



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Receive information regarding residential short-term rentals in the City of Elk Grove and provide direction regarding options for regulating such uses

MEETING DATE: August 28, 2019

PREPARED BY: Shane Diller, Assistant Development Services Director

DEPARTMENT HEAD: Darren Wilson, P.E., Development Services Director

RECOMMENDED ACTION:

Staff recommends that the City Council receive information from staff regarding residential short-term rentals within the City of Elk Grove and provide feedback and direction on possible amendments to the Elk Grove Municipal Code (EGMC) regulating such short-term rentals within the City.

BACKGROUND INFORMATION:

Short-term residential rentals (commonly known by the brand names Airbnb, Vrbo, and HomeAway) are typically single-family homes, condominiums or apartments where the owner offers overnight lodging for fewer than 30 days directly to the consumer through a third-party brokerage website. Rentals can vary from a single room in a unit occupied by the owner or a primary tenant, or the rental of a full unit or home occupied solely by the renters and their guests.

A search of the websites for the companies mentioned above reveals that there are between approximately 25 and 150 short-term rentals currently offered within the City of Elk Grove. The number varies and is difficult for staff to pinpoint because some listings list multiple rooms and some list a single room or home. Also, there may be some rentals listed on more than a single website, creating duplicates and giving the impression of more sites.

Nonetheless, even with 150 properties available, the percentage of short-term rentals relative to total housing stock within the City is very small (less than 0.001%). Though the specific number of rentals is difficult to quantify, Airbnb provided some data on rentals but did not provide the number of hosts in, or number of nights rented in Elk Grove.

The number of complaints related to short-term rentals has also been small, and they began coming in only in the past year. The City received one complaint concerning a short-term rental in 2018 and has received complaints related to three other properties in 2019. The 2018 complaint concerned parties being thrown that disturbed the peace. The 2019 complaints related to property conditions, such as vehicles leaking oil, outdoor marijuana smoking, and what is described by neighbors as non-specific “suspicious” activity.

Some of the complaints concern actions or conditions that can be addressed under existing law, such as acts of violence (a shooting and a disturbance that led to a fight with police officers), reckless driving, parking violations, disturbing the peace, and other nuisance behavior. The Elk Grove Police Department and/or Code Enforcement have been able to apply enforcement strategies to respond to these complaints. Other complaints are more difficult to enforce, such as loitering, trespassing, vehicles leaving behind leaked fluids in the roadway. Nonetheless, all of these activities raise concerns for neighbors and impact quality of life.

EGMC Section 23.26.020.E prohibits any use not specifically listed, or substantially similar to another use. Generally, the rental of a residential property has been considered a “dwelling” use, and it is a permitted use pursuant to EGMC Table 23.27-1. The EGMC also specifically endorses the rental use of property through its Rental Housing Registration ordinance. (EGMC §§ 16.20.1200–.1227) However, the EGMC does not distinguish between long-term and short-term rentals of residential property in the context of the Airbnb-type model, and staff is seeking direction from Council on this point.

The EGMC does provide definitions of “Bed and Breakfast inns” and “Hotels and motels” in Section 23.26.030. These uses are specific types of short-term rentals, with certain attributes and restrictions, defined as follows:

“Bed and breakfast inns” means residential structures with one (1) family in permanent residence with up to five (5) bedrooms rented for overnight lodging, where meals may be provided subject to applicable

Health Department regulations. A bed and breakfast inn with more than five (5) guest rooms is considered a hotel or motel, and is included under the definition of “hotels and motels.”

“Hotels and motels” means facilities with guest rooms or suites, provided with or without kitchen facilities, rented to the general public for transient lodging (less than thirty (30) days). Hotels provide access to most guest rooms from an interior walkway, and typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Motels provide access to most guest rooms from an exterior walkway. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.

Under the Zoning Code, “Bed and breakfast inns” require a Conditional Use Permit (CUP) to operate in residential zones (except RD-20 and greater density zones where such use is not allowed). “Hotels and motels” are prohibited in residential zones. In 2017, at staff recommendation, the City Council repealed the definition of “Rooming and/or boarding house” from the Zoning Code. However, “Boarding house, bed and breakfast hotel, time share condominium” continue to be listed as prohibited home occupation businesses in EGMC 23.58.060. In order to bring more consistency to the code, staff recommends revising and reconciling the definitions and use restrictions for boarding houses (which is currently an undefined term and should be removed) and bed and breakfast uses (which seems to be treated in a conflicting manner).

