



NOTICE AND CALL OF A MEETING OF THE  
**TRINIDAD PLANNING COMMISSION**

The Trinidad Planning Commission will hold a specially scheduled meeting on  
**THURSDAY JUNE 30<sup>th</sup>, 2016, AT 5:00 P.M.**  
in Town Hall at 409 Trinity Street.

Commissioner Poulton will be teleconferencing from the following location:  
1447 S. Fitch Mountain Road, Healdsburg, CA 95448  
This is private residence, but will be open to the public for the meeting.

The following items will be discussed:

- I. ROLL CALL
- II. APPROVAL OF MINUTES – May 31, 2016
- III. APPROVAL OF AGENDA
- IV. ITEMS FROM THE FLOOR
- V. AGENDA ITEMS

**Discussion / Decision / Public Hearing / Action**

- 1. VDU Ordinance Amendment: Continued consideration of an amendment to the existing VDU ordinance (§17.56.190 of the Trinidad Zoning Ordinance) and development of additional regulations to cap the number and / or density of VDUs in Trinidad. Specific topics of focus include, but are not necessarily limited to: cap, distance buffer, license transferability and enforcement.

- VI. COUNCIL REPORT
- VII. STAFF REPORT
- VIII. ADJOURNMENT

**MINUTES OF THE SPECIALLY SCHEDULED MEETING OF THE**  
**TRINIDAD PLANNING COMMISSION**  
**TUESDAY MAY 31, 2016**

**I. CALL TO ORDER/ROLL CALL (6:00pm)**

Commissioners Present: Johnson, Pinske, Poulton, Scott, Stockness  
Commissioners Absent: None  
Staff: City Manager Berman, City Planner Parker

**II. APPROVAL OF AGENDA**

***Motion (Poulton/Stockness) to approve the agenda.  
Passed unanimously (5-0).***

**III. APPROVAL OF MINUTES – May 5, 2016 Special Meeting**

The Commissioners did not have any changes. Parker noted that “Submitted by” should be Trever Parker rather than Sarah Caldwell for these minutes.

***Motion (Poulton/Stockness) to approve the minutes as amended.***

***Passed unanimously (4-0) with Commissioner Scott abstaining since she was not at the meeting.***

**IV. ITEMS FROM THE FLOOR**

A. Grau (433 Ewing) reads from the April 20, 2016 minutes of the Trinidad Planning Commission meeting regarding the Lake / Davies appeal. He states that the minutes do not accurately reflect his memory of the action taken.

S. Rotwein (53 N Westhaven) commended Planner Parker for her 20 (actually 15) years of service to Trinidad as the City Planner. She is concerned that the Septic Ordinance is six years old and is still not fully implemented. This is a threat to water quality and public health. She implored the Planning Commission to help the City Council make its implementation a priority. Ms. Rotwein also requested that the tenor of tonight’s meeting be civil and respectful; otherwise the Chair should adjourn the meeting.

In response to a request from Commissioner Pinske, Planner Parker provides an update on the Lake/Davies appeal of staff decisions to issue VDU licenses to properties with an alleged second unit and / or building code violations. The VDU licenses are all being renewed, including the ten under appeal. The Building Inspector will provide a report following his inspection of these properties and staff will bring the information back to the Planning Commission. As part of that discussion, Parker thinks that the Planning Commission will also need to discuss the larger issue of, and determine specific definitions of second units and kitchens.

**V. AGENDA ITEMS**

- VDU Ordinance Amendment:** Continued consideration of an amendment to the existing VUD ordinance (§17.56.190 of the Trinidad Zoning Ordinance) and development of additional regulations to cap the number and / or density of VDUs in Trinidad. Specific topics

of focus include, but are not necessarily limited to: cap, distance buffer, license transferability and enforcement.

Chair Pinske began the discussion with the order of events for the meeting: 1) Short staff report; 2) Commissioner questions of Staff; 3) Public Input limited to 3 minutes each; and 4) Discussion and deliberation by Planning Commissioners, during which the public shall not interrupt.

Planner Parker provides a brief update. This is a continued discussion from the previous Planning Commission meeting. There is no new information from staff to present. Her memo does provide a summary of various caps around the country and what percentage of the housing stock they have been set at. Planner Parker explained that the caps vary significantly in every community. She notes that currently proposed Trinidad caps by zone are within the range suggested by the City Council. In the packet she also provided a recent ordinance from Pacific Grove that has different caps for different types of STRs in different zones.

Commissioner Johnson asked Planner Parker about the success of caps in other cities. Planner Parker responded that caps have been certified by the Coastal Commission, but the actual success of them is unknown. He also asked Parker to clarify the use of a percentage limit on caps. She explained that a set cap is easier to implement, but can be based on a percentages, which could be different between zones. A percentage cap would allow for growth, but the exact number of housing units may be difficult to determine.

Commissioner Pinske requested the number of licensed VDUs. Planner Parker provided that, as of December, 2015, there were 27 in the UR zone, but that 1 or 2 may have since been withdrawn. He also asked about the deadline for existing VDU owners to apply for renewal. Planner Parker stated that the licenses will expire June 30. City Manager Berman added that he hoped to have all applications resolved by then. Commissioner Pinske asked about late applications. City Manager Berman explained that because of the current moratorium no new applications are being accepted, but neither the moratorium nor the ordinance address late renewal applications.

Commissioner Stockness thinks that a 15% cap is about right. She also notes that it is bad timing for renewals and inquired whether the fee had been increased. City Manager Berman stated that the fee is now \$300. Parker noted that the renewal date has been moved to February in the amendment.

#### *Public Comment*

A. Grau (433 Ewing) requested that the topic of allowing only owner-occupied STRs be discussed. He included a partial quote from a staff report stating that was a feasible option. He wants to ensure that decisions are unbiased. Both Commissioners Johnson and Stockness requested a written copy of his comments because it was difficult to hear him. Mr. Grau said he would make it available the next day.

K. Lake (435 Ocean) agreed with Mr. Grau. She also wants to know why there needs to be a discussion about the definition of a dwelling unit. It is described in the Draft 2009 General Plan, which she reads.

S. Rotwein (53 N Westhaven) stated that school enrollment and City population is up. Trinidad is, has been, and always will be a destination location. She suggests that the cap should include the trailer parks in any percentage basis; these provide the low-income housing in the City rather than the visitor services they were originally intended for. She suggested a cap of 35 which would allow for future growth. She also suggested that there should be a 100 foot buffer between rentals in all zones. Use permits should be allowed for appropriate exceptions. Septic and off-street parking should drive the number of people allowed in a VDU. Parking permits may be a good idea. The indemnity requirement needs to be struck out.

T. Davies (435 Ocean) agrees with A. Grau's comments. There should be only one STR permit per property owner. He states that school enrollment is not reflective of the number of children and families residing within Trinidad City limits. Enrollment includes children that live outside district boundaries.

L. Farrar (433 Ewing) said that the City Council meeting's minutes stated that there are 38 VDU licenses in the City, and 32 that were currently active. Why are the numbers always different? She states that everyone should read the letter submitted by J. Frame. Residents bought and / or built houses in Trinidad expecting to live in neighborhoods. She also agrees with A. Grau's comments.

Mayor Miller requested the opportunity to speak during Public Comment. Discussion between the City Staff and the Commissioners pointed out that because there are three City Council members present, his speaking could be a violation of the Brown Act.

R. Whitlow (Adams Fox Farm) is concerned that the community is being divided. Her family has lived in the area for four generations. She reminded everyone that the City has historically been a transient town of loggers and fishermen. It may have become more gentrified over the years, but it is still a destination. Much of the town is made up of outsiders that became residents and are now trying to turn it into a retirement community. Residents are not kid friendly; look at the skating crack-down. She also reminded everyone of the economic benefits that VDUs provide the City, and they will help provide for a secure future. She agrees that noise and other nuisances can be an issue but there needs to be balance; there are two vocal extremes on this issue, but she thinks most people are in the middle, and the Planning Commission should represent them.

### *Commissioner Discussion*

Chair Pinske opened the discussion to the Commissioners reminding them to focus on the cap issue, buffer zones, license transferability, and enforcement.

Commissioner Stockness asked for clarification on the distance of the buffers and whether they are measured from the property line or the center of the property. Planner Parker explained that she provided several maps with different buffer examples. Most of the maps

measure the distance from the center of the property, because it was easier and faster. She notes that the 150' buffer from center, is similar to the 100' buffer from the edge of the property. The final map(s) can be made however the Planning Commission prefers. One reason to measure the buffer from the center is to accommodate different sized parcels; smaller parcels get larger buffers that way. Discussion ensued.

Commissioner Johnson suggested that a buffer is not the whole answer. Buffers do not take into consideration parking, noise, lighting, health, and safety issues. He wants to see activity reduced in buffer zones so as to not impinge upon neighbors. One way to do this would be to reduce the number of occupants and vehicles within buffers. For example, where buffers intersect, there should be a limit of two people per bedroom and not an extra two people allowed. He also thinks the cap by zone is important.

Commissioner Stockness thinks the 300 ft. buffer is way too big. Commissioner Poulton suggested that 150 feet measured from the center of the property makes sense. He wants to limit crowding, and 150 feet would help to spread out the VDUs. This would naturally limit the number of VDUs allowed. It also would provide one basis for not approving renewals or transfers. Commissioner Scott stated that measuring from the property line makes more sense to her and gave an example of hot tubs and cigarette use near property lines being a good illustration of why. Commissioner Pinsky agreed with that line of thought and suggested that 100 feet measured from the property line would be a good solution. Commissioner Poulton is fine with either.

Commissioner Johnson asked if a lottery might be the answer considering that 2 out of 3 VDUs would be unable to get a license with a 100 foot buffer measured from the property line. Commissioner Poulton agreed. Commissioner Scott added that licenses should be restricted to one per owner, which would also help limit the number of STRs.

Transferability was discussed by the Commissioners. It was determined that buffers could provide a mechanism for the City to limit transfers.

Commissioner Scott asked if STRs were compatible with residential use considering impacts from noise, parking, septic, etc. She reads an excerpt from the Planning Commissioner Handbook. Planner Parker replied that different communities have approached VDUs differently, but the Coastal Commission has consistently held them to be compatible. Commissioner Scott asked if STRs are compatible within a sensitive coastal zone, citing Paloma Creek Lodge as an example, being close to a creek. Commissioner Poulton replied that the purpose of this amendment is to limit the number and density in order to minimize the impacts. Commissioner Pinsky noted that the Coastal Commission approved the existing ordinance. Planner Parker noted that additional information related to this topic can be found in previous Planning Commission packets before Scott joined the Commission.

