time on the day of the meeting. All email comments shall be subject to the same rules as would otherwise govern speaker comments at the Commission meeting.

Reading of Public Comments: The City Planner shall read all email comments, provided that the reading shall not exceed three (3) minutes, or such other time as the Commission may provide, consistent with the time limit for speakers at a Commission meeting. The email comments submitted shall become part of the record of the Commission meeting.

Comments made in the chat will not be read during public comment.

Mt. Shasta Regular Planning Commission Meeting Agenda

Tuesday, June 16, 2020; 6:00 p.m.

Please note that this meeting is being agendized to allow Commissioners, Staff, and the public to participate in this meeting via ZOOM, pursuant to the Governor’s Executive Order N-29-20. Members of the public may remotely listen to and participate in the meeting via the information below:

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/87183873717>

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 408 638 0968 or +1 646 876 9923 or
+1 301 715 8592 or +1 312 626 6799

Webinar ID: 824 8365 4583

Page	STANDING AGENDA ITEMS
	1. Call to Order and Flag Salute
	2. Roll call
	<p>3. Public Comment: This time is set aside for residents to address the Planning Commission on matters listed on items not included on the Regular Agenda. If your comments concern an agenda item noted on the regular agenda, please address the Commission when that item is open for public comment. Each speaker is allocated three (3) minutes to speak. Speakers may not cede their time. Comments should be limited to matters within the jurisdiction of the City. Commission discussion or action cannot be taken on items not listed on the agenda other than to receive comments. If you have documents to present to members of Commission, please provide a minimum of seven (8) copies to the note taker.</p>
	<p>4. Meeting Minutes</p> <ul style="list-style-type: none"> a. Approval of Regular Planning Commission Meeting Minutes for February 18, 2020 b. Approval of Regular Planning Commission Meeting Minutes for May 19, 2020
	<p>5. Stormwater Master Plan Draft Presentation</p> <p>Background: The City of Mt. Shasta with the assistance of two CivicSpark Fellows have completed a draft Stormwater Master Plan for the City. This item will be a presentation of the draft with discussion and action.</p> <p>Commission Action: Motion to approve draft Stormwater Master Plan Update for City Council consideration.</p>
Pg 9	<p>6. Short-term Rental Ordinance</p> <p>Background: The City of Mt. Shasta like most cities have a growing short-term rental (STR) market that caters to tourism. This item will present a first draft for a short-term rental ordinance.</p> <p>Commission Action: Give direction on potential regulations</p>

	<p>7. Reopening Mt. Shasta Update</p> <p>Background: This item is an update to the May 19, 2020 discussion on Reopening Mt. Shasta post-COVID19</p>
	<p>8. Commission and Staff Comment</p> <p>City Staff – Update on Vacant Building Ordinance</p>
	<p>9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. Items that are bolded correlate with the General Plan Revision Process</p> <ul style="list-style-type: none"> a. Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – TBD b. Drone Ordinance Discussion – July 16, 2020
	<p>10. Adjourn – Next meeting scheduled for Tuesday, July 16, 2020 at 6:00pm</p> <p>Availability of Public Records: All public records related to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at City Hall located at 305 North Mt. Shasta Blvd., Mt. Shasta, CA at the same time the public records are distributed or made available to the members of the legislative body. Agenda related writings or documents provided to a majority of the legislative body after distribution of the Agenda packet will be available for public review within a separate binder at City Hall at the same time as they are made available to the members of the legislative body.</p> <p>The City of Mt. Shasta does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services. In compliance with the Americans with Disabilities Act, persons requiring accommodations for a disability at a public meeting should notify the Deputy City Clerk at least 48 hours prior to the meeting at (530) 926-7510 in order to allow the City sufficient time to make reasonable arrangements to accommodate participation in this meeting.</p>

Any writings or documents provided to a majority of the Planning Commission after distribution of the meeting Agenda Packet regarding any open session item on this agenda will be made available for public inspection during normal business hours within the binder entitled “Agenda Packet for Front Counter” located at City Hall at the desk on the right-hand side inside the front door.

Projects heard at this Planning Commission meeting may be subject to appeal. Please contact the Planning Department for information. Appeals must be submitted to the City Clerk’s office together with the appeal fee. If you challenge the environmental review of the project proposal in court, you may be limited to raising only those issues raised at the public hearing or in written correspondence delivered to the Planning Department on, or prior to, closing of the public comment period.

Mt. Shasta Regular Planning Commission Meeting Minutes

City Park Upper Lodge 1315 Nixon Rd.
Mt. Shasta Tuesday, February 18, 2020; 6:00 p.m.

Item

STANDING AGENDA ITEMS

1. Call to Order and Flag Salute – Chair Findling called to order at 6:01PM

2. Roll call

Present: Chair Findling and Commissioners Higuera, Beck, Saryon, and Pardee

Absent: Commissioners Kirby and McDowell

3. Public Comment:

Johanna Altorfer: Discussion on December Meeting Minutes.

4. Meeting Minutes:

a. Approval of Regular Planning Commission Meeting Minutes for December 17, 2019

Minor spelling correction of “low lighting” and removal of public comment requested by Johanna Altorfer.

COMMISSION ACTION: Motion to approve with corrections

MOVED: Commissioner Higuera

SECOND: Commissioner Saryon

AYES: Chair Findling and Commissioners Saryon, Pardee, and Higuera

NAYS:

ABSTAIN: Commissioner Beck

ABSENT: Commissioner McDowell and Kirby

b. Approval of Regular Planning Commission Meeting Minutes for January 21, 2020

Typo on Item 9 Future Agenda Items “Bush Street” should be “Brush”

COMMISSION ACTION: Motion to approve with corrections

MOVED: Commissioner Beck

SECOND: Commissioner Saryon

AYES: Chair Findling and Commissioners Saryon, Pardee, and Beck

NAYS:

ABSTAIN: Commissioner Higuera

ABSENT: Commissioner McDowell and Kirby

Chair Findling moves Item 5: Planning Commission Chair and Vice-Chair Selection 2020 Term to Item 7

5. 2020.01 Brush Street Variance Application: Public Hearing

City Staff: Presentation of Staff Report

Clarifying questions on safety access, public comment received, alley maintenance, and snow removal.

Public Hearing Opened at 6:28 PM

Jim Mathwig, Project Applicant: Summary of request. Presentation of second option and amicable to compromise.

Megan Tracey: Neighbor in favor of project.

Public Hearing Closed at 6:29 PM

Commissioner Pardee: Discussion on setbacks and in favor of granting variance.

Commissioner Saryon: In favor of reduced setback on northern lot line.

Commissioner Higuera: Discussion on variance and support for compromise on setbacks.

Chair Findling: Discussion on findings. Can make findings A, B, and E based on lot orientation and proximity to Union Pacific. Lot is mainly landlocked and variance request would not impact neighboring lots.

COMMISSION ACTION: Motion to approve Class 5 exemption from CEQA

MOVED: Commissioner Higuera

SECOND: Commissioner Saryon

AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck

NAYS:

ABSTAIN:

ABSENT: Commissioner McDowell and Kirby

COMMISSION ACTION: Motion to approve variance application to consider the west lot line as the front of the lot and modify the setbacks as follows: Northside Setback: 10 feet, Eastside Setback: 10 feet, Southside Setback: 12 feet, Westside Setback: 20 feet

MOVED: Commissioner Higuera

SECOND: Commissioner Beck

AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck

NAYS:

ABSTAIN:

ABSENT: Commissioner McDowell and Kirby

6. Accessory Dwelling Unit Ordinance Amendments

City Staff: Presentation of Staff Report

Clarifying Questions

Public Comment: None

COMMISSION ACTION: Motion to approve amendments to Chapter 18.22 as presented

MOVED: Commissioner Pardee

SECOND: Commissioner Saryon

AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck

NAYS:

ABSTAIN:

ABSENT: Commissioner McDowell and Kirby

7. Planning Commission Chair and Vice-Chair Selection 2020 Term

COMMISSION ACTION: Motion to appoint Melanie Findling as Chair and Paul Beck as Vice-Chair

MOVED: Commissioner Higuera

SECOND: Commissioner Saryon

AYES: Chair Findling and Commissioners Saryon, Higuera, Pardee, and Beck

NAYS:

ABSTAIN:

ABSENT: Commissioner McDowell and Kirby

8. Commission and Staff Comments

Commissioner Beck: Questions and Discussion on Eugene Hospital property and Nest.

Commissioner Saryon: Question on sewer plant funding and project status.

City Staff: Update on Farmer's Market location voting. Update on previous meeting questions. Comment on Outdoor Recreation event. Announcement of Mt. Shasta participation at State Cannabis Control Summit.

