



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19213 HEARING DATE AUGUST 7, 2014

Project Name: **Amendments Relating to Short-Term Rentals**
Case Number: 2014.0707T [Board File No. 140381]
Initiated by: Supervisor David Chiu/ Introduced April 15, 2014
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Recommendation: **Recommend Approval with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE CODE TO PROVIDE AN EXCEPTION FOR PERMANENT RESIDENTS TO THE PROHIBITION ON SHORT-TERM RESIDENTIAL RENTALS UNDER CERTAIN CONDITIONS; TO CREATE PROCEDURES, INCLUDING A REGISTRY ADMINISTERED BY THE DEPARTMENT OF BUILDING INSPECTION, FOR TRACKING SHORT-TERM RESIDENTIAL RENTALS AND COMPLIANCE; TO ESTABLISH AN APPLICATION FEE FOR THE REGISTRY; AMENDING THE PLANNING CODE TO CLARIFY THAT SHORT-TERM RESIDENTIAL RENTALS SHALL NOT CHANGE A UNIT'S TYPE AS RESIDENTIAL; AND MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on April 15, 2014, Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140381, which would amend the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Department of Building Inspection, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; and amend the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential.

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on August 7, 2014; and,

WHEREAS, the proposed Ordinance has been determined not to be a project under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance.

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

The proposed modifications recommended by the Planning Commission include:

1. Place short-term rental controls in the Planning Code so that the Planning Department is the agency responsible for enforcing on short-term rentals.
2. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.
3. Require any short-term rental platform or company doing business in San Francisco to provide information on the number of nights a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.
4. Identify units that are on the proposed short-term registry in the Department's Property Information Map.
5. Amend the Ordinance so that a posting on a short-term rental site without first registering with the City constitutes a violation that can be assessed a penalty, even if the unit was not rented.
6. Require the registration number from the City-run registry to accompany all short-term rental postings.
7. Grant citation authority to the Planning Department if it is chosen to be the enforcement agency for short-term rentals, and provide for increased penalties for repeat violators.
8. Limit hosted rentals by nights rented, similar to the restrictions placed on non-hosted rentals, or by limiting the number of rooms that can be rented at any one time.
9. Limit single-family homes to the same restrictions as multi-unit buildings.
10. Require the property owner's consent in tenant occupied units and/or a 30-day notification by the Department to the owner prior to listing a unit on the short-term rental registry.
11. Prohibit SROs from being used as short-term rentals.
12. If the Planning Department is chosen as the enforcement agency, provide increased funding to the Planning Department for more enforcement staff to monitor short-term rentals.
13. Consider placing limits on allowing BMR (Below Market Rate) units to be used as short-term rentals.
14. Require the Planning Department to maintain a list of registered hosting platforms.
15. Prohibit units with outstanding Planning or Building Code violations from being listed on the short-term rental registry until those violations have been abated.
16. Conduct further investigation into the insurance requirements for short-term rental hosts.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission believes that short-term rentals need to be regulated in order to preserve the City's housing stock, reduce negative effects on affordable housing, and to protect the livability of residential neighborhoods. The City's current regulations are no longer sufficient to address this new technology and its associated effects, and if this industry remains unregulated, the Commission believes that the City will continue to lose permanent housing.
2. The Commission finds that the Planning Department should be the agency in charge of monitoring and enforcing on short-term rentals because this is essentially a land use issue and the Planning Department is the City agency responsible for regulating land use.
3. As drafted, the Commission finds that the proposed Ordinance does not have a meaningful enforcement mechanism. Currently to participate in the short-term rental program, permanent residents would be required to maintain records for at least two years to demonstrate compliance with City law. However, the ordinance provides no way for the enforcement agency to verify that these records are correct and accurate. To address this issue, the Commission recommends that the City start a centralized registry for all short-term rentals that tracks the properties that are being used as short-term rentals and the number of nights each property is rented. A central registry that tracks the number of days each property is rented is essential for any Department to effectively enforce the proposed short-term rental restriction, without it the new regulations are essentially ineffective. Without making these amendments to the proposed ordinance, the Department's enforcement difficulties would increase greatly. Creating a reasonable path to legalize some short-term usage is a laudable goal, but it must be paired with enforceable limits to prevent excessive conversion of the housing stock to transient use.
4. The Commission finds that the Ordinance should be amended so that a posting on a short-term rental site constitutes a violation. This will allow for quick and effective enforcement, and help act as a deterrent for would be scofflaws.
5. The Commission finds that requiring the registration number from the City-run registry to accompany all short-term rental postings will make it easier for the Planning Department's enforcement team to monitor short-term rental sites by providing a quick way to verify that a property was properly registered with the City.
6. The Commission finds that the Planning Department's enforcement process does not allow the Department to effectively respond to complaints and does not help deter would be violators. Granting citation authority to the Planning Department if the Department is chosen to be the enforcement agency for short-term rentals would allow the Department to issue a citation immediately.
7. The Commission finds that including all dwelling units in the short-term rental controls will help protect housing affordability, and it will also protect the character of our lowest intensity