Commissioner Scott asked how STRs are consistent with the home occupations regulations in the zoning ordinance (§17.56.060). Commissioner Johnson responded that, regardless of that language, the City has an entire ordinance in place that specifically allows them. At this point, balance is what is needed with the vacation rentals, considering neighborhood issues and existing infrastructure. The City Council asked the Planning Commission to look at

specific issues. The City Council will have a VDU update on an upcoming agenda, and maybe the Planning Commission can get further guidance from them. There are procedures in place to ensure the ordinance will be in compliance with the General Plan.

Commissioner Scott points out that a solid foundation is needed, and State law has already determined what constitutes a dwelling. A discussion of the definition of a dwelling unit ensued. Planner Parker explained that the State Building Code sets minimum standards to address public health and safety; a dwelling must have one kitchen, but is not limited to that.

Commissioner Pinske stated that the City needs to consider this issue in the context of the existing conditions and create regulations that work for Trinidad, not necessarily what other communities have done. He reiterated that the City needs to balance both the needs of residents and visitors.

Commissioner Pinske asked for opinions from the Commissioners on caps. Commissioners Poulton and Johnson agree on a maximum of 19 non-hosted STR licenses in the UR zone and a maximum of 6 in the SR zone. Commissioner Scott suggests that those numbers be reversed since there is a density problem in the UR zone. Commissioner Poulton counters that the suggested cap is at 15% of the housing, but where there are currently problems, 50% or more of the houses in the area are VDUs; he doesn't find the ones near him to be a problem.

Commissioner Pinske asked Planner Parker about VDU numbers in other zones. She added that there are currently 2 VDUs in the commercial zone, and there were 3 in the PD zone, but those have all been withdrawn. She also noted that the buffer being considered for the UR zone should be considered in context with the PD zone, which abuts many UR zoned parcels. The Commissioners discussed buffers in the PD zone. Commissioners Poulton and Johnson felt that buffers should apply between VDUs in the UR and PD zone, but not necessarily between VDUs in the PD zone.

Commissioner Pinske asked Commissioner Stockness where she stood on the subject of buffers. She responded that she would like to decide on caps and buffers on a street by street basis and would like for Planner Parker to provide a colored map by zones. She wants to reduce the number of VDUs on some streets. She thinks that a buffer and restricted license renewal would be a good approach.

Commissioner Pinske asked Commissioner Scott where she stood buffers. Scott brought the topic back to a cap, asking how the Commission found that a cap was fair. Commissioner Johnson responded that the City Council specifically directed the Commission to consider a cap, but that there are many complex issues, and suggests that more direction from the Council could be beneficial. Commissioner Scott suggests that the Commission needs to be accountable to the public who voice their opinions as well.

Commissioner Poulton noted that there have been many opinions expressed at the meetings, and he added that he thinks a ban on VDUs is not the right answer for Trinidad. He thinks VDUs are beneficial, because Trinidad is a destination city, and there needs to be places for people to stay; there is also the Coastal Commission to consider. He first came to Trinidad by staying in a VDU, and he enjoys meeting the visitors from all over the world.

Commissioner Scott asked about prioritizing housing for those who want to live here. Commissioner Poulton responded that a cap and a buffer would reduce the number of VDUs thus making more housing units available. A discussion of rents ensued. Commissioner Johnson noted that housing affordability in Trinidad is not just driven by VDUs; because it is small and picturesque, housing prices have been high for a long time.

City Manager Berman provided that there are two major issues with VDUs: nuisances and community character. The first ordinance was focused on nuisances, and now the City Council is concerned that continued increases in VDUs have / will change the character of the community. The Council clearly asked the Planning Commission to decide on a cap. He notes that caps do raise issues of fairness, but these can be addressed with things like limits on transferability and/or license's duration, which will allow everyone an opportunity. He asked how the Planning Commission wanted to proceed from here. He notes that the Commission does not have to get the ordinance perfect, because the Council will discuss these issues themselves. A joint meeting with the City Council could lengthen the process, but could be helpful if the Planning Commission thinks they have a lot more to discuss.

Commissioner Pinske wants to get the ordinance amendment to the Council soon. He suggests the Commission has two more meetings to finalize their decisions and present a written report to the City Council in July. He also suggested that each Commissioner can attend the Council meeting and add their verbal input as well. Commissioner Scott replied that she was feeling steamrolled and that Staff was pushing the Planning Commission too quickly. She feels that more time is needed to flush this out in order to build on a strong basis, unlike the first ordinance. Commissioner Stockness disagreed with Commission Scott, she thinks the Planning Commission is ready to go to the City Council and get their feedback. She commented that the Planning Commission has done a lot of work already, and so have City Manager Berman and Planner Parker.

Commissioner Pinske called for a 10-minute break.

Commissioner Pinske inquired of Planner Parker whether the cap on hosted VDUs was different from the cap on non-hosted caps. She replied that the Commission has only discussed a cap on non-hosted VDUs. Commissioner Pinske asked about the difference between "hosted" and "owner-occupied" VDUs. Planner Parker responded that the Commission previously discussed this and determined that "hosted" should be the key consideration and that the host can be a long-term resident; it doesn't have to be an owner. It was also discussed that the host could live in another unit on the property.

Commissioner Pinske asked about how many hosted VDUs currently exist; Parker answered that there are currently only two that she knows about. He agrees with Commissioner Poulton that it is not feasible to allow only hosted VDUs in the UR zone, since currently there are so few. There needs to be a reasonable limit, a cap and buffer zone for the future. He would like to alleviate the congestion and the number of VDUs and have the policies enforceable for the City. Commissioner Scott disagrees about the feasibility, noting that other communities have banned VDUs.

Commissioner Scott asked City Manager Berman if and how he was enforcing the occupancy limit based on septic rules. He responded that enforcement is mostly complaint-

driven, but that licensed occupancy is limited based on septic capacity, and the City checks the listings against the license and has the ability to audit records. Staff follows up on complaints and works cooperatively with the owners and managers to gain compliance if there is a violation. Commissioner Scott asked if it is realistic or fair to neighbors to have to tell short-term renters the rules each time there is a new renter, whereas a long-term tenant would already know them. She asked if the complaint process was working and alleged that complaints are not being addressed. City Manager Berman summarized the VDU complaints that Staff have handled, of which there aren't very many. He pointed out that most of the complaints on Ocean have been about long-term renters. He has a log book with all the complaints and the follow up action. If there are other complaints, they aren't being reported to the City. He referenced J. Frame's recent email listing a number of incidences on Wagner with VDUs that the City was never informed of. He said that it is important that this amendment provides the City with more enforceability and stronger tools. Commissioner Stockness suggested a process that involves a warning, a series of increasing fines and eventual revocation of the license.

Commissioner Scott says the system is flawed, that putting the burden of complaints on residents is too late in the process and not fair. City Manager Berman responded that the City has to rely on residents to alert them once there is a problem; that is the nature of the enforcement process, not a flaw in the system. He reminds the Commissioners that the existing ordinance has not even been in place for a year. Commissioner Scott recommended that the City allocate TOT to pay for an enforcement officer. City Manager Berman stated that a neighbor should call the 24-hour VDU contact and / or Sheriff if there is a problem. Commissioner Pinske reminded everyone that the enforcement process is in the existing ordinance, which requires a 24-hour emergency contact person in the contract.

Commissioner Pinske brings the discussion back to the focus of tonight's meeting, starting with the cap(s) and buffer. Planner Parker states that the Commission should give her specific guidance for recommendations to the City Council. Then she will write up a report and bring it back to the Commission for a vote on the final wording at the following meeting.

Commissioner Pinske called for a straw vote on the buffer zone. Commissioners Stockness, Poulton and Pinske stated that either 100' from the edge of the property or 150' from the center of the property were fine. Commissioner Johnson preferred whichever would provide the greatest buffer. He requested a zoning map with 100 and 150 foot circles around VDUs in the UR zone, preferably based on renewal applications. Commissioner Scott requested additional maps with 200 and 300 foot buffers from the property line. Both Commissioners Scott and Johnson would like to see these maps before making a final decision.

Commissioner Pinske called for a straw vote on caps. There was a discussion about hosted verses non-hosted. Commissioner Scott thinks that hosted STRs, as opposed to owner-occupied STRs are a problem because renters can easily be biased. Commissioner Johnson notes that no ordinance can address every eventuality. Commissioners Stockness and Poulton are in favor of a cap at 19 (~15% of developed parcels) non-hosted VDUs in the UR zone and 6 (~20% of developed parcels) in the SR zone. Commissioner Johnson generally agreed, but feels that he needs to see the new buffer maps and how buffers could limit VDUs before making a decision. Commissioner Scott is not in favor of non-owner-occupied STRs in residential zones.

The Commissioners discussed limiting STRs to one per owner, a lottery system, a sunset provision and the value of caps verses buffers. Commissioner Pinske suggested that the Planning Commission focus on enforcement and transferability at their next meeting. Parker states that there is information from previous packets that would likely be useful. Commissioners have been saving their packets, and so will not need new copies, just a list of materials to bring. Parker will get copies to Commissioner Scott from meetings before she joined the Commission.

City Manager Berman suggested that the Planning Commission needs to make some tough decisions and then move on. If the Commission has specific questions of the Council, he can put those on their June meeting. He would like to get a recommendation from the Commission in time for the July Council meeting if possible. He reminds Commissioners that the ordinance has to get City Council and subsequent certification by the Coastal Commission, prior to the end of the moratorium on June 30, 2017. Planner Parker added that negotiations with Coastal Commission staff took longer than one year for the first ordinance. This time it should be easier, but the more changes that are made to the ordinance, likely the longer the certification process will take.

Commissioner Poulton suggested that the Planning Commission provide the City Council with a recommended cap to take to the Coastal Commission right now. That would effectively be a permanent moratorium, and then the Commission can continue to work on the amendment without a time factor. City Manager Berman agreed this was a good option. Commissioner Stockness wants to get recommendations to the Council in July; she refers to the original set of questions and issues that the Council gave the Commission to address. Commissioner Pinkske agrees, and thinks that specific recommendations are just as valuable as actual ordinance sections. Johnson thinks that the Commission is very close to having a complete ordinance, and wants to give the Council as many specifics as possible.

Commissioner Scott requested a formal vote of the Planning Commission on the final recommendation. City Manager Berman and Planner Parker agreed that one would be necessary and suggested that the final recommendation could be in the form of a table similar to what the Council sent to the Commission.