9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. **Items that are bolded correlate with the General Plan Revision Process**

- a. Short-Term Rental Ordinance – 3/17/2020
- b. Midtown Trail Discussion – 3/17/2020
- c. Graphic Ordinance: Projecting Graphic Discussion – 3/17/2020
- d. Outdoor Recreation Forum – 5/28/2020**
- e. Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – TBD
- f. Library Expansion Project: Rotary Trail Re-Route – TBD

10. Adjourn – Adjourned at 7:33 PM

Mt. Shasta Regular Planning Commission Meeting Minutes

City Park Upper Lodge 1315 Nixon Rd.

Mt. Shasta Tuesday, May 19, 2020; 6:00 p.m.

Item

STANDING AGENDA ITEMS

1. Call to Order and Flag Salute – Chair Findling called to order at 6:00PM

2. Roll call

Present: Chair Findling and Commissioners McDowell, Beck, Saryon, Kirby, Higuera, and Pardee

Absent: None

3. Public Comment: None

4. Meeting Minutes:

A. Meeting Minutes for Regular Meeting February 18, 2020

Date at the top of the meeting minutes is incorrect. Should be February 18, 2020.

COMMISSION ACTION: Motion to approve meeting minutes for February 18, 2020 with date amendment

MOTION: Commissioner Higuera

SECOND: Commissioner Beck

AYES: Chair Findling, Commissioners Saryon, Pardee, Higuera, and Beck

NOES:

ABSTAIN: Commissioner McDowell and Kirby

ABSENT:

Discussion on public issue with Meeting Minutes

COMMISSION ACTION: Motion to rescind approval and table to next meeting.

MOTION: Commissioner Beck

SECOND: Commissioner Higuera

AYES: Chair Findling, Commissioners Saryon, Pardee, Higuera, and Beck

NOES:

ABSTAIN: Commissioner McDowell and Kirby

ABSENT:

5. Mt. Shasta Reopening: Planning Topics

City Staff: Presentation of Staff Report

Discussion on items to help businesses reopen while protecting public health.

Public Comment:

Betty Kreeger: In favor of blocking off downtown. Discussion on special events. Not in favor of requiring masks.

Raven Stevens: Public comment read into the record by City Planner. Comments concerning one-way streets.

Johanna Altorfer: Public Comment read into the record by City Planner. Comments concerning reopening downtown Mt. Shasta.

Public Comment Closed

Discussion on reopening ideas.

No formal action. Request for discussion to be communicated to City Council.

6. Short-term Rental Regulations

City Staff: Presentation of Staff Report

Questions regarding complaints, county versus city Short-term Rental numbers, and illegal units.

Public Comment:

Caroline Ave Neighbor: Public Comment read into the record by City Planner. Against vacation rentals in condo complexes.

Peggy Risch: Public comment read into the record by City Planner. Comments on vacation rentals and public process. Against short-term rentals in city limits.

Johanna Altorfer: Comments in favor of short-term rental regulations. Comments on enforcement

Public Comment: Closed

Discussion on Short-term Rental Ordinance options. Request for future item.

7. General Plan Update

City Staff: Presentation of General Plan Element presentation.

Public Comment: None

8. Commission and Staff Comments

Commissioner Higuera: Discussion on drone ordinance and recreation economy support during COVID19. Request to for Planning Commission to work on Vacant building ordinance.

Commissioner Saryon: Question on COVID19 phasing schedule

Commissioner Beck: Question on 1119 Ream Ave Parcel Map Project and Jefferson Soul Cannabis licensing

Commissioner Kirby: Question on Brownfields Grants and Roseburg Property

Commissioner McDowell: Question on enforcement ordinances going to council

9. Future Agenda Items – Future items are topics brought to the Planning Commission from a public petition, city staff, Planning Commission member(s), and City Council for review and action. All dates refer to first introductions to the Planning Commission and can be altered due to time and priority level. **Items that are bolded correlate with the General Plan Revision Process**

- a. **Golden Eagle Charter School Parcel Map, Conditional Use Permit, and Architectural Design – TBD**

10. Adjourn – Adjourned at 8:24 PM

Agenda Item # 6

Staff Report

Meeting Date: June 16, 2020
To: Planning Commission
From: Planning Department
Subject: Short-term Rental Ordinance

<input checked="" type="checkbox"/>	Regular
<input type="checkbox"/>	Consent
<input type="checkbox"/>	Closed
<input type="checkbox"/>	Presentation

Recommended Action:

Give Direction

Background:

Short-term rentals (STR), vacation rentals, and home sharing are all terms used to describe the rental of all or part of a residential dwelling unit for a duration of occupancy of less than 30 days. Common examples include renting a house or an apartment for a week or weekend for a short stay or for several weeks associated with business travel or longer vacations. Short-term rentals are most commonly offered and rented through online hosting platforms such as Airbnb, VRBO, and HomeAway. The short-term rental industry has experienced tremendous growth in the last five years. The City of Mt. Shasta has approximately 118 legal and illegal short-term rental units based on an online search of STR in the City Limits.

While short-term rentals may provide income to residents and broader lodging options than the existing hotel market, there may be significant downsides to these uses. The popularity and profitability of short-term rentals has spurred an industry where dwellings are bought and used exclusively for short-term rentals, removing housing stock that would otherwise be available for longer lease terms. A rotating series of renters in residential neighborhoods may create traffic, noise, parking, and safety concerns for neighborhoods.

Regulation History:

The City of Mt. Shasta has had minimal regulation on short-term rentals, beginning with the introduction of a zoning restriction in 2016. The City maintains one line of zoning code restricting STR in R1 zones (MSMC 18.16.040). STRs have increased since 2016 from 7 registered STRs to 52 registered STRs in 2019. City Staff have struggled to keep up with enforcement and safe regulation of STR's. The City Staff have highlighted this item for Planning Commission discussion and possible regulation.

The City of Mt. Shasta does have a permitting and regulations for Bed and Breakfasts (BnB) (MSMC 18.21). The BnB's in the City operate under strict regulations with additional permitting steps and requirements. STR's do not have any prescribed operating requirements.

Zoning and Lot Restrictions

The City of Mt. Shasta currently utilizes a zoning restriction (strict prohibition of STR in RI Low Density Residential). The Planning Commission may continue this practice by explicitly prohibiting or requiring a Conditional Use Permit (CUP) for various zonings. Background research shows that zoning restrictions are not as common as maximum license caps and ownership restrictions.

Lot restrictions are when a minimum lot size is required for a STR. Siskiyou County recently required all STR in the City of Mt. Shasta Sphere of Influence to have a minimum lot size of 2.5 acres which coincides with the 2.5 acre septic system minimum requirement. Lot restrictions are usual seen only in county regulations for STR due to the common use of septic systems that can be overwhelmed by frequent visitors or other infrastructure. Cities do not typically have lot restrictions due to the availability of water and sewer infrastructure, but Planning Commission may explore this option for City regulations.

Short-term Rental Location/Ownership Restrictions

Many STR ordinances restrict STR's by requiring primary residence of the dwelling unit, require a local primary residence, or set a cap for the number of non-primary residences used for STR. These ordinances do not also include a cap on total number of licenses. The definition of a primary residence can vary. There are two examples in Attachment I on the defining factors.

Maximum Number of Licenses

The Planning Commission has a number of options for capping STR licenses. The most broadly used is a percentage of housing units or lodging rooms.

The City of Long Beach has a cap of 1% of the total number of housing units in the City Limits. The total number of units is established in the Housing Element or Regional Housing Needs Assessment (RHNA). These two documents are required to be updated every 5 to 7 years. The total number of housing units in Mt. Shasta is 1637. If the 1% is applied this would amount to 17 total licenses for the City of Mt. Shasta.

Below are the total number of rooms for each commercial lodging business in Mt. Shasta:

- Alpine Lodge 20
- Cold Creek Inn 19
- Econo Lodge 20

- Evergreen Lodge 20
- Inn at Mt Shasta 30
- Loge (Finlandia) 24
- Monte Bianco 18
- Strawberry Inn 17
- Tree House 98
- **Total 266**

Neighborhood Bans & Neighborhood Control

Recently, the City of Long Beach has allowed for neighborhoods to ban short-term rentals in their neighborhoods through a neighborhood voting process. The process includes the neighborhood defining the geography of the ban and then getting 2/3rds of the property owners within the geographic area to vote in favor of the ban. The minimum number of parcels for a geographic area for this process is 25 parcels. The voting can be conducted in a number of ways but is not placed on a formal election ballot like a tax.

The neighborhood ban does allow more local control but has significant cost and resources related to this option. The City would need to develop a full process for beginning and implementing the election. Then the City would need staff time to facilitate a fair and equal election.

