

MEMORANDUM

Office of Economic Development



DATE: January 29, 2020

TO: Planning Commission

THROUGH: Ned Thomas, Planning Director

FROM: Daniel Degu, Sr., Economic Development Coordinator

SUBJECT: Zoning Text Amendment – Short-Term Rentals – Citywide (P-ZA19-0002):
A City-initiated Zoning Ordinance Text Amendment to regulate short-term rentals of residences within the City of Milpitas

On June 26, 2019, the Planning Commission held a lawfully-noticed public hearing to solicit public comment, take public testimony, and make a recommendation to the City Council on the proposed Short-Term Rental Ordinance.

The Planning Commission considered and adopted Resolution No. 19-020 recommending that the City Council adopt a City-initiated Zoning Ordinance Text Amendment to regulate short-term rentals of residences within the boundaries of the city, plus, made the following four recommendations.

1. To conduct additional public outreach between June 26, 2019 and August 20, 2019. Two additional community meetings on STRs were held on August 7 and August 15, 2019.
2. To facilitate conversations between Airbnb (and other platforms) and neighbors who are reporting negative impacts from short-term guests of whom are being inconsiderate and causing problems for Milpitas residents.
3. To change the maximum un-hosted amount of days from 180 days to 60 days.
4. To review the short-term rental pilot program after the first year of implementation.

Following the public hearing on June 26, 2019, City staff continued to monitor and track short-term rental activities in response to the Commission's input and concerns. City staff from several departments, in conjunction with the Planning Department and City Attorney's Office, met regularly to develop a revised regulatory program for short-term rentals. The revisions made to the attached draft ordinance subsequent to June 26, 2019 are denoted in ~~strikeout~~/underline. Below is an overview of the revisions:

- California Environmental Quality Act (CEQA): The previously approved proposed ordinance determined that the introduction and adoption of the ordinance was exempt

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under CEQA Guideline 15301 (Existing Facilities). The revised proposed ordinance removes Section 15301 of the CEQA Guidelines primarily because Section 15301 is applicable to permanent uses and structures such as long-term residential uses and not short-term rental uses.

- Good Neighbor Manual Definition: The revised proposed ordinance includes language that requires the property owner to sign a manual that summarizes general rules of conduct and all rules and regulations applicable to the use of the short-term rentals.
- Hosted and Un-hosted Stays: The revised proposed ordinance prohibits un-hosted rentals, and an operator may only conduct a hosted rental.
- Maximum Occupancy: The revised proposed ordinance addresses daytime and overnight occupants and prohibits the operator from allowing the short-term rental to be used for any gathering where the number of persons will exceed the permitted maximum occupancy limits.
- Enforcement: The previously approved proposed ordinance did not address enforcement when prompt compliance is not forthcoming by the operator. The revised proposed ordinance authorizes the City to take appropriate enforcement action to secure compliance.
- Permitted Use: The revised proposed ordinance clarifies that short-term rentals are a permitted use with the approval of a short-term rental permit.

The revised proposed Short-Term Rental Ordinance still achieves the following purposes and goals:

1. Allow STRs in residential and mixed-use zoning districts 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.
3. Provide a registration mechanism for the City to track and enforce these requirements as needed and ensure appropriate collection of transient occupancy taxes.

Based on the direction and input received from the City Council, Planning Commission, Economic Development and Trade Commission, referral agencies, community workshops, online survey results, and market analysis, City staff is of the opinion that proper analysis has been undertaken and that the revised proposed ordinance supports the public necessity, health, safety, and general welfare of the citizens of Milpitas.