Planner Parker will advise the Commissioners of the date of the next Planning Commission meeting, because there may be a conflict with the regular date..

## **VI.ADJOURNMENT**

Meeting adjourned at 9:40 p.m.

### **Submitted by:**

**Cheryl Gunderson**

Acting Planning Commission Secretary

### **Approved by:**

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**Mike Pinske**

Planning Commission Chair



## MEMORANDUM

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**To:** Trinidad Planning Commission  
**FROM:** Trever Parker, City Planner  
**DATE:** June 27, 2016  
**RE:** June 30 VDU Agenda Item

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For this meeting you asked me to research and provide examples of STR ordinances that utilize a lottery system for issuing or reissuing licenses. I was actually not able to find any examples other than the one from Cannon Beach, OR that we have talked about. I have previously provided excerpts from the ordinance, but have attached it here in its entirety. I did find two other towns in Oregon that have been discussing an ordinance similar to that of Cannon Beach: Hood River and Gearhart.

In the original hearing draft of their STR ordinance, Hood River differentiated their STRs into 'Hosted Homeshares' and 'Vacation Home Rentals,' which is similar to the current Trinidad Planning Commission direction. The first hearing draft also included a cap, buffers and a lottery system. However, the final Planning Commission recommendation did away with all of those elements (though a number of other restrictions were added including that VHRs in residential zones be primary residences). In the report to the Council, the following assessment was provided for the first hearing draft of the ordinance under the topic of 'Administration/Issuance of License':

*"Difficult – establishing and implementing an equitable means of distributing available licenses in the residential zones given the cap and spacing standards will be very challenging. The draft proposes a lottery, but combining a lottery with the spacing standards means that applications selected may not qualify if a nearby site has already been selected. Could be very confusing and will result in winners and losers."*

The entire staff report and final draft recommended to the Council by the Planning Commission can be viewed at the following link:

[http://centralpt.com/upload/375/2015HousingStudy/19570\\_20160407151925.pdf](http://centralpt.com/upload/375/2015HousingStudy/19570_20160407151925.pdf)

I have to say that I agree with the above assessment. I think that the ordinance is becoming too complicated. Too many layers of regulations will make the ordinance difficult to understand and implement and much more difficult to enforce. While Trinidad's small size makes dealing with some complexities less of a problem, it is becoming an issue to consider. An overly complex ordinance will also complicate the certification process through the Coastal Commission and would likely be harder to defend in court if there was a legal challenge. As recommended by the City Attorney, the ordinance amendments

should be limited to addressing specific problems. It can always be revisited again in the future.

In my research, I ran across some documents from St. Helena I thought were applicable to the current discussions in Trinidad. 'The Report to the City Council' for their December 8, 2015 meeting discusses and addresses a lot of the same issues that the Trinidad Planning Commission is discussing, with a focus on enforcement, and provides another perspective. I also included St Helena's existing ordinance. While it does not include buffers or lotteries, I thought there was some useful language, particularly in the 'Restrictions and standards' section (17.134.040), but also in other sections as well.

At this point, I would suggest that a discretionary permit approval and renewal process like St. Helena has may be more fair and defensible than a buffer / random lottery combination. And, considering the growing complexity of the amendment, would not be any more difficult to implement. Such a process could be administrative if certain conditions are met (e.g. a buffer met and no complaints) to reduce the number of permits that would have to go before the Planning Commission. This option is also consistent with Trinidad's other ordinances and permit processes, including Design Review and the View Restoration Permit. Of course a discretionary public hearing process comes with its own set of complexities. This isn't a particular recommendation, but something to think about.

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE ) ORDINANCE NO. 04-09A  
COMPREHENSIVE PLAN AND MUNICIPAL )  
CODE TO IMPLEMENT CHANGES TO CITY )  
REGULATIONS CONCERNING THE RENTAL )  
OF DWELLINGS IN RESIDENTIAL ZONES FOR )  
PERIODS OF 30 DAYS OR LESS. )

Section 1.

Amend the Comprehensive Plan, Housing Policy 8 to read as follows:

The City finds that transient occupancy of dwelling units constitutes a visitor oriented commercial use in the City's residential areas. In order to maintain the residential character and livability of its neighborhoods and to prevent the adverse effects of the transient occupancy of dwelling units on residential neighborhoods, it is necessary to limit and regulate the transient occupancy of dwelling units.

Section 2.

Amend the Comprehensive Plan, Housing Policy 9 by deleting the policy in its entirety:

Section 3.

Amend the Zoning Code, Section 17.04.548 Definitions, Transient by deleting this definition in its entirety.

Section 4.

Amend the Zoning Code, Section 17.04.552 Definitions, Transient Occupancy to read as follows:

17.04.552 Transient rental occupancy. "Transient rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of less than fourteen calendar days, counting portions of days as full days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property.

Section 5.

Amend the Zoning Code, Section 17.04 Definitions, by adding a new definition of vacation home rental occupancy to read as follows:

Vacation home rental occupancy. "Vacation home rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of time between fourteen and thirty days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property.

Section 6.

Amend the Zoning Code, Chapter 17.77 to read as follows:

Chapter 17.77 Short-Term Rental of Dwelling Units

17.77.010 Purpose.

The purpose of this section is to protect the character of the city's residential neighborhoods by limiting and regulating the transient rental occupancy and the vacation home rental occupancy of dwelling units.

In the adoption of these regulations, the City finds that the rental of dwelling units for periods of thirty days or less has the potential to be incompatible with surrounding residential uses. Therefore, special regulation of dwellings used for transient rental occupancy or vacation home rental occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located.

17.77.020 Transient Rental Occupancy Requirements.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for transient rental occupancy except:

1. A dwelling for which there is a transient rental business license issued by the City on the effective date of the ordinance codified by this Chapter and where a transient rental permit has been issued to the owner of that dwelling; or
2. A dwelling which has been approved for use as a bed and breakfast establishment.

B. In the RM and C1 zones, the rental of a dwelling, or portion thereof for transient rental occupancy shall be considered a motel and subject to compliance with the requirements of Municipal Code, Chapter 3.12, Transient Room Tax.

C. The transient rental occupancy of a dwelling unit, as permitted by Section 17.77.020.A.1, shall comply with the standards of Section 17.77.040.A.

D. No person shall be issued a new transient rental permit who holds another transient rental permit. Converting or replacing a transient rental business license that exists on the effective date of Ordinance 04-09 into or with a transient rental permit is not considered the issuance of a new transient rental permit. For the purposes of the Chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a transient rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a transient rental permit.

E. A transient rental permit is issued to a specific owner of a dwelling unit. The transient rental permit shall be revoked when the permit holder sells or transfers the real property which was rented pursuant to the transient rental permit except as provided below. For purposes of the 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 transfers on the owner's death to a trust which benefits only a spouse for the spouse's lifetime. 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 the section so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his/her interest in the entity to another person, the transient rental permit held by the transferor shall be revoked.

F. It is the City's intention to maintain ninety-two (92) transient rental permits. When a transient rental permit is revoked pursuant to Section 17.77.020.E, 17.77.040.A.1 or 17.77.050, the City will accept a new application for a transient rental permit as follows. The City will maintain a roster of property owners who are interested in obtaining a transient rental permit for their dwelling unit. A property owner may place his or her name on the roster at any time. When an opportunity for a new transient rental permit arises, the City will select a name from the roster by means of a random selection. The person so selected will have 180 days to obtain a transient rental permit. If the person so selected does not obtain a transient rental permit within 180 days, a new name will be selected from the roster by random selection.

G. The maximum period of time that a person may hold a transient rental permit obtained by means of random selection, as described in Section 17.77.020.F, is five years. At the end of the five year period,

a new a transient rental permit holder will be selected by means of random selection as described in Section 17.77.020.F.

H. A person who held a transient rental permit obtained by means of random selection as described in Section 17.77.020.F, may not be considered for a new permit in the next lottery following the end of that permit's five year period.

#### 17.77.030 Vacation Home Rental Occupancy Requirements.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for vacation home rental occupancy except:

1. A dwelling for which a vacation home rental permit has been issued to the owner of that dwelling.

2. A dwelling which has been approved for use as a bed and breakfast establishment.

B. In the RM and C1 zones, the rental of a dwelling, or portion thereof for periods of less than thirty days shall be considered a motel and subject to the requirements of Chapter 3.12, Transient Room Tax.

C. Vacation Home Rental Tenancy. The use of a dwelling for vacation rental occupancy shall not exceed one individual tenancy within fourteen consecutive calendar days. However, occupancy of the dwelling is not required to occur for that entire time period. No additional occupancy, with the exception of the property owner, shall occur within that fourteen day period. An individual tenancy means a specific person or group of persons who together may occupy a dwelling for periods of between one and fourteen days.

D. The vacation home rental occupancy of a dwelling unit, as permitted by Section 17.77.030.A shall comply with the standards of Section 17.77.040.B.

E. No person shall hold more than one vacation home rental permit. For the purposes of the Chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his property to a revocable trust where the natural person is the trustee, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a vacation home rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a vacation home rental permit.

F. A vacation home rental permit is issued to a specific owner of a dwelling unit. When the permit holder sells or transfers the real property, the new owner shall apply for and receive a vacation home rental permit before using the dwelling as a vacation home rental.

G. A person who holds a transient rental permit shall not be permitted to hold a vacation home rental permit.

#### 17.77.040 Standards.

A. The transient rental occupancy of a dwelling unit, as permitted by Section 17.77.020, or the vacation home rental occupancy of a dwelling unit, as permitted by Section 17.77.030, shall comply with the following standards:

1. Permit.

a. Any person who is permitted to engage in the rental of a dwelling for transient occupancy, pursuant to Section 17.77.020.A.1, shall make application to the City, upon suitable forms furnished by the City, for a revocable transient rental permit no later than July 1, 2005. A complete permit application and applicable fee are due no later than on July 1st for the fiscal year commencing with that date. If a complete application and applicable fee has not been received by the City by August 1st of the applicable fiscal year, the transient rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the City shall commence the revocation of the permit pursuant to

the procedure described in Section 17.77.050.B.7. Upon issuance, the permit is valid for a period of one year and must be renewed annually. Until July 1, 2005, holders of transient rental business licenses may rent a dwelling for transient occupancy pursuant to that license.

b. Commencing on July 1, 2005, any person who is permitted to engage in the rental of a dwelling for vacation home rental occupancy pursuant to Section 17.77.030.A. shall have obtained a revocable vacation home rental permit before the rental of the dwelling for vacation home rental occupancy. Application for such a permit shall be made upon suitable forms furnished by the City. The permit is valid for one year, or the remainder of the fiscal year in which the permit is issued, and must be renewed annually. Renewal of the permit requires a complete permit application and fee no later than on July 1st for the fiscal year commencing with that date. If a complete application and applicable fee has not been received by the City by August 1st of the applicable fiscal year, the vacation home rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the City shall commence the revocation of the permit pursuant to the procedure described in Section 17.77.050.B.7.

c. The City shall issue the permit where it finds the standards of Section 17.77.040.A.2 are met.