Rental Day Restrictions

It is common to see Cities and Counties place a cap on the total number of days that a STR can be rented per calendar year. This regulation is commonly paired with ownership restrictions. The number of days in a calendar year that an STR can be available is flexible; with most cities choosing a maximum of 120 or 180 days per calendar year. Planning Commission may choose to include this recommendation for all or conditional STR's within the City.

Amnesty Period and Grandfathering

An amnesty period is when a nonconforming use is given time to come into compliance or cease the nonconforming use. Grandfathering is when a nonconforming use is allowed to continue without coming into total compliance with a new ordinance. In terms of STR, amnesty periods are more commonly used to ensure STR's come into compliance with new regulations and operating procedures. The amnesty period option also ensures that the total number of STR's is reduced (in most cases) to allow for new long-term rentals or new housing stock for long-term residents to become available.

General Plan Connection:

The proposed ordinance is consistent with the General Plan as it protects existing residential neighborhoods from encroachment of incompatible commercial activities while protecting the existing supply of housing.

Environmental Review:

The proposed Chapter creation is not considered a project under the California Environmental Quality Act (CEQA) Guidelines Section § 15378 due to the activity not resulting in a direct or reasonably foreseeable indirect physical change in the environment. Alternatively, the chapter creation is exempt from CEQA as it can be seen with certainty that there is no possibility for causing a significant effect on the environment Section § 15061(b)(3). The action will not cause a direct or reasonably foreseeable indirect change in the environment, as the use of short-term rental would be limited to existing primary residences and no additional structures or construction is required to comply with the regulations. The amendment provides for regulations to limit traffic, parking and noise impacts through the prohibition on special events, restricts the occurrence of unhosted rentals, preserves residential character by providing a local contact person to respond to complaints, and requires use of on-site parking.

Fiscal Impact:

The City's Finance Department is the chief department permitting and enforcing STR regulations. The Finance Department are typically the first point of contact with STR owners and operators. The Finance Department does not currently recover costs associated with Transient Occupancy Tax (TOT, also known as the hotel tax) collection, recording keeping, and enforcement. The total TOT collected per STR has decreased in the past 3 years. We predict this reduce in per STR tax collection due to improper reporting and the saturation of the STR market. The reduction in the number of STR's operating in the City would not significantly impact the total TOT tax revenue collected.

The implementation of a permitting process similar to the BnB regulations would allow City Staff to recover costs associated with managing and enforcing STR regulations. Cost recovery does not reduce expenditures or generate new revenue but puts the cost of doing business onto the business, thus freeing up general tax revenues for other projects and services.

Review of Public & Outside Agency Comment:

The City Staff have not pursued public comment directly related to regulating the STR market, but have received public input in other processes that indicates local support for more long-term rentals and less STR. The City's 2018 Visioning Survey, as part of the General Plan revision, shoed 65% of respondents listing long-term housing as a critical issue for the City and 47% specifically listed Short-term rentals as a negative change they have observed in the City.

The 2014 Housing Element update for the City's General Plan included public workshops which collected information on housing issues and opportunities. Short-term or vacation rentals were listed as a concern.

Recommendation Discussion:

Planning Commission unanimously requested the creation of proposed language for more regulation on the STR industry. Attachment includes options for regulation related to previous discussion at the May 19, 2020 Regular Planning Commission meeting and ordinances from other cities.

Operating standards and procedures mentioned in the PAS memo attached to the previous agenda packet have not been added to this proposed language at this time. Additional operating language may be added as other City Staff (Public Works, Fire, Building, etc.) have time to review and comment.

The Planning Department requests direction on the proposed language from Planning Commission.

Attachments:

- 1. Proposed Chapter 5.50 with Comments and Text Options**
- 2. Sandpoint, Idaho STR Ord.**
- 3. Long Beach STR Memo**
- 4. Redwood City STR Ordinance**

Attachment I

Chapter 5.50

Short-Term Rental Licensing and Standards

5.50.010 Purpose

The purpose of this Chapter is to allow limited short-term rental uses while preventing the loss of housing opportunities for residents, preserve residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance, and safety impacts to neighborhoods, and provide a registration process for the City to track and enforce these requirements as needed and ensure appropriate collection of taxes.

5.50.020 Definitions

For the purposes of this chapter, the follows definitions shall apply:

“Adjacent Properties” means the dwelling units located next to the dwelling unit in which the short-term rental is located.

“Host” means any person who is the owner of record of residential real property or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof for short-term rental either through a hosting platform or individually as an operator.

“Hosting Platform” means a means through which a host may offer a dwelling unit, or portion thereof, for short-term rental. A hosting platform includes, but is not limited to, an internet-based platform that allows a host to advertise and potentially arrange for temporary occupation of the dwelling unit, or portion thereof, through a publicly searchable website, whether the short-term renter pays rent directly to the host or to the hosting platform.

Option 1: “Primary Residence” means a dwelling unit where a person has been physically present, and that the person regards as home. A person may only have one primary residence at any given time. Evidence of a person’s primary residence includes, but is not limited to, documentation from income tax statements or a driver’s license. If a property has multiple dwelling units, including an accessory dwelling unit or apartment complex, each dwelling unit and accessory dwelling unit shall be considered a separate residence subject to the primary residence requirement.

Commented [JL1]: Redwood City STR Ord

Option 2: “Primary Residence” means a residential property where the short-term rental host resides at least 275 nights per year.

Commented [JL2]: Long Beach STR Ord.

“Short-Term Rental” means the use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping, or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

“Short-Term Renter” means a person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than 30 consecutive days, counting portions of calendar days as full calendar days.

5.50.030 Short-Term Rental License Requirement

Option 1: Short-term rental uses shall be permitted in any primary residence subject to the requirements of this Chapter, including compliance with the operating standards, registration, Transient Occupancy Tax payments, and recordkeeping obligations. Except as provided for in this Chapter, all other short-term rental uses shall be prohibited.

Commented [JL3]: Redwood City STR Ord. & Town of Truckee STR Ord.

Option 2: Short-term rental uses shall be permitted in any residential use in [Commercial zoning C1 & C2]. Short-term rental uses shall be considered a conditional use in [Residential zoning R1, R2, & R3]. All short-term rental uses are subject to the requirements of this Chapter, including compliance with operating standards, registration, Transient Occupancy Tax payments, and recordkeeping obligations. Except as provided for in this Chapter, all other short-term rental uses shall be prohibited.

Option 3: A Short-term rental host may operate up to [2] non-primary residence short-term rentals.

Commented [JL4]: Long Beach STR Ord.

Option 4: Each short-term rental must have a property owner who permanently resides within twenty (20) vehicular miles of Mt. Shasta City Limits.

Commented [JL5]: Sandpoint, ID STR Ord.

5.50.XXX Maximum Licenses

Option 1: A city-wide cap of one (1) percent of total City housing units will be placed on the number of short-term rental registrations issued (First come first served). The total number of City Housing units shall be the total number of housing units reported in the most recent Housing Element.

Commented [JL6]: Long Beach STR Ord

Option 2: A city-wide cap of ten (10) percent of total City commercial lodging rooms will be places on the number of short-term rental registrations issued (First come first served).

Mt. Shasta total number of units is 1637. The total number of licenses would be 17 licenses.

5.50.XXX Optional Neighborhood Ban

An optional ban on short-term rental may be implemented by a vote of property owners within a geographic area.

Commented [JL7]: Town of Truckee and King's Beach.

Mt. Shasta total number of rooms 266. The total number of licenses would be 27

5.50.040 Short-Term Rental License Permitting Process & Renewal

(A) Application. Prior to advertising or making available the short-term rental for renting, hosts shall register their residence as a short-term rental with the City. This registration shall be submitted on a form prepared by the City and shall include the name and contact information of the host, the address of the residence being used for short-term rental, the contact information for the local contact person, an acknowledgement of compliance with the requirements of the City's Municipal Codes, applicable health and safety standards, and other information as requested.

Commented [JL8]: Long Beach STR Ord. This system would need to be developed if Planning Commission would like to move forward.

(B) Fee. The registration form shall be accompanied by a filing fee in an amount established by resolution of the City Council.

(C) Application Completeness. The submitted information shall be used to determine whether to register the short-term rental. The host will be notified if an application is incomplete. If the host fails to submit the required information or fees necessary to complete the application within thirty (30) calendar days after the notice of an incomplete application, the application shall expire and be deemed withdrawn.

(D) Decision. The [City Planner or City Manager] or their designee shall be responsible for deciding short-term rental registration applications. After an application is deemed complete, registration shall be approved where:

1. The host demonstrates the ability to meet the requirements of this Chapter,
2. The subject residence is not the subject of an active compliance order or administrative citation from the City in the past 12 months, and
3. A short-term rental registration for the residence has not been denied or revoked in the prior 24-month period.

