



STAFF REPORT

DATE: 03/26/2024

PL23-0411 – Short-Term Rental Ordinance

PROJECT NUMBER / NAME: PL23-0411 / Short-Term Rental Ordinance

REQUEST: Review an Ordinance of the City of Escondido to allow short-term rentals to operate within the City, including amendments to the Escondido Municipal Code Chapter 16 (Business Licenses) for processes, procedures, administration and enforcement and Escondido Municipal Code Chapter 25 (Taxation) for collection of Transient Occupancy Tax. Advise the City Council of any land-use considerations and/or recommendations associated with the draft ordinance.

PROPERTY SIZE AND LOCATION: CityWide

APPLICANT: City of Escondido

GENERAL PLAN / ZONING: N/A

PRIMARY REPRESENTATIVE: Jennifer Schoeneck,
Director of Economic Development

DISCRETIONARY ACTIONS REQUESTED: N/A

PREVIOUS ACTIONS: N/A

CEQA RECOMMENDATION: Categorical Exemption – CEQA Guidelines Section 15061(b)(3)(Common Sense Exemption)

STAFF RECOMMENDATION: None

REQUESTED ACTION: Review and advise

CITY COUNCIL HEARING REQUIRED: YES NO

REPORT APPROVALS: Christopher McKinney, Director of Development Services

Veronica Morones, City Planner



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BACKGROUND

The City of Escondido Municipal Code (EMC) does not regulate short-term rentals (i.e., rentals of 30-days or less). Because such regulation does not exist within the EMC, such use is technically not permitted within the City. In September 2022, City Council directed City staff to identify and evaluate existing conditions of short-term rental activity within the City and subsequently draft a new Short-Term Rental Ordinance (“Project”). City staff conducted a request for proposal (RFP) process to procure a consultant to assist with such endeavor. City staff selected the consultant Granicus (“Consultant”) to support the Project. Through assessment of existing conditions, City staff and the Consultant identified approximately 181 total short-term rental listings within the City for which the City does not collect or receive transient occupancy tax (TOT) (i.e., revenues). During the Project, the City conducted robust community outreach and presented the Project findings to the Economic Development Subcommittee (“Subcommittee”) for feedback. In March 2024, the Subcommittee instructed staff to move the draft ordinance forward for adoption.

Community Outreach: On June 7, 2023, the City, in partnership with the Consultant, launched a short-term rental website and released a community survey to gauge sentiment about short-term rental regulation. Stakeholders provided 179 survey responses to-date (Attachment 1). Such stakeholders may include members of the general public, short-term rental advocates and/or existing operators, business owners, property owners, and others. On November 7, 2023, City staff presented to the Subcommittee in an effort to obtain additional community feedback. At this meeting, attendees shared their thoughts and concerns regarding the proposed regulation and draft ordinance. On March 4, 2024, City staff presented a revised draft of the proposed ordinance to the Subcommittee in response to the community feedback received at the prior Subcommittee meeting. The Subcommittee provided no further comment on the draft ordinance in its current form, and approved moving the item to the Planning Commission for their review and recommendations to City Council.

SUMMARY OF REQUEST

City Staff requests the Planning Commission review the draft ordinance and advise the City Council on any and all land-use considerations and/or recommendations pertaining to the proposed Short-Term Rental Ordinance (“Ordinance”). The request before the Planning Commission does not entail any amendments to Chapter 33 (Zoning) of the EMC and does not require any planning-related permits for approval. Therefore, the Planning Commission’s role is advisory to the City Council on the portions of the Ordinance that pertain to land-use. While the Planning Commission may review the Ordinance in full, examples of land-use-related Ordinance elements include but are not limited to language in Section 16.8.050 (Eligibility) and Section 16.8.080 (Operational Requirements) of the draft document (Attachment 2).

SUPPLEMENTAL DETAILS OF REQUEST

The proposed Ordinance would create a framework to regulate short-term rentals within the City, including the following:

- Short-term rental registration (e.g., license and permit) process for hosts;
- Short-term rental regulatory requirements and performance standards;
- Code compliance reporting process for residents and/or visitors;
- Short-term rental permit revocation process; and
- Process for the collection of permit fees and taxes.



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The proposed Ordinance would modify Chapter 16 (Licenses and Business Regulations Generally) and Chapter 25 (Taxation) of the EMC, as described below.

Chapter 16 – Licenses and Business Regulations Generally

Chapter 16 of the EMC provides for regulation of business within the City and directives for administration of Business Licenses through the City's Economic Development Department. The proposed Ordinance would be added under Chapter 16 (Licenses and Business Regulations Generally) in the form of a new article, Article 8 (Short Term Rentals). Covered topics under the new article would include Purpose, Definitions, Permits Required for Operation, Eligibility, Application and Processing Requirements, Expiration and Renewal, Operational Requirements, Recordkeeping Duties, Violations, Revocation, and Severability.

Chapter 25 – Taxation

Chapter 25 of the EMC governs taxation within the City and is administered by the Finance Department. Draft modifications to Chapter 25's topical areas include Definitions, Tax Administrator's Regulations, Transient Occupancy Registration Certificate, Tax Rate; Collection; Payment, Operator Duties, Reporting, Remitting Tax, Violations, Penalties, Remedies Cumulative, Tax Assessment; Hearing, Appeal; Payment Under Protest; Registration Certificate Revocation, Records Retention; Inspection; Cost Recovery; Refunds; Actions to Collect Taxes and Enforcement of Liens, Business Termination, Duty of Successor of Operator, Confidentiality, Notice, and Severability.