2. The issuance of a transient rental permit or a vacation home rental permit shall be subject to the following:

a. Inspection.

i. At the time of application for a new transient rental permit pursuant to Section 17.70.020.F, or a new vacation home rental permit the dwelling unit shall be subject to inspection by the Building Official or his designee. The purpose of the inspection is to determine the conformance of the dwelling with the requirements of the Uniform Housing Code, 1988 Edition. Prior to the issuance of the transient rental permit or the vacation home rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the Building Official pursuant to the Uniform Housing Code.

ii. Beginning on July 1, 2005, and each year thereafter, there shall be a reinspection of twenty percent of the dwellings that have a transient rental permit so that, over a five-year period, all dwellings that have a transient rental permit will have been reinspected. A condition of granting the annual transient rental permit, where a dwelling has been reinspected, is that the owner of the dwelling shall make any necessary alterations to the dwelling required by the Building Official pursuant to the Uniform Housing Code. The required alteration shall be completed within 30 days of the Building Official notification of the required alterations. A failure to complete the alterations within the specified time period may result in the revocation of the permit pursuant to the procedure of Section 17.77.050.B.7.

iii. Beginning on July 1, 2008, and each year thereafter, there shall be a reinspection of twenty percent of the dwellings that have a vacation home rental permit so that, over a five-year period, all dwellings that have a vacation home rental permit will have been reinspected. A condition of granting the annual vacation home rental permit, where a dwelling has been reinspected, is that the owner of the dwelling shall make any necessary alterations to the dwelling required by the Building Official pursuant to the Uniform Housing Code. The required alteration shall be completed within 30 days of the Building Official notification of the required alterations. A failure to complete the alterations within the specified time period may result in the revocation of the permit pursuant to the procedure of Section 17.77.050.B.7.

- b. **Occupancy.**
- i. The maximum occupancy for the dwelling shall be two persons per bedroom and two additional persons (e.g., a two-bedroom dwelling is permitted a maximum occupancy of six persons). The maximum occupancy may be further limited by the requirements of Section 17.77.040.A.2.e of this section. In no event shall the occupancy of a dwelling exceed twelve persons, unless a transient rental business license issued prior to January 1, 2005 established an occupancy of more than twelve persons. For the purpose of this section, a bedroom is as defined in the CABO One and Two-Family Dwelling Code. For the purpose of establishing occupancy, a person is defined as an individual at least two years of age.
  - ii. The maximum occupancy on the property shall be that determined by the occupancy of the dwelling unit, per Section 17.77.040.A.2.b.1). No recreational vehicle, travel trailer, tent or other temporary shelter shall be used by any tenant on the premises for living or sleeping purposes.
  - iii. When an owner applies for a building permit for a dwelling that has a transient rental occupancy permit or a vacation home rental permit that will increase the occupancy of that dwelling unit, the owner will provide the City documentation that additional off-street parking as required by Section 17.77.040.A.2.e will be provided
- c. **Transient Room Tax.** Compliance with the requirements of the Municipal Code, Chapter 3.12, Transient Room Tax is required.
- d. **Local Representative.**
- i. The property owner shall designate a local representative who permanently resides within the Cannon Beach urban growth boundary or a licensed property management company with a physically staffed office within 10 vehicular miles of the Cannon Beach urban growth boundary. The owner may be the designated representative where the owner resides in the Cannon Beach urban growth boundary. Where the owner does not reside within the Cannon Beach urban growth boundary, the owner shall designate either a resident in the Cannon Beach urban growth boundary, or a licensed property management company within 10 vehicular miles of the Cannon Beach urban growth boundary as his representative.
  - ii. The property owner or the designated local representative shall maintain a guest and vehicle register for each tenancy of the transient rental or vacation home rental. The register shall include the names, home addresses and phone numbers of the tenants; the vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. The above information must be available for City inspection upon request; failure to maintain or provide the required information constitutes a violation and is grounds for a penalty pursuant to Section 17.77.050.
  - iii. The local representative must be authorized by the owner of the dwelling to respond to tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the dwelling for transient rental or vacation home rental purposes. The local representative must respond to those complaints in a timely manner to ensure that the use of the dwelling complies with the standards for transient rental occupancy or vacation home rental occupancy, as well as other pertinent City ordinance requirements pertaining to noise, disturbances, or nuisances, as well as State law pertaining to the consumption of alcohol, or the use of illegal drugs.

iv. 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 17.77.050.B and that violation shall be counted in the number of violations assessed against the permit pursuant to Section 17.77.050.B.4.

v. 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 17.77.050.B and that violation shall be counted in the number of violations assessed against the permit pursuant to Section 17.77.050.B.4.

vi. The City will notify property owners and or residents within 200 feet of the dwelling of the name, address and telephone number of the owner or the local representative. The purpose of this notification is so that adjacent property owners and residents can contact the responsible person to report and request the resolution of problems associated with the operation of the transient rental or vacation home rental.

e. **Parking.** One off-street parking space shall be provided for each three persons of dwelling occupancy, as determined by Section 17.77.040.A.2.b; fractions shall be rounded to the next highest whole number (e.g., a dwelling with a permitted occupancy of eight persons shall provide three off-street parking spaces.) Where the number of parking spaces required by this section cannot be provided on-site, the permitted occupancy of the dwelling shall be reduced to conform to the available amount of off-street parking (e.g., a dwelling with a potential occupancy, pursuant to Section 17.77.040.A.2.b of eight persons, which provides only two off-street parking spaces shall have its occupancy limited to six persons.) Notwithstanding the above provision, each dwelling shall be permitted a minimum occupancy of six persons. No more vehicles shall be parked on the property than there are designated off-street parking spaces.

f. **Solid Waste Collection.** Weekly solid waste collection service shall be provided during all months that the dwelling is available for transient or vacation home occupancy.

g. **Permit Posting.** The transient rental permit or vacation home rental permit shall be posted within the dwelling adjacent to the front door. At a minimum, the permit will contain the following information:

- i. The name of the local representative and a telephone number where the representative may be reached;
- ii. The name and a telephone number where the property owner can be reached;
- iii. The telephone number and web site address of the City of Cannon Beach and the Cannon Beach Police Department;
- iv. The maximum number of occupants permitted to stay in the dwelling;
- v. The maximum number of vehicles allowed to be parked on the property;
- vi. The number and location of on-site parking spaces; and
- vii. The solid waste collection day.

B. Variance from the standards of Section 17.77.040.A.1 – 7 shall not be permitted.

#### 17.77.050 Violations and Penalties

A. The following conduct shall constitute a violation for which the penalties and sanctions specified in Section 17.77.050.B may be imposed. For purposes of this section, violation shall mean a violation which has been finally adjudicated in a court of competent jurisdiction.

1. Any property owner, or person acting as an agent for the property owner, such as a motel, real estate broker or property manager, who arranges or otherwise provides for the transient occupancy of a dwelling, or the vacation home rental occupancy of a dwelling unit in violation of the provisions of this section; or
2. The owner has failed to comply with the standards of Section 17.77.040; or
3. The owner has failed to pay the Transient Room Tax as required by Municipal Code, Chapter 3.12; or
4. The tenants of the dwelling have created noise, disturbances, or nuisances, in violation of the City Municipal Code, or violations of State law pertaining to the consumption of alcohol, or the use of illegal drugs.

**B. Penalties**

1. Penalties for violations described in Section 17.77.050.A.1 – 3 shall be assessed in conformance with Chapter 17.94.
2. Each day in which a dwelling is used in violation of Section 17.77.050.A.1 & 2 shall be considered a separate violation of this Chapter.
3. Penalties for violations described in Section 17.77.050.A.4 shall be assessed in conformance with the City Municipal Code or applicable State statute.
4. In addition to the penalties described in Section 17.77.050.B.1 & 3, the following sanctions will be imposed:
  - a. For the first two violations within a 24-month period, the sanction shall be a warning notice.
  - b. For the third violation within a 24-month period, the sanction shall be a suspension of the permit for 30 days.
  - c. For the fourth violation within a 24-month period, the sanction shall be a suspension of the permit for 90 days.
  - d. For the fifth violation within a 24-month period, the sanction shall be a suspension of the permit for 180 days.
  - e. For the sixth violation within a 24-month period, the penalty shall be a revocation of the permit
5. The City shall provide the permit holder with a written notice of any violation of Section 17.77.050.A.4 that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.
6. Pursuant to Section 17.77.050.B.4.b – d, the City shall provide the permit holder with a written notice of the permit suspension and the reason for that suspension. The permit holder may appeal the suspension to the City Council by filing a letter of appeal with the City Manager within twenty days after the date of the mailing of the City Manager's order to suspend the permit. The City Manager's suspension shall be stayed until the appeal has been determined by the City Council. The City Council shall conduct a hearing on the appeal within 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 City Manager to suspend the permit based on the evidence it received.
7. Pursuant to Section 17.77.050.B.4.e, the City shall provide the permit holder with a written notice that it intends to revoke the permit and the reasons for the revocation. The City Council shall hold a hearing on the proposed revocation of the permit. At the hearing, 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 determine not to revoke the permit, attach conditions to the permit, or revoke the permit.
8. A person who has had a transient rental occupancy permit or a vacation home rental permit revoked shall not be permitted to apply for either type of permit at a later date.

Section 7.

Amend the Zoning Code, Section 17.82.070, Nonconforming transient occupancy of dwelling units by deleting this section in its entirety:

Section 8.

Amend Municipal Code, Section 3.12.010, Transient Room Tax, Definitions, Transient, to read as follows:

“Transient” means an individual who occupies or is entitled to occupy space in a hotel for a period of thirty consecutive days or less, counting portions of days as full days. The day a transient checks out of a hotel shall not be included in determining the thirty day period if the transient is not charged rent for that day. A person occupying space in a hotel shall be considered a transient until a period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy of the tenant actually extends occupancy more than thirty consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient.

Section 9.

Amend Municipal Code, Section 5.04.095 Transient rental business licenses by deleting this section in its entirety.