(E) Validity. An approved registration shall be valid and payable on a fiscal year basis. An approved registration shall be personal to the host and shall automatically expire upon sale or transfer of the dwelling unit. No registration may be assigned, transferred, or loaned to any other person.

(F) Annual Renewal. A registration may be renewed annually upon payment of registration renewal fees and all required transient occupancy tax remittance associated with short-term rental. The host shall submit such information concerning the short-term rental activity as may be required to enable the tax collector to verify the amount of tax paid. Failure to renew prior to the expiration date will result in expiration of the registration.

(G) Requirements No Exclusive. The issuance of a short-term rental registration shall not relieve any person of the obligation to comply with all other provisions of this code applicable to the use and occupancy of the property.

(H) Administrative Policy. The [City Manager or City Planner] or their designee shall have the authority to develop administrative policies to implement the intent of this Chapter.

5.50.050 Appeal of Denial or Revocation of License

(A) Revocation of Registration. A short-term rental registration issued under the provisions of this Chapter may be revoked after notice and hearing as provided for in this Section, for any of the following reasons:

1. Fraud, misrepresentation, or false statements contained in the application;
2. Fraud, misrepresentation, or false statements made in the course of carrying on a short-term rental as regulated by this Chapter;
3. Any violation of any provision of this Chapter or of any provision of this code; or
4. Any violation of any provision of federal, state, or local laws.

(B) Revocation Hearing. Before revoking a short-term rental registration, the City Planner shall give the responsible host notice in writing of the proposed revocation and of the grounds thereunder, and also of the time and place at which the host will be given a reasonable opportunity to show cause why the registration should not be revoked. The notice may be served personally upon the host or may be certified ailed to the host at the last known address of at any address

shown upon the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing the City Planner may, for the grounds set forth herein, revoke the registration.

(C) Appeal from Denial or Revocation of Registration. Any host whose application has been denied or registration has been revoked shall have the right to an administrative appeal before the City Manager or a designated hearing officer. An appeal shall be filed in writing on a form provided by the City stating the grounds therefor within 10 days of the decision. The City Manager or designated hearing officer shall hold a hearing thereon within a reasonable time and the decision shall be final.

(D) Waiting Period. Any host whose registration has been denied or revoked shall be ineligible from applying for a new registration for a 24-month period.

(E) Records of Compliance. The host shall retain records documenting the compliance with these requirements for a period of three (3) years after each period of short-term rental, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to the City upon request for the purpose of inspection or audit to the City Manager of their designee.

5.50.060 Operational Standards, Restrictions, and Requirements

The following operating standards shall apply to short-term rentals:

- (A) Legal Dwelling. Short-term rentals may only occur within legal dwelling units.
- (B) Limitation on Listings. Short-term rentals shall not have more than 2 listings for the same primary residence on the same days.
- (C) Annual Limit. A primary residence may be occupied as a Short-term rental for no more than [120] days per calendar year where no host is present. There shall be no limit on the number of days a primary residence may be occupied as a short-term rental where the host is present. For purposes of this Section, a host is considered present when they are on the premises at all times between the hours of 10:00 P.M. and 6:00 A.M.
- (D) Local Contact Person. Hosts shall identify to all guests and all occupants of adjacent properties a local contact person to be available 24 hours per day, 7 days per week during the term of any unhosted stay. The designated local contact person shall:
 - 1. Respond within 60 minutes to complaints regarding the condition or operation of the dwelling unit or the conduct of guests; and
 - 2. Take remedial action to resolve such complaints
- (E) Parking. No additional parking shall be required for short-term rentals. Existing on-site parking spaces shall be made available to short-term renters.
- (F) Special Event. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise, or other problems in the neighborhood are prohibited from occurring at the short-term rental property, as a component of short-term rental activities.
- (G) The number of guests will be limited to two guest per bedroom plus another two, for a maximum of ten guests per short-term rental with outdoor quiet hours in effect between 10:00 P.M. and 7:00 A.M.

Commented [JL9]: Redwood City Ord. Used to prevent one residence to be divided into multiple STR similar to a hotel. This minimizes traffic and the total number of parties reserving a STR.

Commented [JL10]: Redwood City Ord.

Commented [JL11]: Long Beach STR Ord

- (H) Each short term rental must pass a public safety inspection to validate emergency egress standards as well as operable and properly placed smoke alarms, fire extinguishers and CO detectors, as applicable
- (I) No recreational vehicle, travel trailer, tent or other temporary shelter may be used as a short term rental.

Commented [JL12]: Sandpoint, ID STR Ord.

Commented [JL13]: Sandpoint, ID STR Ord.

5.50.080 Transient Occupancy Tax

Transient Occupancy Tax (TOT) must be collected short-term rentals and paid to the City pursuant to Chapter 3.12 of the Mt. Shasta Municipal Code. Collection of transient occupancy taxes for short-term rentals shall be the responsibility of the host. The hosting platform shall collect TOT when they have signed a voluntary agreement (or equivalent) with the City.

5.50.090 Penalties and Enforcement

Violations. Penalties as provided for in Chapter XXX may be imposed for failure to comply with the provisions of the Chapter.

5.50.100 Amnesty Period for Existing Short-Term Rentals

Notwithstanding any other provision of law, short-term rentals operating on or before the enactment of this ordinance shall be considered existing, unpermitted uses. An amnesty period of one year after the effective date of this ordinance is being offered to allow these existing, unpermitted uses to be legalized by conforming to the requirements of this Chapter, including compliance with operating standards, registration, and recordkeeping obligations. Transient Occupancy Tax payments continue to be required at all times for short-term rentals and must be collected and paid during the amnesty period. Applications to bring an existing, unpermitted short-term rental use into compliance shall be made on or before one year after the effective date of this ordinance. Existing short-term rental uses that do not conform to the requirements of this Chapter shall cease operation within one year of the effective date of this ordinance and shall be prohibited from resuming unless and until the use conforms to the requirements of this Chapter.

CHAPTER 12

SHORT TERM RENTAL OF DWELLING UNITS

SECTION:

3-12-1: Purpose

3-12-2: Definitions

3-12-3: Requirements

3-12-4: Standards

3-12-5: Violation; Infraction; Penalty

3-12-1: PURPOSE:

The purpose of this chapter is to protect the integrity of the City's residential neighborhoods and private property rights by limiting non-owner occupied short term rentals within residential neighborhoods and by regulating all short term rentals of dwelling units to safeguard the health, safety and welfare of short term rental occupants and that of neighboring residents. (Ord. 1353, 6-6-2018)

3-12-2: DEFINITIONS:

LOCAL REPRESENTATIVE: An area property manager, owner, or agent of the owner, who is readily available to respond to tenant and neighborhood or City questions or concerns.

OWNER: The person or entity that holds legal and/or equitable title to the private property. The owner may act through an agent or property manager, but the owner shall remain responsible for compliance with these provisions.

OWNER OCCUPIED: Where the owner of a dwelling unit resides on the parcel for a minimum of six (6) months out of a calendar year. Homeowner occupied tax exempt status shall be considered to be proof of homeowner occupied status for the purposes of this Code.

SHORT TERM RENTAL: The use of a dwelling unit, or a portion thereof which is rented for the purpose of overnight lodging for a period of thirty (30) days or less. Short term rentals are also commonly referred to as vacation homes, tourist homes, bed and breakfast establishments or vacation rentals. (Ord. 1353, 6-6-2018)

3-12-3: REQUIREMENTS:

A. **Permit Required:** No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit for short term rental occupancy within the City without obtaining a short term rental permit.

B. **Compliance With Chapter:** Permits for short term rentals are allowed subject to all provisions of this chapter.

C. **Occupancy Tax:** Compliance with the requirements of chapter 10, "Hotel-Motel Occupancy Tax", of this title is required.

D. **Residential Zones:** Within residential zones, short term rentals shall have a minimum two (2) nights stay and shall be limited to one per parcel.

E. **Non-Owner Occupied Short Term Rentals:** The sum total of all non-owner occupied short term rentals within the entirety of all residential zones shall not exceed thirty five (35) units, except as provided below:

1. Where the short term rental unit is included in a multi-unit development with the following standards:

a. Such development must include not less than ten (10) units.

b. Such development must include property that adjoins the waterfront.

c. Such development must be within one thousand five hundred feet (1,500') of the downtown core defined as being within the boundaries of First Avenue, Cedar Street, Fifth Avenue and Pine Street.

Developments located farther than one thousand five hundred feet (1,500') from the downtown core that meet standards in subsections E1a and E1b of this section may only be allowed non-owner occupied short term rentals at a ratio of one per ten (10) units.

2. Where approved for greater short term rental density as part of an approved planned unit development. Existing approved planned unit developments must be formally amended to be eligible for this greater density.

