



COUNCIL AGENDA REPORT

City of Anaheim PLANNING AND BUILDING DEPARTMENT

DATE: APRIL 12, 2016
FROM: PLANNING AND BUILDING DEPARTMENT
SUBJECT: AN INTERIM URGENCY ORDINANCE OF THE CITY OF ANAHEIM EXTENDING FOR ONE YEAR THE EFFECTIVE PERIOD OF URGENCY ORDINANCE NO. 6343, WHICH IMPOSES A MORATORIUM, WITH CERTAIN EXCEPTIONS, ON THE ISSUANCE OR RENEWAL OF USE PERMITS, VARIANCES, BUILDING PERMITS, BUSINESS LICENSES OR ANY OTHER ENTITLEMENTS OR PERMITS PROVIDING FOR THE USE, COMMENCEMENT, ESTABLISHMENT OR OPERATION OF SHORT-TERM RENTALS WITHIN THE CITY OF ANAHEIM PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858

ATTACHMENT (Y/N): YES **ITEM # 41**

RECOMMENDATION:

That the City Council, following a public hearing, take the following actions:

- 1) By Motion, determine that this interim ordinance extending the effective period of Urgency Ordinance No. 6343, is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a project, as defined in Section 15378 of the State CEQA Guidelines; and
- 2) By Motion, approve this staff report as the "written report" required by Government Code Section 65858 and direct the Planning Director or his designee to publish it on the City's website.
- 3) By Motion, approve, by at least a four-fifths (4/5) vote, an interim urgency ordinance authorizing a one year extension to Urgency Ordinance No. 6343 imposing a moratorium, with certain exceptions, on the issuance or renewal of use permits, variances, building permits, business licenses or any other entitlement or permit for the use, establishment or operation of Short-Term Rentals within the City of Anaheim (to expire May 3, 2017).

This staff report represents the "written report" required by Government Code Section 65858 which requires that the City provide a progress report describing the measures taken to alleviate the conditions which led to the adoption of a moratorium.

BACKGROUND:

On May 6, 2014, the City Council added Chapter 4.05 to the Anaheim Municipal Code, regulating the use of residential units as short-term rentals (STRs) for use as lodging for periods of less than thirty (30) consecutive days. The existing ordinance includes numerous operational conditions intended to ensure that STRs are operated in a way that mitigates potential impacts to adjoining property owners. Although subject to operational conditions, the City continues to receive complaints regarding the operation of STR properties in Anaheim's residential neighborhoods. The most common complaints relate to excessive noise, impacts from visitor parking on adjacent streets, buses dropping off passengers in residential areas, lack of privacy, and related issues associated with large groups of renters occupying a single STR. In addition to these operational issues, local residents frequently complain about the uneasy feeling caused by a constant and ever-changing influx of "strangers" into their neighborhood. These impacts have the potential to affect the public health, safety and welfare of the community. In response to these community concerns, on September 15, 2015, the City Council adopted an interim measure to enact a 45-day moratorium on filing of new applications for STR permits. On October 20, 2015, the moratorium was extended an additional six months and is set to expire on May 3, 2016. The intent of the moratorium is to "pause" the establishment of new STRs while the City evaluates options and issues, including an amendment to the existing STR ordinance to address community concerns.

At the time the City's initial STR ordinance was adopted in May 2014, there were approximately 200 known STRs in Anaheim. Today, staff estimates that there are nearly 365 STRs in operation. Since the adoption of the moratorium, staff continues to receive inquiries from potential operators interested in establishing new STRs in the City. In addition, residents living in neighborhoods impacted by STRs continue to express concerns about how operational issues and the proliferation and concentration of STRs are negatively changing the dynamics of their neighborhoods. Consequently, staff believes the conditions and concerns that existed at the time of adoption of the moratorium continue to exist. The moratorium adoption has served its intended purpose of preventing the establishment of additional STRs while City evaluates their impact to the community and how the impacts could be mitigated through enhanced regulation and enforcement.

Prior to and following the adoption of the moratorium, staff conducted extensive research into the "best practices" employed by other cities impacted by STRs. Staff also organized and facilitated a variety of community outreach efforts with affected stakeholders. This outreach includes the following:

- **Electronic survey** - To assist with community outreach, staff developed an electronic survey which was widely distributed to neighborhoods impacted by vacation rentals and also shared with all known STR owners. The survey allowed interested parties to share their views on the existing STR ordinance and possible amendments. The survey questions were derived based on feedback obtained at community workshops and best practices employed in other cities. The City received 689 responses to the survey (487 from residents; 47 from residents who also own an STR; 132 from STR owners/operators; and 23 from Anaheim businesses).