ADOPTED by the Common Council of the City of Cannon Beach this 5th day of November, 2004, by the following roll call vote:

YEAS: Councilors: Dooley, Swigart, Vetter  
NAYS: Councilor Ayres, Mayor Rouse  
EXCUSED None

\_\_\_\_\_  
David S. Rouse, Mayor

Attest:

Approved as to Form:

\_\_\_\_\_  
Peggy Coats, City Manager

\_\_\_\_\_  
William Canessa, Attorney



**Report to the City Council  
Council Meeting of December 8, 2015**

**Agenda Section:** New Business

**Subject:** **Consideration of Potential Amendments to the City's Zoning Ordinance, St. Helena Municipal Code ("SHMC") Chapter 17.134, Short-Term Rentals (STRs).**

**CEQA Status:** **Not a Project Under CEQA; Any Future Legislative Actions will require CEQA review and a Determination**

**Prepared By:** Noah Housh, Planning and Community Improvement Director

**Approved By:** Jennifer Phillips, City Manager 

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**BACKGROUND**

The City Council adopted the Short-Term Rental Ordinance on April 10, 2012, and the Ordinance became effective on May 10, 2012. Prior to adoption of the Short-Term Rental Ordinance, it was illegal to rent a home for fewer than 30 days in St. Helena.

Chapter 17.134 "Short-Term Rentals" of the Municipal Code establishes a permitting process for the rental of single family dwellings for fewer than 30 consecutive days. Short-term rental uses are permitted in residential and agricultural zoning districts provided that the proposed short-term rental meets the standards of the ordinance. A maximum of 25 short-term rental permits are allowed at any time within the City.

The ordinance was designed to address the issue of illegal short-term rentals operating within the community and to accomplish the following objectives:

1. Establish a permitting process and appropriate restrictions and standards for short-term rental of single-family dwellings.
2. Provide a visitor experience and accommodation as an alternative to the hotel, motel, and bed and breakfast accommodations currently existing in the City.
3. Ensure the collection and payment of Transient Occupancy Taxes (TOT).
4. Minimize the negative secondary effects of short-term rental use on surrounding residential neighborhoods.
5. Retain the character of the neighborhoods in which such use occurs.

On June 10, 2014, the City Council reviewed the STR Ordinance as many of the original permits approved in 2012, were set to expire and there was no mechanism in the

regulations for renewal of these permits. At this meeting, the City Council directed staff to initiate a renewal process for expiring permits whereby a two-year renewal would be issued if the permit holder:

1. Paid an application fee;
2. Had a current City Business License
3. Was current on their TOT payments; and
4. Had no complaints on file against them.

The Council also directed staff to continue enforcement on those illegally renting on a short-term basis. The Council deferred providing direction on Ordinance revisions for one year on whether to:

1. Increase the number of permits available;
2. Add a use it or lose it provision;
3. Adjust the 30% of neighboring residents (within 300') having filed complaints threshold for elevating the decision to require Planning Commission approval; and
4. Allow the permits to run in perpetuity as long as the permit holder is not in violation of any of the terms of the ordinance.

### **Town Hall Meeting**

Prior to revisiting the ordinance (as Directed by the Council at the June 2014 meeting), the Planning Department held a Special Town Hall meeting on September 23, 2015. The goal to this meeting was to receive public input on the short-term rental ordinance and the operation of short-term rentals within the City, prior to bringing the issue back before the Planning Commission and City Council for review.

Approximately 80 people attended the meeting and a variety of input was received, including opinions on the Ordinance, desired changes and general feedback on short-term rental operations within the City. Staff has provided a brief summary of the opinions heard below. However a more comprehensive summary of the comments made at the meeting is attached. In addition, each of the individual comment letters sent to staff and decision makers have also been attached to this report (Attachment B).

Those opposed to the existing Ordinance and/or short-term rental operations in general, identified concerns such as noise, safety, traffic, parking, neighborhood and community impacts and potential loss in property value.

Those in support of the Ordinance and short-term rental units operating within the City identified revenue generation, job creation, a lack of hotel rooms, and STRs being a positive alternative to hotels for tourists, as reasons for their support and why the Ordinance should remain in place.

Additionally, current permit holders identified concerns about being unfairly punished for the actions of a few individuals who are not managing their STR well, or potentially operating an STR without City approvals. Requests were made from this group to improve City enforcement of the current Ordinance before considering revoking the allowance to operate an STR generally.

On November 17, 2015, the Planning Commission reviewed the proposed options to amend the STR Ordinance and provided recommendations to the City Council. A summary of this meeting and their recommendations are provided below.

### **DISCUSSION**

In addition to the information provided above, staff has identified elements which are pertinent to the review and discussion of the Ordinance. This information includes a summary of issues and concerns voiced regarding STR operations within St. Helena; what other communities are experiencing and doing in response to STR operations within their jurisdictions; the recent and on-going efforts by staff to improve implementation and enforcement of the current STR Ordinance and Code Enforcement generally; and some suggestions from staff as to how the current ordinance could be improved to better manage the 25 STRs units currently in operation. Fiscal impacts are also briefly discussed at the conclusion of this report.

Following the provision of this general information, staff poses a menu of options to decision makers with the goal of getting definitive direction on revision to the Ordinance. In addition, the unanswered questions from the June 2014, Council discussion are also posed for review and consideration by decision makers to further facilitate the review and direction on STR Ordinance revisions. Finally, staff has a list of recommended revisions to the Ordinance to improve and facilitate implementation and enforcement of the current requirements, should the Ordinance remain in place.

### **Neighborhood Impact**

The presence of an STR in a neighborhood has been identified as concerning to some residents who feel STRs present an impact to the community in general. This concern is supported by statements about the impacts of not knowing who is staying in the home, a lack of accountability that comes from knowing a neighbor and impacts to locally serving businesses. Separate from the broader issue, many citizen concerns (regarding STR operations) identify nuisance activities from STR tenants as a prominent issue.

In response to the concerns over nuisance, staff referred the list of STR permit holders to the St Helena Police Department (SHPD), requesting information on the number of calls-for-service and/or complaint calls for each property. Of the 22 STRs currently operating, 6 (or approximately 27-percent) had confirmed violations and/or disturbances which had occurred on their premises since 2012. The most violations/disturbances at any one of these suspected properties (since 2012) were 4 (see Attachment H).

Separate from the permitted STR units, staff keeps a list of potentially illegal STR operations, identified through citizen complaints, staff research and other anecdotal information. While this list is not public, staff did refer it to SRPD, asking for the same review of confirmed violations and disturbances. Of the 27 potentially illegal STRs in the list, 6 (or approximately 22-percent) had confirmed disturbances, a majority of which were noise complaints.

As identified, verified complaint data indicates that a majority of permit holders are respectful to their neighbors and obey the rules of the ordinance. The absence of significant numbers of complaints suggests that the short-term rental of permitted single-family dwellings has generally not created significant impacts on all residential neighborhoods where STRs are present and operate.

However, there are specific neighborhoods where a perceived concentration of STR operations has contributed to a feeling of impacts on the neighborhood. To help understand the concentration issue, a map of current permitted STR units is attached to this report (Attachment D). These impacts are generally categorized as a loss of community; one neighborhood having to carry an un-due burden from the number of STRs operating within concentrated areas and commercial activity occurring within residential zoning districts.

As mentioned, all individual comments on the STR issue have been compiled by staff and are attached to this report for review (Attachment C).

### **Short-Term Rentals in Other California Communities**

St. Helena is not alone in its attempts to address the emerging trend of residential properties rented on a short-term basis. Other destination communities in California (and across the nation) have dealt with the issue in a variety of ways. Some communities, including Calistoga, Yountville and the (un-incorporated) County of Napa, have adopted an out-right ban of all short-term rentals, while others such as the City of Healdsburg and City of Napa have allowed STRs in limited areas or with the issuance of a limited number short-term rental permits. Other cities, such as Santa Rosa have chosen to not adopt any specific regulations of STR activity.

The City of Napa has allowed STR operations since 2009, when they adopted an Ordinance allowing up to 41 STR permits to be issued (Ordinance updated in 2010). Recently (Nov. 3, 2015) the City passed a revised Short Term Rental Ordinance (Ordinance 02015-13) to allow an additional 60 "Hosted STR" permits to be issued. The result of these regulations is that there are 41 STR permits allowing STR operations where no resident is on site, and an additional 60 permits are to be issued to properties with an on-site resident. A copy of the Ordinance is attached to this report (Attachment E).

## Enforcement in Other California Communities

Enforcement of STR activity in the City of Napa has traditionally been conducted by Code Enforcement staff however an additional Code Enforcement position has been approved specifically to address the STR issue. This position will (in theory) be funded by the fees resulting from the increased number of STR permits being allowed. Lawsuits have also been utilized as an enforcement mechanism when violators are unresponsive to Code Enforcement activity.

A search of STR listing web-sites quickly identified over 100 STR rentals within the City of Napa.

The County of Napa prohibits STR operations in an effort to preserve the housing stock available in the unincorporated areas of the County. Enforcement of the prohibition is handled by the County Code Enforcement Division, and is primarily complaint driven with the primary focus on violations that threaten life and safety. According to the Napa Valley Register, the County has initiated 92 Code Enforcement cases against STR operators since 2008. Un-resolved Code Enforcement cases are forwarded to the District Attorney for prosecution as criminal violations, with the associated criminal penalties.

A brief search of STR booking websites identified numerous STR units being offered for rent in the County of Napa.

Similarly, the Town of Yountville currently prohibits STR activity through permissive zoning ordinance regulations however the Town plans to codify the prohibition through an Ordinance (scheduled for December 1, 2015, Council review). Enforcement of this prohibition and all other Code Enforcement is through the Planning Department. Interestingly, the Town recently initiated a Legislative Subpoena process to request booking records from three of the major STR booking websites. These subpoenas have been submitted however no responses have been received and no information has been provided from the websites as of the date of this report.

A brief website search for STR operations in Yountville identified approximately 30 rental units within the City of Yountville, however most of these identified a 30-day minimum rental was required.