3. Where the short term rental was approved prior to the effective date of this chapter. (Ord. 1353, 6-6-2018)

3-12-4: STANDARDS:

A. A short term rental shall comply with the following standards:

1. Permit:

a. Commencing on the effective date hereof, any person who is permitted to engage in the rental of a dwelling for short term occupancy shall have obtained a short term rental permit. Application for such a permit shall be made upon suitable forms furnished by the City. The permit is valid for one year and must be renewed annually. Renewal of the permit requires a complete permit application and fee. If a complete application and applicable fees have not been received by the City on the annual renewal date, the short term rental shall be conclusively presumed to be discontinued and the City shall revoke the short term rental permit.

b. A short term rental permit is issued to a specific owner of a dwelling unit. The short term rental permit shall be revoked when the permit holder sells or transfers the real property. For purposes of this section, "sale or transfer" shall mean any change of ownership during the lifetime of the permit holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse or child or transfers on the owner's death to a trust which benefits only a spouse or child. A permit holder may transfer ownership of the real property to: a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to this section so long as the transferor lives and remains the only owner of the entity. When the permit holder sells or transfers the real property, the new owner shall apply for and receive a short term rental permit before using the dwelling as a short term rental.

2. Issuance: The issuance of a short term rental permit shall be subject to the following requirements:

a. Inspection:

(1) At the time of application for a new short term rental permit, the dwelling unit shall be subject to inspection by the building official or their designee. Prior to the issuance of the short term rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the building official pursuant to the requirements of this chapter.

(2) For renewals, applicants shall be required to submit a statement affirming compliance with the standards set forth in this chapter by completing a City provided self-inspection checklist.

(3) Any inspections required under this chapter may be conducted by a private inspector certified by the International Code Council at the owner's expense.

b. Windows: Bedroom windows shall be operable to allow for emergency egress. All emergency escape windows shall have a minimum five and seven-tenths (5.7) square foot net opening with a maximum sill height of forty four inches (44").

c. Smoke Alarms: Single or multiple-station smoke alarms shall be installed and maintained in accordance with manufacturers specification:

(1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(2) In each room used for sleeping purposes.

(3) In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

d. CO Detectors: A CO detector is required on each floor if: there is a garage, solid fuel appliance or gas appliance.

e. Fire Extinguishers: The short term rental shall be equipped with one 2A:10BC type extinguisher per floor. Fire extinguisher(s) shall be mounted in visible locations with the tops of the fire extinguishers mounted between three feet (3') and five feet (5') above the floor, and shall be accessible to occupants at all times.

f. Occupancy: No recreational vehicle, travel trailer, tent or other temporary shelter shall be used as a short term rental.

g. Local Representative:

(1) Each short term rental shall list a local representative who permanently resides within twenty (20) vehicular miles of Sandpoint City limits.

(2) If the Police Department is not able to contact the local representative in a timely manner more than twice during the term of the annual permit, this shall be considered a violation pursuant to section 3-12-5 of this chapter.

(3) The designated local representative may be changed by the permit holder from time to time throughout the term of the permit. However, to change the local representative, the permit holder must file a revised permit application that includes the name, address and telephone number of the new local

representative. Failure to notify the City of a change in the local representative constitutes a violation pursuant to section 3-12-5 of this chapter.

(4) For non-owner occupied short term rentals within the residential zones that do not meet the standards of subsection 3-12-3E1 of this chapter, property owners and/or residents within two hundred feet (200') of the dwelling shall be provided with the name and telephone number of the owner or the local representative. The permit holder shall provide documentation to the City of this notification and list of the owners and/or residents contacted.

h. Permit Posting: The short term rental permit shall be posted within the dwelling adjacent to the front door. At a minimum, the permit will contain the following information:

(1) The name of the local representative and a telephone number where the representative may be reached;

(2) The name and a telephone number where the property owner can be reached;

(3) The telephone number and website address of the City of Sandpoint and the Sandpoint Police Department;

(4) The maximum number of occupants permitted to stay in the dwelling;

(5) The solid waste and recycling collection day; and

(6) The Sandpoint snowplowing regulations.

i. Inactivity: License issuance and continued validity for non-owner occupied short term rentals shall be contingent upon the owner's good faith effort to actively engage in the rental of the property. Failure to provide documentation of rental activity for a minimum of twelve (12) nights during a twelve (12) month period, pro-rated quarterly, prior to the short term rental permit renewal deadline shall constitute an immediate forfeiture of the license. (Ord. 1353, 6-6-2018)

3-12-5: VIOLATION; INFRACTION; PENALTY:

A. The following conduct shall constitute a violation for which the penalties and sanctions specified in this section may be imposed:

1. Violations:

a. The tenants of the dwelling have created noise, disturbances, or nuisances, in violation of this Code, or violations of State law pertaining to the consumption of alcohol, or the use of illegal drugs.

b. The owner has failed to comply with the standards of section 3-12-4 of this chapter.

2. Penalties:

a. For the first two (2) violations within a twelve (12) month period, the sanction shall be a warning notice.

b. For the third violation within a twelve (12) month period, the sanction shall be a revocation of the permit.

3. Written Notice: The City shall provide the permit holder with a written notice of any violation of this section that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.

4. Appeal Of Suspension Or Revocation: Pursuant to this section, the City shall provide the permit holder with a written notice of the permit suspension or revocation and the reasons therefor. The permit holder may appeal the suspension or revocation to the City Council by filing a letter of appeal to the City Clerk within twenty (20) days after the date of the mailing of the Planning Director's order to suspend or revoke the permit. The Planning Director's suspension or revocation shall be stayed until the appeal has been determined by the City Council. The City Council shall conduct a hearing on the appeal within sixty (60) days of the date of the filing of the letter of appeal. At the appeal, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the Council may uphold, modify, or overturn the decision of the Planning Director to suspend or revoke the permit based on the evidence received.

5. Application For Permit After Revocation: A person who has had a short term rental permit revoked shall not be permitted to apply for a subsequent short term rental permit for a period of two (2) years from the date of revocation.

6. Infraction: Unless otherwise provided, any person who shall commence or continue to operate a short term rental for which a permit is required by any provision of this title without first procuring the same shall be deemed guilty of an infraction and, upon conviction thereof, shall be fined one hundred dollars (\$100.00). An infraction is a civil public offense, not constituting a crime, for which no period of incarceration is imposed. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

7. Advertisement Of Short Term Rental: An advertisement promoting the availability of short-term rental property in violation of this Code is prima facie evidence of a violation and may be grounds for denial, suspension or revocation of a license.

Advertising that offers a property as a residential short-term rental shall constitute prima facie evidence of the operation of a residential short-term rental and the burden of proof shall be on the owner, operator, or lessee of

record to establish that the subject property is being used as a legal residential short-term rental or is not in operation.

Any communication by a property owner, manager, operator, or lessee to any person where the owner, manager, operator, or lessee offers their home for rent as a residential short-term rental shall constitute prima facie evidence of the operation of a residential short-term rental and the burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal residential short-term rental or is not in operation.

Other evidence of the operation of a residential short-term rental without a valid permit number may include, but is not limited to: guest testimony, rental agreements, advertisements, and receipts or bank statements showing payments to the owner by a guest. (Ord. 1353, 6-6-2018)



Date: June 14, 2019

To: Patrick H. West, City Manager *P.H.W.*

From: Linda F. Tatum, Director of Development Services *L.F.T.*

For: Mayor and Members of the City Council

Subject: **Short-Term Rental Ordinance Update**

Following a series of studies and public participation events in March 2017, completed at the City Council's request, staff presented three options for regulating Short-Term Rentals (STRs) to the City Council at its December 4, 2018 meeting. At that time, the City Council directed the City Attorney to prepare an Ordinance to implement the regulation of STRs with specified limitations; and, to enter into voluntary tax collection agreements with hosting platforms for the collection and remittance of transient occupancy tax (TOT).

This memorandum provides additional information and a summary of staff's findings on areas of research requested by the City Council, including staff recommendations, where appropriate. The proposed Ordinance would allow limited STRs with the following conditions:

1. A STR host would be required to register with the City and obtain a unique STR registration identification number valid for one year.
2. A STR host may operate up to two non-primary residence STRs, or three if one STR is a primary residence. A primary residence is defined as residential property where the STR host resides at least 275 nights per year.
3. Non-primary residence STRs in multi-family buildings will be limited based on a sliding scale of the total units within the development.
4. For a hosted stay (where the host is onsite during the rental activity), there will be no limit to the number of nights rented, but an un-hosted guest stay in a primary residence STR will be limited to 90 nights per year.
5. The number of guests will be limited to two guests per bedroom plus another two, for a maximum of ten guests per STR with outdoor quiet hours in effect between 10:00 p.m. and 7:00 a.m.
6. A local 24-hour contact person will have to be available to respond to complaints within one hour.
7. An occasional event permit will be required to host special events in STRs.
8. A citywide cap of one percent of total City housing units will be placed on the number of non-primary STR registrations issued (First come first served).
9. An optional ban on un-hosted STRs may be implemented by a vote of property owners within a geographic area.