residential districts, as most of the City's single-family homes are located in RH-1 (Residential, House, Single-Family) and RH-2 (Residential House, Two-Unit) zoning districts.

8. The Commission finds that hosted rentals should have some limitations, either on the number of nights that a permanent resident can conduct a hosted rental, or the number of rooms that can be rented in any one unit at one time.
9. The Commission finds that more investigation needs to be done into the types of insurance available for short-term renters, and the appropriate amount of such insurance.
10. The Commission finds that SRO units should not be allowed to be rented as short-term rentals under this program, and that further investigation should be made into whether or not BMR units should be allowed to be rented as short-term rentals.
11. The Commission finds that the Planning Department does not have adequate enforcement staff to monitor short-term rentals, and if the Planning Department is chosen as the enforcement agency for short-term rentals, additional resources for staffing should be added to the Department's budget.
12. The Commission finds that property owners should be made aware that their tenant is using his or her unit as a short-term rental prior to having that unit listed on the proposed short-term rental registry.
13. The Commission finds that buildings with Planning or Building Code violations should not be listed on the short-term rental registry until such violations are abated.
14. **General Plan Compliance.** The proposed amendments to the Planning Code are consistent with the following Objectives and Policies of the General Plan.

HOUSING ELEMENT

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

With the Commission's proposed amendments, the Ordinance would be consistent with Object two of the Housing Element because it would limit the number of days that a unit could be utilized as a short-term rental reducing the likelihood that permanent housing would be converted into transient housing.

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

POLICY 3.1

Preserve rental units; especially rent controlled units, to meet the City's affordable housing needs.

With the Commission's proposed amendments the Ordinance would help preserve rental units by ensure that they are not converted into full time short-term rentals.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

POLICY 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

While not an entirely new use, short-term rentals are proliferating within the City like never before and having a new and distinct effect on the City's residential neighborhoods. With the Commission's proposed amendments, the proposed Ordinance would help preserve the distinct residential character of the City's residential neighborhoods by limiting the number of nights a residential unit can be rented out as a short-term rental.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

POLICY 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Short-term rentals are commercial activity and this Ordinance seeks to retain that commercial activity in the City while providing sufficient regulatory controls to ensure that any negative effects are addressed.

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED

Policy 3.4

Assist newly emerging economic activities.

Short-term rentals and short-term rental hosting platforms are an emerging economic activity; the proposed Ordinance would legalize this activity within San Francisco.

15. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood-serving retail uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

With the Commission's proposed amendments, the Ordinance would minimize any effects that short-term rentals would have on existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

With the Commission's proposed amendments, the Ordinance would help preserve the City's supply of affordable housing, by ensuring that long term housing for permanent residents is maintained as long-term housing. Further, the Commission recommends that SRO units not be allowed to be rented as short-term rentals under this program, and recommends further study into whether or not BMRs should be allowed to be rented as short-term rentals under this proposal.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an effect on the City's parks and open space access to sunlight and vistas.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on August 7, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, and Johnson

NOES: Commissioners Moore and Sugaya

ABSENT: Commissioner Wu

ADOPTED: August 7, 2014