



City of San Leandro

Meeting Date: May 20, 2019

Ordinance

File Number: 19-256

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.N.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director,
Andrew Mogensen
Planning Manager and
Rich Pio Roda
City Attorney

FINANCE REVIEW: Not Applicable

TITLE: ORDINANCE of the City Council Of The City Of San Leandro Adding Chapter 4-41 To Title 4 Of The San Leandro Municipal Code Prohibiting Non-Hosted Short-Term Rental Of All Or Part Of A Residential Dwelling Unit

The City Council of the City of San Leandro recites the following:

WHEREAS, beginning in 2017 the City Council heard the community's concerns regarding the land use impacts of short term rentals, namely that short-term rentals could result in loss of residential character of neighborhoods, result in unwanted secondary effects that jeopardize public health, safety, and welfare, and exacerbate the shortage of affordable housing stock within the City; and

WHEREAS, on July 23, 2018, the City Council, considering the immediate impacts of short-term rentals, passed an urgency ordinance establishing a land use moratorium on non-hosted short term rentals of any residential dwelling unit; and

WHEREAS, on September 4, 2018, the City Council extended the land use moratorium to July 22, 2019 in order to review, take comment upon, and establish land use regulations for non-hosted and hosted short term rentals of residential dwelling units; and

WHEREAS, the City Council has reviewed and considered the staff report, all public comments, and the proposed amendments to Title 4 of the San Leandro Municipal Code, as set forth below.

NOW, THEREFORE, The City Council of the City of San Leandro does hereby **ORDAIN** as follows:

SECTION ONE. PURPOSE AND INTENT.

The purpose and intent of this ordinance is to amend the San Leandro Municipal Code to prohibit the non-hosted short-term rental of all or part of a residential dwelling unit.

SECTION TWO. REQUIRED CEQA FINDINGS FOR ADOPTING ORDINANCE.

The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

The proposed amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301 of the State CEQA Guidelines regarding existing facilities, specifically operation and leasing of existing structures, and under the “general rule” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment.

SECTION THREE. ADDING CHAPTER 41 TO TITLE 4 OF THE SAN LEANDRO MUNICIPAL CODE.

Chapter 41 of Title 4 of the San Leandro Municipal Code is hereby added to read as follows:

Chapter 4-41. **NON-HOSTED SHORT-TERM RENTALS PROHIBITED**

4-41-100 Purpose.

The purpose of this Chapter is to prohibit the non-hosted rental of all or part of a residential dwelling unit for fewer than 30 days. The City finds it necessary to establish this prohibition to regulate non-hosted short-term rentals of property in the interest of the public health, safety, and welfare.

4-41-110 Non-Hosted Short-Term Rentals

The renting, letting, or operating of Non-Hosted Short Term Rentals in all dwelling units, bedrooms, buildings, structures or properties within the City of San Leandro is prohibited. The penalties for renting or operating a Non-Hosted Short Term Rental shall be as follows:

- (a) 1st Notice of Violation (NOV): Misdemeanor prosecuted by City, \$1000 fine or six months in jail.
- (b) 2nd violation: \$1000 fine or six months in jail, declaration of a public nuisance, and legal action by the City against host or property owner to enjoin illegal use of the property, with pleading to include repayment of City’s attorneys’ fees and costs.
- (c) 3rd violation within a 2 year period: \$1000 fine or six months in jail, and triple damages for a second or subsequent civil or criminal judgment within a 2-year period, and repayment of City’s attorneys’ fees and costs. City Attorney is authorized to bring without City Council approval an action for punitive damages for willful violation of the Code.

4-41-120 Definitions.

As used in this Article:

- (a) "Non-hosted" means that the primary occupant of the dwelling within which the rental takes place is absent from the dwelling for some or all of the rental period.
- (b) "Dwelling Unit" means one room, or a series of rooms that provides not more than one kitchen and one or more bathrooms, and is intended for occupancy by a single housekeeping unit. An individual dwelling unit is characterized by a single main pedestrian entry, with all other points of entry being visually subordinate, and an interior stairway provided between all stories.
- (c) "Bedroom" means a room used for sleeping, living, or dining purposes, excluding enclosed places (e.g., closets, pantries, bath or toilet rooms, service rooms, rooms without windows for egress, connecting corridors, laundries, unfinished attics, foyers, storage spaces, garages, cellars, utility rooms and similar spaces).

SECTION FOUR. SEVERABILITY.

The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION FIVE. EFFECTIVE DATE AND POSTING.

This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

EXHIBIT A
ORDINANCE NO. 19-

Chapter 4-41. NON-HOSTED SHORT-TERM RENTALS PROHIBITED

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