



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: March 3, 2020

TO: Mayor and Councilmembers

FROM: City Attorney's Office

SUBJECT: Interim Ordinance To Declare Existing Law On Short-term Rentals In Residential Zones

RECOMMENDATION:

That Council adopt, by reading in full, and by a four-fifths vote, an Interim Urgency Ordinance of the Council of the City of Santa Barbara to Declare Existing Law By Amending Santa Barbara Municipal Code Section 30.295.040 P. Pertaining to the Definition of Hotels and Similar Uses.

DISCUSSION:

The City continues to face litigation related to short-term rentals in residential zones. This litigation is costly, and in at least one instance, clearly without merit. As Council knows, since at least 1983, the City has regulated short-term rentals in residential zones. While that concern originated with what we called "bed and breakfast inns" before the advent of the World Wide Web, the City's regulations have been consistently interpreted and applied to regulate all short-term rentals in specified residential zones, regardless whether they are marketed via print media, face-to-face, or online as is prevalent today. The advertising medium should be irrelevant to interpretation of the City's laws. In other words, the advent of internet-facilitated short-term rental platforms such as Airbnb and VRBO has not resulted in a change in the Santa Barbara Municipal Code or its consistent interpretation by the Council and staff charged with its enforcement.

Most recently, one litigant has argued that rental of a single family home for less than 30 days does not constitute a "hotel" use, and upon that basis a trial court has denied the City summary adjudication on the issue. We believe this ruling to be erroneous. However, litigating the issue at trial will result in significant and unnecessary expense and uncertainty.

The City has an overriding municipal affairs interest in planning and regulating the development of property within the City in order to maintain and improve the quality of urban life and the character of the City's neighborhoods. Without stable, well-planned neighborhoods, residential sections of the City can quickly deteriorate, with detrimental consequences to social, environmental, and economic values. It is the intent of the City Council to assure that residential neighborhoods remain well-planned and that the residents maintain a high quality of life. One means of assuring these goals and interests has been to closely regulate commercial transient uses in residential neighborhoods.

Since at least 1983, the City's Municipal Code and Zoning Ordinance have consistently defined the term "hotel" to include all temporary abiding places of individuals for less than thirty (30) consecutive days, "including, but not limited to" auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses. These regulations have applied consistently both within the City's Coastal Zone and inland. Also, since 1983, short-term rentals for residential use of any kind have been regulated by the City as hotels. For this reason, the consistent administrative interpretation of the City agencies charged with enforcement of the Zoning Ordinance, including the City Council, Community Development Department and City Attorney, has been that short-term rentals for residential use are hotels, and therefore unlawful uses except in zones expressly permitting hotels and similar uses.

To eliminate the uncertainty resulting from the current litigation and preserve the City's current and long-standing interpretation, it is appropriate that the Council find, determine, and declare that the interpretation of the definition of and restriction on the location of hotels under Title 28, which previously applied citywide but which now applies only in the Coastal Zone, and the interpretation of the definition of and restriction on location of hotels under Title 30, which now applies inland of the Coastal Zone, are intended to be consistent with each other.

In conclusion, we believe the Council can address this issue by urgency legislation which is declaratory of existing law. The accompanying ordinance offers a very simple amendment to the definition of "Hotels and Similar Uses" as follows:

"P. Hotels and Similar Uses. Establishments providing overnight accommodations to transient patrons for payment. This classification includes establishments that offer accommodations for periods of 30 consecutive calendar days or less. Establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This use classification includes, but is not limited to, auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, timeshare projects, short term rental or similar use of single or multi-unit residential dwellings, and tourist courts, ~~but does not include rooming houses, boarding houses, or private residential clubs.~~"

The proposed ordinance goes on to state that it is declaratory of existing law. This approach is often used by legislative bodies to give interpretive guidance to the courts and others. The effect of such a declaration and the urgency code amendment will be to “moot,” or silence, the unusual claim that the City has been misreading its own code since 1983. The proposed ordinance also makes legislative findings consistent with this report.

PREPARED BY: Ariel Calonne, City Attorney

SUBMITTED BY: Ariel Calonne, City Attorney

APPROVED BY: City Administrator's Office