PROJECT ANALYSIS

1. General Plan Conformance:

a. Land use

The proposed Ordinance would provide a mechanism for regulation consistent with Chapter II – Land Use and Community Form Section E.2 of the General Plan, which is concerned with the protection, preservation, and revitalization of residential neighborhoods. By implementing a Short-Term Rental Ordinance, the City is able to ensure that quality of life and safety are not negatively impacted by unregulated uses in residential neighborhoods. Further, the adoption of the Ordinance would be consistent with Chapter VI, the Community Protection Element of the General Plan, which refers to the protection of life, safety, and property through regulation enforcement.

b. Housing Element and "No Net Loss"

The City is taking steps to encourage, promote, and facilitate the development of housing consistent with policies 1.1 and 2.1 of the Housing Element of the General Plan, while accommodating the City's share of regional housing needs, consistent with Government Code section 65584. No Net Loss Law (Government Code section 65863) ensures development opportunities remain available throughout the planning period to accommodate a jurisdiction's Regional Housing Needs Allocation ("RHNA"), especially for lower- and moderate-income households. In general, jurisdictions cannot approve new housing at significantly lower densities or at different income categories than was projected in the Housing Element without making



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specific findings and identifying other sites that could accommodate these units and affordability levels “lost” as a result of the approval. The so-called “no net loss” provisions apply when a site is included in the jurisdiction’s Housing Element’s inventory of sites and is either rezoned to a lower residential density or is approved at a lower residential density than shown in the Housing Element. (Gov’t Code § 65863(b).)

The proposed Ordinance would apply to sites listed on the Suitable Sites Inventory (Appendix B of the City’s sixth cycle housing element). However, the Project includes draft language that regulates the type of residential unit that may qualify for a short-term rental permit and license. The draft Ordinance includes language that prohibits short-term rentals for those units that are deemed ineligible, as defined in Section 16.8.030, which includes those units created under Government Code sections 65852.21 (i.e., SB 9 units), 65915-65918 (i.e., density bonus units), and any accessory and junior accessory dwelling units as defined under 65852.2. It also would prohibit short-term rentals in any deed-restricted or income-restricted unit, and limit the number of short-term rentals in multi-family developments so as to inhibit oversaturation of units within a multifamily housing development.

2. Zoning or Specific Plan Conformance:

- a. The operation of Short-Term Rentals within the City will not alter the residential nature and use of the subject properties in residential zones and Specific Plan Areas designated for residential uses. While Short-Term Rentals are business operations regulated through licensing, the proposed use under these permits would be required to conform to the performance standards and regulations for residential zones, as stipulated in the Ordinance. Operators and guests of Short-Term Rentals would be subject to all City ordinances that currently govern residential uses. Further, the Ordinance would require separation distances and enact limitations on the number of short-term rentals within a multifamily development in an effort to limit oversaturation.

FISCAL ANALYSIS

The adoption of a Short-Term Rental Ordinance creates an opportunity for increased Transient Occupancy Tax (TOT) revenue to the City’s General Fund. The estimated potential TOT collection from regulating these activities is \$300,000 per year. Should the City Council adopt the Ordinance, City staff would solicit bidders for a short-term rental online platform so that the applicants may apply for the required short-term rental permit and license online and pay their TOT. Because the City has not yet procured an online platform, the cost for such a platform is unknown, at this time.

ENVIRONMENTAL ANALYSIS

The Project is categorically exempt pursuant to California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) - Common Sense Exemption. This exemption applies to projects where there is no possibility that the activity in question would have a significant effect on the environment, and the activity is not subject to CEQA. The proposed Ordinance entails regulations that do not change the residential nature or use of the property, only the length of time that an occupant stays.



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PUBLIC INPUT

As discussed earlier in this report, staff solicited public input through an online survey on a city-managed website (EngageEscondido.org), which was launched on June 27, 2023, and was promoted through the City's social media platforms and newsletters. Through this survey, 179 responses were gathered. A copy of all survey responses is attached as Attachment "1". Additionally, City staff presented the draft Ordinance and a subsequent revision to the Economic Development Subcommittee during two separate public meetings, which included attendance and feedback by stakeholders.

The City opted to notice this current business item by publishing such notice in the Escondido Times Advocate consistent with the noticing requirements outlined in Division 6 (Public Hearings, Notices, Fees and Appeals) of the Escondido Zoning Code. As of the publishing of this staff report, City staff received two public comments on this item, a copy of which are enclosed as Attachment "3".

CONCLUSION AND RECOMMENDATION

City staff requests the Planning Commission review the proposed Ordinance and provide land-use-related considerations and/or recommendations to the City Council, for their ultimate decision. Approval of this Ordinance will allow the City to regulate Short-Term Rental activity and collect Transient Occupancy Tax for such operations.

ATTACHMENTS

1. Short-Term Rental Survey Responses/Summary of Essay Responses
2. Draft Short Term Rental Ordinance
3. Public Correspondences