Healdsburg allows the operation of STRs in the Commercial Downtown (CD) Zoning District only, with Use Permit approval. STR operations are otherwise completely prohibited. These regulations are intended to both support the tourism economy of Healdsburg, including visitor accommodations, as well as to protect the integrity of residential neighborhoods. Enforcement of the STR prohibition is by an Enforcement Officer working out of the Healdsburg Police Department who is dedicated to Code

Enforcement activity. The enforcement process is pursued as a criminal violation and is primarily complaint driven. However the Enforcement Officer does some active enforcement as time and workload permit. A brief internet search identified numerous STR units which appeared to be operating within the in City limits, but outside of the CD District. A brochure identifying the STR regulations for the City of Healdsburg can be found at:

<http://www.ci.healdsburg.ca.us/Search/Results?searchPhrase=Vacation>

Calistoga also prohibits all short-term rental operations. In 2008, their City Council provided direction not to allow commercial activity in residential neighborhoods and enforcement of the STR prohibition has been consistently pursued since (municipal code revisions have recently been made making the prohibition more definitive). Justification for the prohibition has been expressed as to protect existing visitor accommodations (hotels and Bed and Breakfasts), as well as to preserve the housing stock of the community. Additional justification to support the prohibition was expressed as an effort to minimize impacts to residents from noise and traffic. Calistoga has relied on the Napa County District Attorney's office to pursue two blatant and aggressive violators through sting operations. One of these cases resulted in criminal penalties being assessed and the other is still under way. Generally speaking, it was characterized that these issues are not high priority cases for law enforcement.

Verification of violations has been a challenge and Calistoga City staff is heavily reliant on resident and neighbor input to help regulate these issues. A brief internet search for Vacation Rentals in Calistoga quickly identified numerous STR operations within the Calistoga City boundary.

San Francisco passed an amended Ordinance to regulate STR activity on July 14, 2015, after creating the new Office of Short-Term Rental Administration and Enforcement. The City allows STR activities after individual STR units are registered with the City. A recent ballot initiative attempting to modify the regulations to further limit STR activity (Measure F) through additional regulations and allowing for private lawsuits by "interested parties", was recently defeated by a vote of the City residents. Currently, enforcement of the STR requirements is handled by the Planning Department. On June 30, the San Francisco Planning Department issued 15 violation letters for approximately 70 units. The alleged violations include renting units with no primary resident and multiple units in large apartment buildings solely used as vacation rentals.

However, at a recent San Francisco Board of Supervisors meeting, the head of this newly created department acknowledged they are unable to fully enforce the regulations given the ease with which STR activity can be facilitated by the number of various web sites dedicated to STR activity.

## Summary

Staff has provided the information above to identify that the challenges posed by STR operations are not unique to St Helena. STR operations occur in almost every community, and the approach to addressing their operations is as varied as the communities they operate in. Some communities chose to completely prohibit STRs, while others have chosen to allow STR operations as an un-regulated land use. Other communities, similarly to St Helena, have chosen to allow a limited number of STR permits, with some jurisdictions directing portions of the revenue received directly to fund enforcement of their adopted STR regulations. Interestingly, most communities who prohibit them identified supporting their existing hotels and Bed and Breakfasts as part of the justification for prohibiting STR activities.

In general, STR operations occur in communities where they are allowed to occur and in communities where they are prohibited. In every instance, the enforcement of STR regulations is costly and requires significant staff resources. Staff found no instance where a prohibition on STR operations eliminated all STR activity in a community.

## Enforcement Improvements

Planning and Community Improvement Department staff has recently begun working on improving the Code Enforcement process within the City. Specifically, staff has begun coordination with the Public Works Department, the City Attorney's Office and the St. Helena Police Department to identify the enforcement needs for each department, and to identify the challenges facing enforcement for each Department. An update to the Code Enforcement procedures manual has been drafted and is under review by the attorneys' office. This update should clarify the enforcement process for each department. Additionally, staff has asked the City Attorney's office to work to improve the citation and enforcement regulations currently governing the Police Department's ticket writing and penalty enforcement.

Separate from these general improvements currently underway, staff has also initiated efforts to improve enforcement of the STR Ordinance specifically. These efforts include entering into a contract with Municipal Services to help identify un-permitted violators of the Ordinance and to audit all parties responsible for payment of TOT (and interest) to the City. Finally, the City has initiated legal action against 2 known violators of the STR ordinance, and will continue to do so as directed by the City Council. Enforcement includes payment of TOT and interest as well as potential payment of civil penalties negotiated on a case-by-case basis.

## Menu of Options

After the last review of the STR Ordinance (June 2014), staff was directed to bring the Ordinance back to the City Council in approximately one year to finalize a response to a number of questions deferred during that review. Specifically, the deferred questions were whether to:

1. Should the City increase the number of permits available;
2. Add a use it or lose it provision;
3. Adjust the 30% of neighboring residents (within 300') having filed complaints threshold for elevating the decision to require Planning Commission approval; and
4. Whether the permits shall run in perpetuity as long as the permit holder is not in violation of any of the terms of the ordinance.

Based on staff's experience administering the short-term rental ordinance since the last revisions were made, as well as feedback received from the public (including at the Town Hall meeting), before answering the remaining questions (above) staff finds it more appropriate to broaden the discussion to first request direction on whether to: repeal the STR Ordinance in its entirety and prohibit STR activity in St Helena; make improvements to the existing regulations and enforcement process to address identified concerns; or to increase the number of permits available.

In an effort to improve efficiency, staff requests general direction on these broader questions before focusing time on addressing the previously un-answered elements of the Ordinance itself. To facilitate the discussion on these questions, staff has provided a brief discussion of the potential impacts of choosing one of the options provided.

1. Repeal the Short-Term Rental Ordinance in its entirety, eliminating all Short-Term Rental permits within the City of St. Helena.

Because STR permits are issued with a two-year approval time frame, if the Ordinance was completely repealed, those with STR permits would be permitted to continue STR operations until their permits expired. Based on the experiences of other communities, the desirability of St. Helena as a destination and the limited choices for visitor accommodations, STR operations are likely to continue throughout the City even if they are prohibited.

Further, current STR permit holders provide approximately \$144,000 in General Fund revenue through payment of TOTs. If STR operations are prohibited, the prohibition will create a direct budget impact with no identified mechanism to back-fill the loss. In addition, code enforcement expenditures would likely increase as there would be no legal mechanism to facilitate the identified demand for STR accommodations. Essentially the evidence shows these uses would continue but

would be pushed into the "underground economy" where the City realizes no financial benefits, but is forced to expend more resources to enforce the prohibition.

2. Make minor revisions to the Ordinance and improve enforcement mechanisms, allow time for these improvements to be enacted and properly enforced and review the Ordinance again in a short time to see if the community impacts are lessened.

Since the Ordinance was originally adopted in 2012, the City has seen significant turn-over in staff at all levels. Having a large percentage of City employees newly hired or interim, has made consistent enforcement of City regulations challenging. Code Enforcement is challenging in any community and workload impacts on a small staff are only compounded by this staff being relatively new in their positions. Currently, all City staff involved with STR enforcement are permanent in their positions and most are beginning to build some institutional knowledge.

Input received from individuals speaking at the September Town Hall meeting identified enforcement as a primary issue and challenge. Comments from citizens in favor of keeping the Ordinance, as well as those opposed, both identified one of the biggest problems was a lack of adequate enforcement of existing requirements and regulations. Making modifications to the regulatory elements of enforcement Citywide, combined with the recent stability in City staff, may provide a more informed image of the effectiveness of the existing Ordinance, and the impacts of STR units in general if additional time to actively and effectively enact these regulations is provided.

However, even with these changes and the institutional knowledge staff is beginning to build, enforcement of the STR Ordinance will continue to be a challenge for staff given the nature of code enforcement, the limited numbers of staff and the need to balance other priorities and requirements.

3. Increase the number of permit holders through more STR permits or the creation of a new type of permit for owner/resident occupied properties only.

As identified above, some communities have recently chosen to increase the number of STR permits and/or units within their jurisdictions. Several have also utilized the additional funding received from these units to improve enforcement of their STR regulations. Many comments opposing STR operations stated that the presence of empty houses with un-accountable property owners is one of the biggest impacts felt by residents concerned with the STR land use. A choice to increase the number of permits could include creation of a new type of owner/resident occupied STR permit, similar to the expansion allowed by the City of Napa. This new type of permit could in theory allow an expansion of the use, while also addressing the impacts voiced by residents in neighborhoods where un-occupied STR units exist.

### **ORDINANCE REVISIONS**

Based on staff's experience administering the STR Ordinance and separate from the menu of options provided above, if the STR Ordinance is to remain in place, staff recommends the following revisions to the Ordinance in order to make administration of the process and requirements more efficient, effective and enforceable (an underline / ~~strikethrough~~ version with these changes is attached to this report as Attachment A):

1. Remove Section 17.134.040(I) as it is difficult for staff to adequately monitor. Rather than requiring the STR permit holder to provide this information, Staff proposes to require the permit holder to provide it to the Department, and allow City staff to post much the information online and make it available at City Hall. This ensures staff can verify the information is readily available to the Community.
2. Remove Section 17.134.050(D)(3). This provision is difficult to enforce and provides no performance measures (i.e., size, location, content, etc.) for the required sign. Staff finds that the direct notification process is more effective in requesting citizen input into the process and proposes to include this information in a notice to all residents within 300-feet, rather than requiring the applicant to put a sign with this information onsite. Currently only property owners are noticed.
3. Amend Section 17.134.060(C) to formalize the waiting list process and postpone review of STR applications until an opening is available. Going through the application review process when no permits are available (as is currently required by the Ordinance) is not an effective use of staff's time. Staff would like the waiting list to be by a first-come first-served request (which is the current "waiting list" practice) and an application will only be accepted and processed when a permit becomes available. These proposed revisions simply codify current practice.
3. Remove Section 17.134.060(E). This is a redundant provision as all neighboring properties will have been notified during the Notice of Application period and of any subsequent public hearing; the contact person's information will be on the City's website; and the current language defers the determination as to the most appropriate form of notification to the Director. Similar to other proposed revisions, this puts the notification responsibility onto City staff, but also allows staff more control of the process.
4. There is currently no administrative policy on renewals in the Ordinance. The current renewal process was informally created based on direction from the City Council. As such, staff recommends a renewal provision be added to the Ordinance and a draft administrative renewal process is included in the attached underline / ~~strikethrough~~ version of the Ordinance.

These changes are seen as necessary by staff to improve the current STR Ordinance and review and processing procedures, should the STR Ordinance remain in place. Depending of the direction received from the City Council, additional revisions to the Ordinance will be made and brought back before the Commission and City Council for final review and adoption.