STR program costs will be offset by annual STR registration fees. STRs will be subject to TOT per the City's tax on short-term stays less than 30 days. Airbnb is already collecting TOT from STR bookings in Long Beach. In the event of a violation, the STR will be subject to an administrative citation after the first violation, which will be a warning. Subsequent violations will result in a fine of \$1,000 per day. Violations include, but are not limited to, any attempt to rent an unregistered STR, conduct or activities that constitute a public nuisance, or failure of the local contact to respond. The City may rescind a STR registration upon issuance of three violations resulting in fines.

Options to Address House Parties Including Permit Process for Limited Events

To address quality of life concerns caused by frequent large-scale events, sometimes referred to as "party houses," some municipalities have incorporated a permitting process for special or large events in their STR ordinances. This allows for occasional events to occur in STRs, while protecting the residential character of the neighborhood by limiting both the size and number of these events on an annual basis. The City of Long Beach Office of Special Events and Filming currently uses a Special Event Permit (SEP), which applies only to events on public property, and an Occasional Event Permit (OEP), which applies only to commercial properties. By establishing an OEP process for residential use, the City could allow a STR host to host a limited number of events per year for which the proposed ten-guest maximum capacity requirement is waived for a permitted event.

The Cities of Malibu and Palm Springs have adopted STR ordinances that provide for a limited number of special events on STR properties. Malibu allows up to four residential special events per year for each STR unit, and the special event permit allows an event for up to eight hours in duration. Palm Springs does not restrict the number of events, but a separate "Event House Permit" is required for each event. Staff recommends establishing an STR OEP to allow STR hosts/operators to accommodate guests holding special events for up to six 24-hour periods per year. This would allow a limited number of weddings, fundraisers, family reunions, and other similar occasions, while mitigating the effects of such events on the residential character of neighborhoods. Hosts would be required to notify all neighbors within 300 feet of the STR property ten days in advance of the event, and outdoor quiet hours from 10:00 p.m. to 7:00 a.m. would still apply.

Cap on the Number of Non-Primary Residence STRs Allowed in Multi-Family Developments

Placing a cap on the number of non-primary residence STRs in multi-family developments will reduce the impact on the City's housing stock and prevent entire multi-family buildings from becoming de facto hotels. To address building size disparity, particularly for large buildings and residential complexes with multiple buildings, staff proposes a sliding-scale cap on the number of non-primary STRs allowed in multi-family developments, as shown in the table below:

Number of dwelling units per development project	Number of non-primary residence STRs allowed per development project
2 to 10	1
11 to 50	10%
51 to 100	12%
101 or more	15%

Note: Rounded down to the nearest whole number from 0.49, and up to the nearest whole number from 0.5.

STR registrations for non-primary units in multi-family buildings would be approved on a first-come, first-served basis. No STR registration would be approved if the building's owner or homeowner's association prohibits STR activity.

As directed by the City Council, staff is including a cap of 1 percent of the City's housing stock being allowed as non-primary residence STRs (approximately 1,770 units) as a way to reduce the impact to the housing stock. This citywide cap would be inclusive of multi-family buildings and single-family residences.

Enforcement

At the direction of the City Council, staff reached out to hosting platforms and third-party compliance platforms to better understand the services and tools available to assist the City with enforcement and compliance with STR regulations. Staff has worked with hosting platforms Airbnb and HomeAway, and has been introduced to enforcement tools these platforms offer to assist jurisdictions with enforcement of regulations. These include adding a field on their listings for displaying approved City STR registration identification numbers, a "Neighborhood Tool" available to neighboring properties for submitting complaints directly to Airbnb, and a "Responsible Hosting" page for hosts providing information about Long Beach STR regulations with a link to the City's STR webpage. These platforms indicated it is not their practice to monitor the validity of registration numbers and would therefore not be responsible for removing unregistered hosts or listings for properties whose registration has been revoked by the City.

A ruling filed on March 13, 2019, by the United States Court of Appeals for the Ninth Circuit affirmed the district court's dismissal of a complaint brought by HomeAway.com and Airbnb Inc. against the City of Santa Monica for imposing various obligations on hosting platforms. This ruling upheld the lower court's decision that hosting platforms were required to provide certain information regarding hosts and were obligated to refrain from booking properties not licensed for STR use by the City of Santa Monica. Based on this ruling, staff anticipates increased participation from hosting platforms with both data-sharing and enforcement issues. It is unclear at this time if the issuance of an administrative subpoena would be necessary to obtain data for a specific host.

Staff also communicated with third-party compliance platforms specializing in assisting jurisdictions with enforcement of STR regulations. These platforms are available via service contract and use software created specifically to monitor compliance with STR regulations. Companies staff spoke with include Host Compliance, Veritil MVS, STR Helper, and Harmari STR. Services provided by these platforms include data discovery, online STR registration management, assistance with nuisance management including a staffed 24-hour hotline, and tax remittance management. Many jurisdictions that have regulated STRs use the services of third-party compliance platforms. Staff is recommending the City work with one of these platforms to assist with registration and enforcement issues upon adoption of a STR Ordinance and will conduct a procurement process to determine the most responsive platform.

Program Costs

Proposed costs for the STR program include two FTEs and a contract with a vendor to host registration, collect TOT from non-Airbnb hosts, and assist with a 24-hour hotline. These costs are estimated to be approximately \$350,000. A proposed registration fee of \$250 and an estimated 800 STR registrations would offset this cost by \$200,000, requiring a projected \$150,000 subsidy from the General Fund.

Business License Requirements

A business license will not be required because the proposed STR Ordinance would only allow an operator to host two non-primary residences (or three if also hosting in their primary residence). Currently, the Long Beach Municipal Code only requires a business license for residential rental properties with four or more units. As noted, staff will be able to track and monitor STRs through the registration process required to host any STR unit.

Parking

The STR program is established on the premise that units eligible to register for an STR permit must be legally established with a record of required permits pursuant to City codes and regulations, including compliance with Code-required parking, or be documented as legal nonconforming when they do not provide required Code-required parking. The current STR proposal does not include an additional parking requirement for STR units as it establishes limits on the number of individuals that may occupy these units. These occupancy limitations will generally limit potential parking impacts in a manner that is not currently available to regular owner or rental housing units. It is not legal for the City to establish occupancy limits for residential units.

If special event permits are allowed for STRs without the addition of a parking requirement, it would be similar to a renter or homeowner occasionally hosting a family or social event during which parking may be temporarily impacted in the area of the residence. If there is a concern regarding parking for STR special events, staff can determine a standard for parking to be provided by the host as a condition of the special event permit. Staff recommends that if a standard is established for additional parking for a special event, the applicable standard be applied citywide and not just in the Coastal Zone. Adding a requirement for additional parking in the Coastal Zone, if a similar standard is not applied citywide, is likely to be construed by the California Coastal Commission (CCC) as an impediment to coastal access and could result in rejection of the parking requirement.

Funding for Affordable Housing

A potential negative impact of STRs is the removal of housing units from the long-term market, thereby reducing supply and contributing to increased housing costs. To minimize potential effects on the housing market, the proposed STR Ordinance would limit the following:

1. The number of STRs allowed in the City to 1 percent of the City's housing stock;
2. The number of STRs per host; and,
3. The number of STRs per multi-family development.

The proposed STR Ordinance does not allow deed-restricted affordable housing units to be used as STRs and provides a means for apartment owners and home owner associations to register on a list of STR-prohibited properties.

Staff looked at the ability to fund new affordable housing units by including STRs in an inclusionary housing program. However, past court cases and current legislation limit the application of an inclusionary housing program to the production of new housing units. As a result, such a program cannot be applied to the City's STR Ordinance.

Another alternative to funding affordable housing production is the imposition of a mitigation fee. A nexus study is required to adopt a mitigation or impact fee. The nexus study would evaluate to what degree STRs impact the affordable housing market and monetize that impact. While the most obvious approach to this analysis is to attempt to evaluate the number of housing units removed from the market, another approach was taken in the City of San Diego. This approach evaluated the increased demand for housing by workers, like housekeepers and gardeners, who provide services to the STR industry. San Diego does not currently have STR regulations, so the impact fee has not been used. Staff checked with other California cities and did not find any that had adopted and implemented an impact fee.

