



Department of Development Services

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Butte County Planning Commission
AGENDA REPORT
Draft Short-Term Rental Ordinance Review

Date: May 10, 2018
To: Butte County Planning Commission
From: Dan Breedon, AICP, Principal Planner
Subject: **County Initiated Amendment to Butte County Code Chapter 24, Zoning Ordinance Draft Short-Term Rental Ordinance Review (Planning Commission Workshop)**

I. RECOMMENDATION

Conduct the public workshop and provide direction to staff regarding the Draft Short-Term Rental Ordinance.

II. SUMMARY

On February 12, 2018, the Board of Supervisors directed Development Services Staff to prepare a Draft Short-Term Rental (STR) Ordinance to address short-term rentals in the Zoning Ordinance, and to ensure that short-term rentals would not create nuisances or disturbances in neighborhoods and residential zones. The purpose of this Planning Commission meeting is to provide an opportunity to receive questions and comment from Planning Commissioners and the public. Direction received from the Planning Commission during this meeting will be incorporated into the Draft STR Ordinance for consideration at a future public hearing.

A short-term rental as defined under this Draft Ordinance is a single-family dwelling, or a portion of a single-family dwelling, rented out to transient guest occupants for periods of 30 days or less. The

Draft STR Ordinance proposes an administrative permit process with performance criteria for the approval of short-term rentals. The purpose of the Draft STR Ordinance is to ensure that:

- 1) Short-term rentals are compatible with and do not adversely impact surrounding residential uses,
- 2) Property owners have the option to utilize their properties for short term rental use,
- 3) Risks to public safety and health to occupants and owners are minimized,
- 4) Property values are maintained,
- 5) Visitation and tourism to Butte County is supported, and,
- 6) Transient occupancy tax is collected in order to provide fair and equitable tax collection for all lodging providers

Outreach concerning the Draft STR Ordinance has been provided to the Chico, Gridley, Oroville and Paradise Chambers of Commerce, as well as to the Cities of Biggs, Chico, Gridley, Oroville, and Town of Paradise. Additionally, staff sent out email notices through the Development Services Constant Contact lists to a variety of groups and members of the public. The Draft Short-Term Rental Ordinance is available to the public and is posted on the following County webpage (as of April 25, 2018):

<http://www.buttecounty.net/dds/Planning/NotableProjects/ShortTermRentals.aspx>

California Environmental Quality Act (CEQA)

While no CEQA review is required for this public workshop, CEQA compliance is required at the time of ordinance adoption. Short-term rentals are found not to constitute a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378, and is exempt from CEQA pursuant to State CEQA Guidelines Section 15061 (b)(3) (general rule) and 15301 "Existing Facilities" (Class 10). Staff will therefore be filing a Categorical and General Rule Exemption at the time of project adoption.

III. BACKGROUND

The online hospitality marketplace, enabled through Airbnb, VRBO, HomeAway and similar companies, has grown in popularity throughout California and the United States. Short-term rentals provide a way for homeowners to generate additional income, but they can also introduce a new use that can have negative impacts on residential neighborhoods and the health and safety of occupants and owners.

While these companies enable an online transaction to rent rooms and homes between owners and guests, they often do not require the owner to demonstrate compliance with local zoning laws. Airbnb, for instance, discloses on their website that it is important for the owner to understand the local laws and regulations in their own jurisdiction related to zoning, business licenses, building codes, special permits, taxes, and other rules. However, Airbnb and other similar companies do not facilitate or require compliance with local zoning laws and other regulations.

Owners may enter into online agreements for short-term rentals without reviewing or complying with local zoning laws and regulations. This can result in unanticipated impacts to existing residential neighborhoods, health and safety risks to occupants, a loss of transient occupancy tax (TOT) revenue to the local jurisdiction, and zoning violations.

According to a business that monitors these activities, unincorporated Butte County has 135 short-term rentals advertising on a variety of websites (October 2017). A simple review of just one online hospitality business shows over 300+ rentals in the Butte County area (including incorporated cities). Based upon County records, these short-term rentals do not have a permit to operate under the Zoning Ordinance. The County Zoning Ordinance does not currently allow the use of residences for short-term rentals.

The Butte County Department of Development Services has received a few complaints regarding short-term rentals operating in neighborhoods. While there are only a few complaints at this time, these few complaints have been persistent and ongoing issues resulting in disruptions to neighborhood quality of life, and confusion on the part of operators about how to legally comply. The Draft STR Ordinance will provide clarity to neighbors and operators, resulting in mutually understood regulations and standards.

While outside of the jurisdiction of Butte County, a code enforcement effort in the City of Chico resulted in the City's loss in a court case due to the lack of an appropriate City ordinance to support a citation of a short-term rental. The proposed Draft STR Ordinance will help to support the County's efforts to enforce reasonable regulations that maintain neighborhood compatibility. This, combined with evidence that there are approximately 135 advertised short-term rentals in the unincorporated portion of Butte County, is the reasoning behind the preparation of the Draft STR ordinance.