### **Conclusion**

In Summary, staff has identified that the STR experience in St. Helena is similar to the impacts and discussions being felt in multiple communities across the state. These communities have chosen a variety of ways to address the issue, from a complete prohibition of the use, to a limited number of STR permits to no regulations at all. Each of these approaches has its costs and benefits. The current STR permit holders provide approximately \$144,000, in TOT to the City's General Fund, or approximately 1.44 percent of the General Fund budget. Staff is continuing to make improvements to the Code Enforcement procedures and processes within the City, including on-going work with Municipal Services and the City Attorney's Office and plans to bring some of these revisions before decision makers for formal adoption (as needed) in the coming months.

Based on all of these elements, staff has proposed three options for review and direction before moving to formally revise the Ordinance based on the provided direction. However, some challenges with the current STR Ordinance have been identified and recommended for change, should STRs remain a conditionally permitted land use.

### **FISCAL IMPACT**

According to the Finance Department, the 25 STR permit holders contributed approximately \$144,053.53, in Transit Occupancy Tax revenue to the City in fiscal year 2014/2015 (or approximately 1.44% of the City General Fund Budget). Any reduction of permitted STR units would be a direct reduction in General Fund revenue.

### **PLANNING COMMISSION REVIEW**

On November 17, 2015, the Planning Commission reviewed the staff report and heard public comments on the STR Ordinance at a publically noticed hearing. To supplement the presentation by Planning Department staff, Sgt. Fleming of the St. Helena Police Department (SHPD) presented briefly on the calls-for-service data provided to the Commission. Sgt. Fleming confirmed that the maximum number of calls for service/complains received by the SHPD for any of the STR addresses was 4 since 2012. Additionally, Sgt. Fleming was able to answer citizen and Commission questions regarding how comments are logged and responded to.

After reviewing the material provided by staff and considering the public testimony on the issue, the Commission voted unanimously to support Option 2 above. Specifically,

Option 2 directs staff to make revisions to the Ordinance and improve enforcement mechanisms, allow time for these improvements to be enacted and properly enforced and review the Ordinance again to see if the community impacts are lessened.

Although the Commission discussion was varied and many individual comments were made on the STR issue, the Commission as a whole, identified four specific elements that should be considered with the proposed Ordinance revisions. These recommended elements are listed below for Council consideration.

1. Explore ways to increase owner involvement in STR operations, including possibly limiting STR operators to St. Helena residents only.
2. Explore methods to improve enforcement of the STR regulations on permitted and un-permitted STR operations, including potentially dedicating portion of TOT funds to STR enforcement.
3. Explore methods to minimize clustering of STRs within neighborhoods or close proximity to other STR operations.
4. Improve methods and process for revoking problematic STR permits.

In reviewing the STR Ordinance, the Commission also requested more prescriptive standards be created for measuring STR performance and permit review, should the Ordinance remain in place. Further the Commission also requested that documented and verified un-permitted operation of an STR, result in an automatic prohibition of issuance of an STR permit.

#### **RECOMMENDED ACTION**

Staff recommends that the City Council review and discuss the proposed options for revisions to the STR Ordinance and provide direction on any recommended revisions to SHMC Chapter 17.134, Short-Term Rentals to City staff for incorporation into the STR Ordinance (as appropriate).

#### **ATTACHMENTS**

- A) Modified Draft St. Helena Municipal Code ("SHMC") Chapter 17.134, Short-term Rentals.
- B) Summary of Public Comments from STR Town Hall Meeting
- C) Comment Letters submitted to staff on the STR Ordinance
- D) STR Location Map and Address List
- E) City of Napa STR Ordinance
- F) November 17, 2015, Planning Commission Meeting Minutes-Draft
- G) Fiscal Year 15/16 TOT Revenue Report
- H) SHPD Complaint Log Information on STR Locations

**Chapter 17.134  
SHORT-TERM RENTALS**

Sections:

- 17.134.010 Purpose and findings.**
- 17.134.020 Short-term rental permit required.**
- 17.134.030 Districts in which permitted.**
- 17.134.040 Restrictions and standards.**
- 17.134.050 Procedures for application and public notice.**
- 17.134.060 Permit processing.**
- 17.134.065 Renewals.**
- 17.134.070 Appeals.**
- 17.134.080 Inspections.**
- 17.134.090 Revocation.**
- 17.134.100 Violations, enforcement and civil penalties.**

**17.134.010 Purpose and findings.**

- A. The city council hereby finds that unregulated transient occupancy uses in residential and agricultural district present a threat to the public welfare.
- B. The purposes of this chapter are to establish a permitting process and appropriate restrictions and standards for short-term rental of single-family dwellings; to provide a visitor experience and accommodation as an alternative to the hotel, motel, and bed and breakfast accommodations currently existing in the city; to ensure the collection and payment of transient occupancy taxes; to minimize the negative secondary effects of short-term rental use on surrounding residential neighborhoods; and to retain the character of the neighborhoods in which any such use occurs.
- C. This chapter is not intended to regulate hotels and bed and breakfast inns that do not qualify as short-term rentals.
- D. This chapter is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.
- E. The city council hereby finds that the adoption of a comprehensive ordinance regulating the issuance of and operating conditions attached to short-term rental permits is necessary to protect

the public health, safety and welfare. The purposes of this chapter are: to provide a permit system and to impose operational requirements in order to minimize the potential adverse impacts of transient uses in residential neighborhoods and zoning districts on traffic, noise and density; to ensure the health, safety and welfare of renters and guests patronizing short-term rentals; to impose limitations on the total number of permits issued in order to ensure the long-term availability of the affordable housing stock; and to provide for robust enforcement remedies and penalties to prevent and deter violations of this chapter and unjust enrichment by those who violate this chapter.

F. The city council hereby finds that the city's regulation of short-term rental uses in accordance with this chapter, including the establishment of the nontransferability provisions, is a valid exercise of the city's police power in furtherance of the legitimate governmental interests documented in this chapter. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

**17.134.020 Short-term rental permit required.**

No person shall use or maintain, nor shall any person authorize, aid, facilitate or advertise the use of, any single-family dwelling on any parcel in any zoning district for short-term rental without a short-term rental permit. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

**17.134.030 Districts in which permitted.**

Short-term rentals shall be permitted in accordance with the provisions established in each zoning district and as provided in this chapter. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

**17.134.040 Restrictions and standards.**

Short-term rentals shall be subject to the following restrictions and standards:

- A. The short-term rental use shall be permitted in no more than one single-family dwelling per lot.
- B. The short-term rental permit shall be in the name of the owner-applicant, who shall be an owner of the real property upon which the short-term rental use is to be permitted. One person may hold no more than one short-term rental permit. The permit shall not be transferable.
- C. Short-term rental uses shall be limited to single-family dwellings existing and constructed as of the date of application for the short-term rental permit.
- D. The total number of permits for short-term rental dwellings shall not exceed twenty-five (25) at any time.
- E. The maximum number of bedrooms used for short-term rental use in the short-term rental dwelling shall be no greater than five. The total number of guests staying in the short-term rental dwelling at any one time shall be no greater than two times the number of bedrooms plus two persons, up to a maximum of twelve (12) persons.
- F. Short-term rental dwellings shall meet all applicable building, health, fire and related safety codes at all times and shall be inspected by the fire department before any short-term rental activity can occur.
- G. A minimum of two on-site parking spaces shall be provided for use by the short-term rental occupants.
- H. The owner-applicant shall keep on file with the city the name, telephone number, cell phone number, and e-mail address of a local contact person who shall be responsible for responding to

questions or concerns regarding the operation of the short-term rental. This information shall be posted in a conspicuous location within the short-term rental dwelling. The local contact person shall be available twenty-four (24) hours a day to accept telephone calls and respond physically to the short-term rental within thirty (30) minutes when the short-term rental is rented and occupied. The city shall post the name and contact information of the local contact person associated with each short-term rental on the city's webpage.

I. The owner-applicant shall post "house policies" within each guest bedroom. The house policies shall be included in the rental agreement, which must be signed by the renter and shall be enforced by the owner-applicant or the owner-applicant's designated contact person. The house policies at a minimum shall include the following provisions:

1. Quiet hours shall be maintained from ten p.m. to seven a.m., during which noise within or outside the short-term rental dwelling shall not disturb anyone on a neighboring property.
2. Amplified sound that is audible beyond the property boundaries of the short-term rental dwelling is prohibited.
3. Except as permitted by the planning director, vehicles shall be parked in the designated on-site parking area and shall not be parked on the street overnight.
4. Parties or group gatherings which exceed the maximum number of allowed guests and/or 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.

J. Auctions, weddings, 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.

K. The owner-applicant shall ensure that the occupants and/or guests of the short-term rental use do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs or be subject to fines and penalties levied by the city up to and including revocation of the short-term rental permit.

L. The owner-applicant, upon notification that occupants and/or guests of his or her short-term rental use have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this code or state law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, shall prevent a recurrence of such conduct by those occupants or guests or be subject to fines and penalties levied by the city up to and including revocation of the short-term rental permit.

M. All advertising for any short-term rental, including electronic advertising on short-term rental websites, shall include the number of the short-term rental permit granted to the owner-applicant.

N. The owner-applicant shall maintain city business licenses and pay all transient occupancy taxes in accordance with Chapter 3.28 as required.

O. Preference for the review and issuance of new short-term rental permits shall be given to

current residents of St. Helena over nonresident applicants. Applicants whose primary residence is within the city of St. Helena shall be reviewed and acted on ahead of other nonresident applications to implement the local preference policy for short-term rental permits.

P. Applicants for short-term rental permits are required to have owned their homes for a minimum of three years prior to applying for and being issued a short-term rental permit.

Q. Short-term rental permit holders are required to rent their properties on a short-term basis a minimum (average) of sixty (60) days per year. Individual permit holders who do not meet this minimum rental activity may (at the determination of the director) have their renewal denied and/or reviewed by the planning commission at a noticed public hearing. Short-term rental permit holders who utilize their primary residence for short-term rental activities are exempted from this requirement. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

**17.134.050 Procedures for application and public notice.**

A. Prospective owner-applicants of a short-term rental use shall apply for a permit with the planning director in accordance with the provisions of this chapter and on a form provided by the city.

B. The application shall be accompanied by a fee in an amount to be fixed from time to time by resolution to cover the administrative costs of issuing a short-term rental permit and, but not limited to, inspecting the short-term rental dwelling.