Neighborhood Opt-Out Without Unduly Restricting STR Activity in Coastal Zone

During the public outreach phase, many residents, particularly in the Naples Island and Peninsula neighborhoods, which lie within the Coastal Zone, advocated for the ability to prohibit STRs in their neighborhoods by obtaining signatures of two-thirds of the property owners. The CCC considers STRs a high-priority visitor-serving use and considers a total ban of STRs to be a violation of the Coastal Act. However, the CCC has approved STR regulations that put some constraints on STR operations, but do not ban them, such as only allowing STRs in a primary residence as in the City of Pismo Beach, or only allowing hosted stays as in the City of Santa Monica (after initially rejecting Santa Monica's previous total-ban ordinance).

An opt-out by property owners to prohibit STRs, although not common, is not unprecedented. The City of Chicago uses an opt-out option to restrict STRs in selected precincts, in which a legal voter submits a notice of intent form to the City Clerk, who provides the petitioner with the petition form, which must be circulated and returned to the City Clerk within 90 days. Staff is recommending an opt-out petition process for prohibiting un-hosted STRs, which would be administered in the Development Services Department.

To establish a fair, reasonable, and formally established boundary model for both petitioners and City staff to manage, staff considered the size, shape, and static nature of possible boundaries. Potential options included the following:

- The City's list of 82 established Neighborhood Associations published annually by the Neighborhood Resource Center;
- Voting precincts and sub precincts;
- Police reporting districts; and,
- 2010 census tracts.

The population estimates of the City's Neighborhood Associations vary significantly from 76 to more than 19,000 residents and is, therefore, not considered to be a viable option. Precincts and sub-precincts have fluctuating and irregular boundaries that are not conducive to a neighborhood-based opt-out petition. Due to the relative ease of identifying a homeowner's census tract, reasonable consistency in the number of residents, and static nature of the boundaries, staff is recommending use of 2010 census tracts as the basis for the neighborhood opt-out petition boundary.

To allow property owners to prohibit un-hosted STRs, while not unduly restricting the ability for un-hosted STRs in and around the Coastal Zone, the City Council has recommended petitioners obtain two-thirds of the property owners' signatures in favor of the prohibition within the boundary.

To qualify, an opt-out petition would have to be submitted to the City within six months of the proposed STR Ordinance taking effect, and the ban would be effective for three years. At the end of the three years, a new petition would be required to maintain the ban. Once a neighborhood ban takes effect, it could be reversed by a similar two-thirds signed petition of property owners to remove the prohibition after the first year the ban goes into effect.

The process to prohibit un-hosted STRs would begin with the petitioning party requesting the petition form from the City. The City would provide the petition form listing all property addresses within the Census Tract of the petitioning party for collection of signatures. A petition form returned to the City, which includes names and signatures of at least two-thirds of the property owners listed on the petition, would be verified by City staff based on property owner records. A cost-recovery fee for processing the petition(s) would be the responsibility of the petitioning party.

Partnering with Hosts and Platforms to Support Local Businesses

The City's Economic Development Commission created the Ten-Year Blueprint for Economic Development to establish priorities to create a culture of economic opportunity throughout the City. The Economic Inclusion Focus Area of the Blueprint includes objectives and recommendations that can be helpful in supporting local businesses in conjunction with the adoption of the proposed STR Ordinance. The City's Economic Development Department will be assisting staff from the Development Services Department to use the Blueprint to create opportunities to help under-represented entrepreneurs and increase access to economic opportunities in low-income communities as part of the STR registration process. For example, when STR operators register, they could be informed of local businesses providing tourist-related services. The Economic Development Department will also work with Development Services staff and the Long Beach Convention and Visitors Bureau (CVB) to partner together by advertising registered STR listings on the CVB website.

Treatment of Existing and New Accessory Dwelling Units (ADUs) as STRs

In December 2017, the City Council adopted an ADU Ordinance in response to new State regulations to facilitate the construction of new ADUs. New ADUs can help address housing supply and affordability, while preserving neighborhood character. The City's ADU Ordinance prohibits ADUs from being used as STRs and requires owners to execute a covenant to that effect. Since adoption of the ADU Ordinance approximately 81 covenants have been executed. The City anticipates approximately 100 homeowners will seek to construct ADUs on their property annually.

The City Council's December 4, 2018 direction to staff for regulating STRs was to treat ADUs as a "hosted" stay since the property owner would be on premises, reducing the likelihood that a STR guest in the unit would negatively impact the residential character of the neighborhood. The ADU and the primary dwelling unit would be considered one primary residence for the purpose of STR registration. This approach is consistent with the community and host input provided throughout the outreach process, which found the majority of participants were opposed to prohibiting STRs in ADUs or duplexes. While concerns were raised about the impact of using ADUs as STRs on the City's available housing stock, owners of ADUs consistently stated their ADUs would not become part of the long-term rental housing stock because they often use these units for traveling friends and family.

Additionally, the proposed citywide cap of 1 percent of housing stock as STRs further mitigates the detrimental effect on the housing market. Property owners with previously executed ADU covenants would be able to have these covenants rescinded to allow use of their ADUs as STRs.

Next Steps

The City Attorney's Office has been working on a draft STR Ordinance to implement an STR program with the components specified by the City Council. Pending a California Environmental Quality Act (CEQA) determination, the draft STR Ordinance will be presented to the City Council for adoption in fall 2019. It is anticipated an amnesty period of 180 days will be included in the proposed STR Ordinance to allow time for startup and implementation of the STR program, including a grace period for STR operators to apply for registration. Following adoption of the STR Ordinance, Development Services staff will take the following actions:

- Request funding for implementation of the program and propose registration fees to partially offset program costs as part of the FY 20 budget adoption.
- Procure a third-party consulting firm to assist with implementation.
- Recommend minor word changes to Title 21 of the Long Beach Municipal Code for Planning Commission and City Council approval.
- Changes to Title 21 will require Coastal Commission review.
- Return to the City Council one year after implementation of the program to provide data on the number of registrations, number of complaints, resolutions to complaints, and TOT tax collected to assess potential improvements and an annual review thereafter.

If you have questions regarding this matter, please contact Lisa Fall, Manager of Administrative and Financial Services, at (562) 570-6853 or Lisa.Fall@longbeach.gov.

LFT:LAF:KS

CC: CHARLES PARKIN, CITY ATTORNEY
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
REBECCA GARNER, ADMINISTRATIVE DEPUTY TO THE CITY MANAGER
LISA FALL, ADMINISTRATIVE AND FINANCIAL SERVICES BUREAU MANAGER
JOHN GROSS, DIRECTOR OF FINANCIAL MANAGEMENT
GRACE YOON, BUDGET MANAGER
SANDY TSANG PALMER, PURCHASING AND BUSINESS SERVICES MANAGER
OSCAR ORCI, DEPUTY DIRECTOR OF DEVELOPMENT SERVICES
KARL WIEGELMAN, CODE ENFORCEMENT BUREAU MANAGER
MONIQUE DE LA GARZA, CITY CLERK (REF. FILE 17-0213, 18-1072)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY ADDING SECTION 31.3 TO ARTICLE 31 OF THE REDWOOD CITY ZONING ORDINANCE REGARDING REGULATIONS RELATING TO SHORT-TERM RENTALS AS AN INCIDENTAL USE TO SPECIFIED RESIDENTIAL USES

WHEREAS, the proposed Zoning Ordinance Amendment (the “Zoning Ordinance Amendment”) would add Section 31.3 to Article 31 of the Redwood City Zoning Ordinance in order to codify short-term rentals as an incidental use to specified residential uses and to establish rules and standards for such incidental use; and

WHEREAS, on November 21, 2017, the Planning Commission held a duly-noticed public hearing on the proposed Zoning Ordinance Amendment and recommended changes, namely removing the requirement for a business license and allowing short-term rentals in accessory dwelling units; and

WHEREAS, on January 8, 2018, the City Council held a duly-noticed public hearing on the proposed Zoning Ordinance Amendment and on said date the public hearing was opened, held and closed; and

WHEREAS, at the public hearing the City Council considered the whole of the record including, but not limited to, any written and oral public comments, staff reports and staff presentations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The foregoing recitals are true and correct, are hereby incorporated herein by this reference as if fully set forth in their entirety, and constitute findings in this matter.

Section 2. The City Council hereby finds that the proposed Zoning Ordinance Amendment is in the public interest and consistent with the Redwood City General Plan as described in the staff report.

Section 3. This proposed Zoning Ordinance Amendment has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.). Passage of the Zoning Ordinance Amendment is not considered a project under Section 15378 as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. Alternatively, the Zoning Ordinance Amendment is exempt from CEQA as it can be seen with certainty that there is no possibility for causing a

significant effect on the environment (Section 15061(b)(3)) as described in the staff report. Pursuant to CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from the Office of the City Clerk at 1017 Middlefield Road, Redwood City, California. The City Clerk is the custodian of records for all matters before the City.