IV. DRAFT SHORT-TERM RENTAL ORDINANCE REVIEW

The Draft Short-Term Rental Ordinance contains the following major sections and subsections:

- A. Purpose
- B. Definitions
- C. Administrative Permit Process
- D. Administrative Renewal Process
- E. No Property Rights Conferred
- F. Short-Term Rental Restrictions
- G. Transient Occupancy Tax
- H. Standards
 - 1. Parcel
 - 2. Appearance, Visibility, and Signage
 - 3. Commercial Activity Prohibited
 - 4. Building, Fire, and Health Standards
 - 5. Trash and Recycling
 - 6. Noise Standards
 - 7. Occupancy and Parking
 - 8. Daytime Visitors
 - 9. No Overnight Camping
 - 10. Property Management
- I. Enforcement Process

Administrative Permit Process

Staff recommends an administrative permit as the appropriate permit process for short-term rentals. An administrative permit is required for uses permitted as-of-right yet subject to specific Zoning Ordinance standards. The Administrative Permit is a ministerial procedure to verify that a proposed use complies with all applicable standards, and to ensure that the applicant understands and accepts those standards. The standards would ensure that short-term rentals operate in a safe and responsible manner and without being incompatible with residential neighbors and the surrounding community. Under the Draft STR Ordinance, the administrative permit is renewed each year to ensure that the short-term rental is abiding by permit requirements, is not presenting a nuisance to the surrounding neighborhood, is being operated under the same ownership, and is current on all Transient Occupancy Taxes.

Standards

The permit standards as set-forth under the Draft STR Ordinance are intended to ensure that short-term rental operations remain harmonious and compatible with the surrounding neighborhood, that occupancy, parking, and other requirements are adequate for the proposed use, and that the

public's health and safety is upheld. Occupancy limitations are based upon whether the STR is served with a public sewer connection or an on-site septic system to ensure that on-site systems do not exceed their capabilities, as well as the approved number of bedrooms.

The standards also set-forth requirements for property management, including a local property manager who will be available to respond to complaints and ensure that renters are abiding by the permit standards. The Department of Development Services does not provide after-hours code enforcement. The provision of a local property manager will ensure the handling of complaints in an efficient and responsive manner.

The standards also require that the terms of the administrative permit will be located on all Internet postings and other advertising. Further, upon issuance of the administrative permit the same terms will be mailed to property owners within 300 ft. of the property. This mailing will include the name, text-enabled phone number, and email of the property manager.

Enforcement Process

Three verifiable administrative citations, violations, or hearing officer determinations concerning the permit requirements issued to the owner or occupants at the property within a 24-month period will result in permit revocation. Under this circumstance, an administrative permit for a short-term rental could not be reestablished for a period of 24 months.

Any property determined to be advertised for use as a short-term rental without the administrative permit would be subject to a permit fee penalty of ten times the regular application fee. This provision is to encourage compliance and equal treatment of all operators.

Applicable Zoning Districts

Under this proposed Zoning Ordinance Amendment, short-term rentals would be allowed, with an administrative permit, in the MHDR (Medium High Density Residential), MDR (Medium Density Residential), LDR (Low Density Residential), VLDR (Very Low Density Residential), RR (Rural Residential), RCR (Rural Country Residential), FR (Foothill Residential), FCR (Foothill Country Residential) and MU-1 and MU-1 (Mixed Use) zones. Other zones that may be appropriate for consideration include the AG (Agriculture), and TM (Timber Mountain) zones. These latter zones are not necessarily suitable for short-term rental use based upon intensive allowed land uses, which may not be compatible with visitors occupying a short-term rental. **The Planning Commission may wish to consider this issue and provide staff direction on whether the AG and TM zones should be included as appropriate for Short-Term Rentals.**

Staff recommends that the VLDCR (Very Low Density Country Residential) zone not allow short-term rentals as this zone does not allow Bed and Breakfasts, a similar use. The VLDCR zone was

implemented in existing neighborhoods in the Chico area based upon community input and desires during the General Plan and Zoning Ordinance update process.

Staff recommends that the HDR (High Density Residential) and VHDR (Very High Density Residential) zones also not allow short-term rentals as these zones are used to provide housing that is affordable to low income groups in accordance with the Butte County Housing Element. In these zones, short-term rentals would displace housing for low-income individuals and would be contrary to Housing Element Policy.

One member of the public commented to Development Services concerning short-term rentals in areas subject to fire hazard, such as the foothills and mountain communities. It was suggested that short-term rentals not be allowed in these areas due to life safety issues

Accessory and Second Dwelling Units

The Zoning Ordinance, under Section 24-172, allows Accessory Dwelling Units (units 1,200 sq.ft. or less in size) or Second Dwelling Units (units larger than 1,200 sq.ft. in size) in all residential zones and the Agriculture zone. However, this section indicates that the primary dwelling unit and accessory/second dwelling unit cannot be used for short-term rentals (this restriction does not apply to additional dwellings that are not permitted under Section 24-172). This restriction is in recognition of the intent of accessory/second dwelling units to provide affordable housing options for long-term housing. The use of accessory/second dwelling units for short-term rentals would displace the availability of these housing units for affordable and long-term housing. The California legislature has found and declared that allowing accessory/second dwelling units in single family and multifamily zones provides additional rental housing and is an essential component in addressing the housing needs of California.

While the State of California indicates that local governments can restrict accessory/second dwelling units from being used as short-term rentals, it is not a requirement under State law. **The Planning Commission may wish to consider whether accessory/second dwelling units are appropriate for use as short-term rentals, and the potential impact on lower income and long-term housing in Butte County.** If accessory/second units are allowed to be used for short-term rentals, Section 24-172 of the zoning ordinance would have to be amended to reflect this allowance.

Multiple Short-Term Rentals on a Single Parcel

In some cases, a property owner may wish to have two (or more) short-term rentals on the same property, whereby a primary residence or a portion of a primary residence (e.g. bedroom) is rented out as a short-term rental and another residence or residences (potentially an accessory/second unit) on the same property are rented out as a short-term rental. **Many jurisdictions find that this practice may lead to an overconcentration of short-term rental units on one parcel and adjacent**

to neighbors, and that this can lead to more impacts. The Planning Commission may wish to provide direction on whether this practice is appropriate under the draft ordinance.

V. NEXT STEPS

Upon receiving direction from the Planning Commission, Development Services staff will set a time for a public hearing at the Planning Commission.