C. The application shall include the following information:

1. The name, address and phone number of the applicant, and verification that the applicant is the owner of the property.
2. The assessor's parcel number of the lot on which the short-term rental use is proposed.
3. Certification that the permit will be nontransferable.
4. Certification that the local contact person is available twenty-four (24) hours a day to accept telephone calls and respond physically to the short-term rental within thirty (30) minutes when the short-term rental is rented and occupied.
5. A site and floor plan identifying the location of parking on the site and the location of any bedrooms to be used for short-term rental use.
6. A list of the names and addresses of the property owners within a three hundred (300) foot distance from the lot on which the short-term rental use is proposed, and a map, drawn to scale, that clearly identifies the lots and the assessor parcel numbers of the lots identified pursuant to this section.
7. Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a short-term rental use.
8. Additional information as may be requested by the planning director to determine impact and mitigation measures.

D. Notice of Application.

1. The planning director shall provide a notice of application for a short-term rental permit to the property owners and residents located within a three hundred (300) foot distance from the lot on which the short-term rental use is proposed.
2. The notice of application shall contain a description of the proposed short-term rental operation, parking on the site, and number of bedrooms to be used for short-term rental use, together with a location map identifying the short-term rental dwelling lot in relationship to all other lots within a three hundred (300) foot distance.
3. The notice of application shall state that the noticed owners may file a written protest against the proposed short-term rental use with the planning director; provided, that all protests must be postmarked or received within thirty (30) days of the mailing of the notice of application. (Ord. 16-9 § 1 (Exh. A) (part): Ord. 12-2 § 8 (part))

**17.134.060 Permit processing.**

A. Short-term rental permit applications shall be submitted to the planning commission at a noticed public hearing pursuant to the requirements of this chapter.

The planning commission shall review and either approve or deny the application pursuant to the requirements of this chapter after considering the effects the proposed use would have on surrounding uses and the cumulative impacts within the community. In approving a short-term rental (STR) application, the planning commission must make the following findings:

1. The establishment of a short-term rental at the subject property is consistent with the purpose of the general plan, including policies regarding the displacement of rental units in the housing stock.
2. The establishment of a short-term rental at the subject property will not be detrimental to a building, structure or feature of significant aesthetic, cultural, architectural or engineering interest or value of a historical nature.
3. The establishment of a short-term rental at the project site is compatible with and will not be detrimental to the character of the neighborhood and surrounding land uses.
4. The establishment of a short-term rental at the project site will provide an enhanced visitor experience and accommodation as an alternative to the hotel, motel, and bed and breakfast accommodations currently existing in the city and will help to ensure the collection and payment of transient occupancy taxes.

C. If no short-term rental permits are available pursuant to the limitation on short-term rentals described in Section 17.134.040(D), the planning director shall place interested property owners on a waiting list in the order in which they were received. If a permit becomes available, applications shall be accepted and reviewed in the order that they are listed on the waiting list, subject to the local preference policy established in Section 17.134.040(P).

D. The planning director or planning commission may impose conditions on the granting of an application for a short-term rental permit to mitigate the impacts of the proposed land use.

E. Short-term rental permits shall be valid for a period of two years. In reviewing subsequent requests for a short-term rental permit, the planning director shall require evidence of compliance

with conditions of the short-term rental permit and this chapter. No subsequent permit shall be approved without written verification of tax payments, and no permit shall be approved if the operation of the short-term rental has created adverse impacts on the neighborhood in which it is situated or has otherwise caused the loss of the character of that neighborhood.

F. Substantial evidence identifying operation of an unpermitted short-term rental within the city of St. Helena shall prohibit approval and/or issuance of a short-term rental permit to the property owner and/or agent conducting the unpermitted rental activity.

G. Short-term rental permits shall be subject to any changes to this chapter that the city council may make and conditions that the council may impose subsequent to the issuance of the permit. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

#### **17.134.065 Renewals.**

A. A minimum of thirty (30) days prior to the expiration of a current short-term rental permit, the permit holder shall submit a short-term rental permit renewal application and pay applicable fees to the city.

B. Upon receipt of a renewal application, the planning department will confirm with the finance department that the applicant's business license is current and that all required transient occupancy taxes (TOT) have been reported and paid (see Chapter 5.08 for addressing lack of payment/business license).

C. The planning department will refer the application to the St. Helena police department to request all police calls for services and/or complaints lodged against the property over the course of the two-year permit.

D. If the permit holder has a current business license, has rented their property on a short-term basis for an average of sixty (60) days per year (as applicable), has been properly reporting and paying TOT, and has fewer than three STR related complaints filed over the two years, the planning department may administratively approve the renewal which shall be good for an additional two years. If all of these provisions are not met, the renewal shall be referred to the planning commission for action at a public hearing. The planning department also has discretion to refer the renewal application to the planning commission for a decision pursuant to the process and standards set forth in Section 17.134.060.

E. The planning director may deny the renewal if the applicant has violated any provision of this chapter. (Ord. 16-9 § 1 (Exh. A) (part))

#### **17.134.070 Appeals.**

Any person whose application for a short-term rental permit (including a renewal application) has been denied by the planning director, or whose permit has been suspended or revoked by the planning director, may appeal to the city council pursuant to Section 17.08.180. The appeal shall be accompanied by a filing fee, if any, as established by city council resolution. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

#### **17.134.080 Inspections.**

A. The planning director or his or her designee shall have the right to enter upon any property at any reasonable time to make inspections and examinations for the purpose of enforcement of this chapter, subject to the provisions of Code of Civil Procedure Section 1822.50 et seq.

B. The fire department shall annually inspect the short-term rental dwelling.

C. The planning director shall have the right to inspect any records related to the use and occupancy of the short-term rental to determine that the objectives and conditions of this chapter are being fulfilled. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

**17.134.090 Revocation.**

A. The planning director may revoke a short-term rental permit pursuant to Section 17.04.140 if the planning director determines that:

1. The owner-applicant gave false or misleading information during the application process;
2. There has been a violation of any of the terms, conditions and restrictions on the use of the dwelling unit for short-term rental use;
3. The owner-applicant has violated any provision of this chapter;
4. The owner-applicant has failed to timely pay the transient occupancy tax as required by this code.

B. If an owner-applicant's short-term rental permit is revoked, the owner-applicant may not reapply for another permit for two years after the date of revocation. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))

**17.134.100 Violations, enforcement and civil penalties.**

A. Any property owner or responsible person who uses, or allows the use of, or advertises or causes to be printed, published, advertised or disseminated in any way, the availability of residential property in violation of this chapter is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this chapter. Such violation shall be punishable pursuant to Chapter 1.20. For purposes of this chapter, "responsible person" shall mean and include any manager or other person responsible for allowing property to be used for short-term rental in violation of this chapter.

B. Short-term rental use, and/or advertisement for use, of a residential property in violation of this chapter is a threat to public health, safety or welfare and is thus declared to be unlawful and a public nuisance. Any such nuisance may be abated and/or restored by the enforcement official and also may be abated pursuant to Chapter 1.12, except that the civil penalty for a violation shall be one thousand dollars (\$1,000.00). Each day the violation occurs shall constitute a separate offense.

C. Any property owner or responsible person who violates this chapter shall be liable and responsible for a civil penalty of one thousand dollars (\$1,000.00) per violation per day such violation occurs. The city may recover such civil penalty by either civil action or administrative citation. Such penalty shall be in addition to all other costs incurred by the city, including without limitation the city's staff time, investigation expenses and attorney's fees.

1. Where the city proceeds by civil action, the court shall have discretion to reduce the civil penalty based upon evidence presented by the property owner or responsible person that such a reduction is warranted by mitigating factors including, without limitation, lack of culpability and/or inability to pay. Provided, however, that in exercising its discretion the court should consider the purpose of this chapter to prevent and deter violations and whether the reduction

of civil penalties will frustrate that purpose by resulting in the property owner's or responsible person's enrichment or profit as a result of the violation of this chapter. In any such civil action the city also may abate and/or enjoin any violation of this chapter.

2. Where the city proceeds by administrative citation, the city shall provide the property owner or responsible person notice of the right to request an administrative hearing to challenge the citation and penalty, and the time for requesting that hearing.

a. The property owner or responsible person shall have the right to request the administrative hearing within forty-five (45) days of the issuance of the administrative citation and imposition of the civil penalty. To request such a hearing, the property owner or responsible person shall notify the city clerk in writing within forty-five (45) days of the issuance of the citation. The appeal notification shall include all specific facts, circumstances and arguments upon which the appeal is based.

b. The city manager is hereby authorized to designate a hearing officer to hear such appeal. The city hearing officer shall conduct a hearing on the appeal within ninety (90) days of the request for the hearing unless one of the parties requests a continuance for good cause. The hearing officer shall only consider those facts, circumstances or arguments that the property owner or responsible person has presented in the appeal notification.

c. The hearing officer shall render a decision in writing within thirty (30) days of the conclusion of the hearing. The hearing officer shall have discretion to reduce the civil penalty based upon evidence presented by the property owner or responsible person that such a reduction is warranted by mitigating factors including, without limitation, lack of culpability and/or inability to pay. Provided, however, that in exercising its discretion the hearing officer should consider the purpose of this chapter to prevent and deter violations and whether the reduction of civil penalties will frustrate that purpose by resulting in the property owner's or responsible person's enrichment or profit as a result of the violation of this chapter.

d. Any aggrieved party to the hearing officer's decision on the administrative appeal may obtain review of the decision by filing a petition for writ of mandate with the Napa County superior court in accordance with the timelines and provisions set forth in Government Code Section 53069.4.

e. If, following an administrative hearing, appeal, or other final determination, the owner of the property is determined to be the responsible person for the civil penalty imposed by this section, such penalty, if unpaid within forty-five (45) days of the notice of the final determination, shall become a lien to be recorded against the property on which the violation occurred pursuant to Chapter 1.12. Such costs shall be collected in the same manner as county taxes, and thereafter the property upon which they are a lien shall be sold in the same manner as property now is sold for delinquent taxes.

D. Any violation of this chapter may also be abated and/or restored by the enforcement official and also may be abated pursuant to Chapter 1.12, except that the civil penalty under Chapter 1.12 for a violation shall be one thousand dollars (\$1,000.00).

- E. Each day the violation of this chapter occurs shall constitute a separate offense.
- F. Any property owner who uses, or allows the use of, residential property as a short-term rental without a permit shall be liable for the transit occupancy tax that would have been owed under Chapter 3.28 had the use been legal, including the penalty and interest provisions of Section 3.28.070.
- G. The remedies under this chapter are cumulative and in addition to any and all other remedies available at law and equity. (Ord. 16-9 § 1 (Exh. A) (part); Ord. 12-2 § 8 (part))



The St. Helena Municipal Code is current through Ordinance 2016-9, passed May 10, 2016.

Disclaimer: The City Clerk's Office has the official version of the St. Helena Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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