- **Public workshops** - Staff has been actively engaged in discussions with STR operators and resident groups in an effort to identify and prioritize potential solutions. To this end, four community workshops (two each with residents and STR operators) were held in October and December of 2015. The workshops supplemented the feedback received via the electronic survey and included focused discussions on potential amendments to the existing STR ordinance.
- **Formation of an Advisory Committee** - At the December workshops, each stakeholder group was asked to nominate and vote for six representatives for an STR Advisory Committee. The Committee was tasked with assisting staff in evaluating options and developing recommendations for City Council consideration. The twelve representatives elected consist of six neighborhood residents, three short-term rental owners, and three short-term rental owners who are also Anaheim residents. Staff and the Committee met three times in January and February 2016.
- **City Council Workshop** - On February 23, 2016 staff presented preliminary recommendations to the City Council at a public workshop. The workshop was the first step in the Council's evaluation of future options for additional STR regulations. At the workshop, staff presented its recommendations, including the recommendation to prepare an amendment to the existing STR ordinance to establish additional operational and enforcement criteria. At the workshop, the Mayor requested that staff prepare two ordinances for future City Council consideration. The two ordinances are described in greater detail below.

While the survey, workshops, and Advisory Committee meetings revealed some "common ground" between the stakeholders, residents and STR operators maintain widely divergent views on a preferred solution. While both groups agree that the City's existing STR regulations should be updated to address common concerns, generally speaking, residents strongly prefer that the City ban new STRs and phase out existing ones. Conversely, STR owners believe that STRs can be compatible if operated responsibly with strict enforcement on those who violate the ordinance, as it may be amended. The differing perspective between residents and STR operators is not unique to Anaheim. In fact, many communities throughout the nation, including some in Orange County, are currently addressing the STR phenomenon under very similar circumstances.

DISCUSSION:

As directed by Council at the February 23 workshop, staff is currently working on two ordinances for future consideration. One ordinance would ban any new STRs in single and multi-family neighborhoods and strengthen current operational and enforcement standards to address the most common complaints. The ordinance would ensure the City can take immediate enforcement action on operators that commit "major" violations of the ordinance and make it easier for the City to revoke permits when circumstances warrant. While this ordinance would ban new STRs, existing licensed STRs would be allowed to continue as long as they were operating in a lawful manner and continue to renew their permit annually. The second ordinance

would include the same enhanced operational and enforcement standards but would also amortize, or phase out, existing STRs. Staff is working with the City Attorney to evaluate various legal and practical issues associated with amortizing or phasing out existing STRs. Once adopted, staff would evaluate the effectiveness of either ordinance for a 12-month period and report back to the Council. The 12-month “test” period would allow the City to assess if the new ordinance was successful in addressing community concerns. Staff anticipates that both ordinances would be presented to Council in late June or early July 2016, if not sooner.

Although significant progress has been made towards identifying strategies that may address the conditions that led to the current moratorium, it is clear that the drafting of the two ordinances cannot be completed and, in the case of the adoption of one of the proposed ordinances, become effective, before the expiration of the current moratorium period, which is May 3, 2016. Consequently, staff recommends that the moratorium be extended. The proposed extension is the third and final allowed under State law. Staff intends to present the ordinances for Council consideration within the next few months; however, in an abundance of caution should there be unanticipated delays, staff and the City Attorney recommend the moratorium be extended by the maximum one-year period allowed by law (expiring on May 3, 2017). The findings necessary to support the extension of the moratorium are included in the attached ordinance. The recommended moratorium extension period would expire on May 3, 2017 or upon adoption of the updated STR ordinance, whichever occurs first. Adoption of the proposed extension to the urgency ordinance requires at least a 4/5 vote of the City Council. In the event that the City Council elects not to extend the current moratorium, new STRs applications could be submitted for processing on and after May 4, 2016. Staff would be required to process such applications in accordance with the standards and regulations that were put in place on May 6, 2014, when the City Council added Chapter 4.05 to the Municipal Code.

As discussed at the February 23 workshop, staff also intends to prepare a separate, subsequent ordinance for Council consideration that would create a new type of STR permit allowing “home sharing” in residential neighborhoods. Under the home sharing model, a homeowner resides on the property and rents out a portion of his/her/their home. The Advisory Committee was generally in favor of allowing home sharing in single family neighborhoods as staff’s research confirmed this STR model typically generates few, if any, complaints in Anaheim and other communities. Staff will seek input from home sharing operators during ordinance preparation. Staff anticipates that the “home sharing” ordinance would be presented for Council consideration in August 2016. Staff also intends to explore the possibility of allowing STRs in the City’s mixed-use zones. Mixed-use zoned properties are generally located on major roadways within the Downtown and Platinum Triangle areas. Mixed use properties often contain a blend of commercial and multi-family residential uses and are not located immediately adjacent to single-family neighborhoods. Therefore, these properties may be suitable for STR use subject to the same operational and enforcement standards being developed during the moratorium.

IMPACT ON BUDGET:

This interim ordinance would have minimal impact to the City's General Fund as the recommended action would only place a continuing hold on the issuance of new STR permits during the extended moratorium period. Existing, licensed STRs, as well as STRs approved from pending applications, could continue operating during the moratorium period.

Respectfully submitted,

David Belmer
Planning and Building Director

Attachments:

1. Draft Moratorium Ordinance
2. October 20, 2015 City Council Status Report