Section 4. If any section, subsection, clause or phrase of this Zoning Ordinance Amendment is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Zoning Ordinance Amendment. The City Council of the City of Redwood City hereby declares that it would have adopted the Zoning Ordinance Amendment and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 5. The City Council of the City of Redwood City adopts the following amendment to Article 31 of the Redwood City Zoning Ordinance by adding a new Section 31.3 as shown in Exhibit A, which is attached hereto and incorporated herein by reference. Wording in brackets ([example]) is informational only and is not to be included in the published ordinance. (Exhibit A)

Section 6. This Ordinance shall go into effect 30 days following its adoption.

* * *

Exhibit A

[Section 31.3 is hereby added to the Redwood City Zoning Ordinance as follows:]

“31.3 – Short-Term Rental Use Incidental to a Primary Residence

A. Purpose. The purpose of this section is to:

1. Allow limited short-term rental uses while preventing the loss of housing stock;
2. Preserve residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance and safety impacts on adjacent neighbors; and
3. Provide a registration process for the City to track and enforce these requirements as needed and ensure appropriate collection of transient occupancy taxes.

B. Definitions. For purposes of this section, the following definitions shall apply:

1. *Adjacent properties.* The dwelling units located next to the dwelling unit in which the short-term rental is located.
2. *Host.* Any person who is the owner of record of residential real property or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short-term rental either through a hosting platform or individually as an operator.
3. *Hosting platform.* A means through which a host may offer a dwelling unit, or portion thereof, for short-term rental. A hosting platform includes, but is not limited to, an internet-based platform that allows a host to advertise and potentially arrange for temporary occupation of the dwelling unit, or portion thereof, through a publicly searchable website, whether the short-term renter pays rent directly to the host or to the hosting platform.
4. *Primary residence.* A primary residence is a dwelling unit where a person has been physically present and that the person regards as home. A person may only have one primary residence at any given time. Evidence of a person’s primary residence includes, but is not limited to, documentation from income tax statements or a

driver's license. If a property has multiple dwelling units, including an accessory dwelling unit or apartment complex, each dwelling unit and accessory dwelling unit shall be considered a separate residence subject to the primary residence requirement.

5. *Short-term rental.* The use or possession of or the right to use or possess any room or rooms, or portions thereof in any dwelling unit for residing, sleeping or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

6. *Short-term renter.* A person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than 30 consecutive calendar days, counting portions of calendar days as full calendar days.

C. Permitted Use. Short-term rental uses shall be permitted in any primary residence subject to the requirements of this section, including compliance with the operating standards, registration, Transient Occupancy Tax payments, and recordkeeping obligations. Except as provided for in this section, all other short-term rental uses shall be prohibited.

D. Operating standards. The following operating standards shall apply to short-term rentals:

1. Legal Dwelling. Short-term rentals may only occur within legal dwelling units.

2. Limitation on Listings. Short-term rentals shall not have more than 2 listings for the same primary residence on the same days.

3. Annual Limit. A primary residence may be occupied as a short-term rental for no more than 120 days per calendar year where no host is present. There shall be no limit on the number of days a primary residence may be occupied as a short-term rental where the host is present. For purposes of this Section 31.3, a host is considered present when they are on the premises at all times between the hours of 10:00 p.m. and 6:00 a.m.

4. Local Contact Person. Hosts shall identify to all guests and all occupants of adjacent properties a local contact person to be available 24 hours per day, 7 days per week during the term of any unhosted stay. The designated local contact person shall:

a. Respond within 60 minutes to complaints regarding the condition or operation of the dwelling unit or the conduct of guests; and

- b. Take remedial action to resolve such complaints.
5. Parking. No additional parking shall be required for short-term rentals. Existing on-site parking spaces shall be made available to short-term renters.
 6. Special Event. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise or other problems in the neighborhood are prohibited from occurring at the short-term rental property, as a component of short-term rental activities.

E. Registration and Annual Renewal.

1. Application. Prior to advertising or making available the primary residence for renting, hosts shall register their primary residence as a short-term rental with the City. This registration shall be submitted on a form prepared by the City and shall include the name and contact information of the host, the address of the primary residence being used for short-term rental, the contact information for the local contact person, an acknowledgement of compliance with the requirements of the City's Zoning Ordinance, Municipal Codes, applicable health and safety standards, and other information as requested.
2. Fee. The registration form shall be accompanied by a filing fee in an amount established by resolution of the City Council and updated from time to time.
3. Application Completeness. The submitted information shall be used to determine whether to register the short-term rental. The host will be notified if an application is incomplete. If the host fails to timely submit the required information or fees necessary to complete the application, the application shall expire and be deemed withdrawn.
4. Decision. The City Manager or his/her designee shall be responsible for deciding short-term rental registration applications. After an application is deemed complete, registration shall be approved where:
 - a. The host demonstrates the ability to meet the requirements of this chapter,
 - b. The subject primary residence is not the subject of an active compliance order or administrative citation from the City in the past 12 months, and
 - c. A short-term rental registration for the primary residence has not been denied or revoked in the prior 24-month period.
5. Validity. An approved registration shall be valid and payable on a fiscal year basis. An approved registration shall be personal to the host and shall automatically expire upon sale or transfer of the dwelling unit. No registration may be assigned, transferred, or loaned to any other person.

6. Annual Renewal. A registration may be renewed annually upon payment of registration renewal fees and all required transient occupancy tax remittance associated with the short-term rental. The host shall submit such information concerning the short-term rental activity as may be required to enable the tax collector to verify the amount of tax paid. Failure to renew prior to the expiration date will result in expiration of the registration.
7. Requirements Not Exclusive. The issuance of a short-term rental registration shall not relieve any person of the obligation to comply with all other provisions of this code applicable to the use and occupancy of the property.
8. Administrative Policy. The City Manager or his/her designee shall have the authority to develop administrative policies to implement the intent of this Chapter.

F. Transient Occupancy Tax (TOT). Transient occupancy taxes must be collected for short-term rentals and paid to the City pursuant to Chapter 32, Article IV of the Redwood City Code. Collection of transient occupancy taxes for short-term rentals shall be the responsibility of the host. The hosting platform shall collect TOT when they have signed a voluntary collection agreement (or equivalent) with the City.

G. Enforcement.

1. Revocation of Registration. A short-term rental registration issued under the provisions of this Section may be revoked by the Zoning Administrator after notice and hearing as provided for in this Section, for any of the following reasons:
 - a. Fraud, misrepresentation, or false statements contained in the application;
 - b. Fraud, misrepresentation, or false statements made in the course of carrying on a short-term rental as regulated by this Section;
 - c. Any violation of any provision of this Section or of any provision of this code;
or
 - d. Any violation of any provision of federal, state or local laws.
2. Revocation Hearing. Before revoking a short-term rental registration, the Zoning Administrator shall give the responsible host notice in writing of the proposed revocation and of the grounds thereunder, and also of the time and place at which the host will be given a reasonable opportunity to show cause why the registration should not be revoked. The notice may be served personally upon the host or may be mailed to the host at the last known address or at any address shown upon the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing the Zoning Administrator may, for the grounds set forth herein, revoke the registration.

3. Appeal from Denial or Revocation of Registration. Any host whose application has been denied or registration has been revoked shall have the right to an administrative appeal before the City Manager or a designated hearing officer. An appeal shall be filed in writing on a form provided by the City stating the grounds therefor within 10 days of the decision. The City Manager or designated hearing officer shall hold a hearing thereon within a reasonable time and the decision shall be final.
 4. Waiting Period. Any host whose registration has been denied or revoked shall be ineligible from applying for a new registration for a 24-month period.
 5. Records of Compliance. The host shall retain records documenting the compliance with these requirements for a period of three (3) years after each period of short-term rental, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to City upon request for the purpose of inspection or audit to the City Manager or his/her designee.
 6. Violations. Penalties as provided for in Article 50 (Enforcement) may be imposed for failure to comply with the provisions of this Section.
- H. Amnesty Period for Short-Term Rentals. Notwithstanding any other provision of law, short-term rentals operating on or before the enactment of this ordinance shall be considered existing, unpermitted uses. An amnesty period of one year after the effective date of this ordinance is being offered to allow these existing, unpermitted uses to be legalized by conforming to the requirements of this Section, including compliance with operating standards, registration, and recordkeeping obligations. Transient Occupancy Tax payments continue to be required at all times for short-term rentals and must be collected and paid during the amnesty period. Applications to bring an existing, unpermitted short-term rental use into compliance shall be made on or before one year after the effective date of this ordinance. Existing short-term rental uses that do not conform to the requirements of this section shall cease operation within one year of the effective date of this ordinance and shall be prohibited from resuming unless and until the use conforms to the requirements of this Section.