ANALYSIS:

Staff is seeking Council direction regarding amendments to the EGMC that would more clearly define the distinction between long-term and short-term rentals, as well as the restrictions, if any, to be placed on short-term rentals. There are various approaches the City could consider regarding short-term rentals. These approaches range from allowing short-term rentals as a matter of right, allowing the uses subject to operating regulations, or outright banning short-term rental activity.

For the purposes of this Council agenda item, staff has crafted three conceptual options for the Council to consider. As part of all three options, staff is recommending that the Zoning Code be amended to clarify definitions of short-term and long-term residential rental uses. Staff suggests removal of any reference in the EGMC to boarding houses, as that definition has been

repealed. Staff also suggests clarifying that a bed and breakfast inn, as defined, is subject to a CUP in residential zones. Staff further recommends more clearly defining short-term rentals in the EGMC by classifying such short-term rental of property within a residential zone as any residential rental less than 30 days. With these proposed definitional changes in mind, staff seeks direction on the scope of regulation of short-term rentals and offers the following regulation structure options:

Option 1 - Allow Short-term Rentals with no restrictions

The first option would see the City continue its current approach to short-term rentals by allowing as a matter of right in residential zones. The Elk Grove Police and Code Enforcement would continue to respond to complaints as they are received. Both departments would continue to enforce state and local laws concerning criminal and nuisance activities. Both Police and Code Enforcement feel they have adequate staffing and resources to effectively enforce this option based on the low volume of complaints that are currently being reported related to short-term rentals.

Option 2 - Adopt business operation regulations

Currently EGMC Section 16.20.100 requires single family home rentals to register with the City, ensuring that staff has direct contact with property owners. This option would also require owners of short-term rentals to obtain a Special Business License from the City, and it would require short-term rental operators to limit activities or manage renters in certain ways. Under this option, staff would return with operating limitations that could be adopted as part of the City's business license requirements in EGMC Title 4, or the City's home occupation limitations in Title 23 (Zoning).

There are several jurisdictions to which the City can look for guidance for operating regulations that may already be working. For instance, the cities of Roseville and Nevada City have created permitting requirements that regulate short-term rentals. Staff has reviewed these cities' ordinances and identified possible regulations that could be included in this option to alleviate current neighbors' concerns:

- Limitation on the number of rooms available;
- Requirement that the rental be owner-occupied;
- Requirement for available onsite parking;
- Limitation on the number of days per week or month that rooms could be offered.

This option could require additional staff time and include a more proactive inspection or monitoring component. Should Council select this option staff would analyze and include implementation/operation costs when the item returns for Council consideration.

Option 3 - Zoning restrictions or limitations

Similar to Option 1, this option would have staff approach short-term rentals as a land-use issue and propose Zoning Code amendments, but with restrictions on use. Short-term rentals could be prohibited outright in any zone, or they could be limited to allowed or conditionally allowed uses in certain residential zoning districts. This zoning option could require operators to secure either a Minor Conditional Use Permit (MUP), which is subject to approval by the Zoning Administrator, or a Conditional Use Permit (CUP), which is subject to approval by the Planning Commission. The MUP or CUP process would allow for the imposition of operating restrictions such as those discussed in Option 2 and/or additional specific conditions as needed on a case-by-case basis, allowing some regulatory flexibility.

A review of surrounding agencies found that most also have no specific regulations related to short-term rentals. The table below illustrates the regulations, if any, that other jurisdictions within the region have established regarding short-term rentals:

JURISDICTION	REGULATION	NOTES/DETAILS
Elk Grove	No Specific Regulation	N/A
City of Folsom	No Specific Regulation	N/A
City of Roseville	Permit Required	Limits the number of guests (6) and number of days a year (182). Prohibits an accessory dwelling and primary dwelling from both being used as short-term rentals
City of Rocklin	Permit Required	Limits the number of guests (6) and number of days a year (182). Requires responsible party be available to respond to issues within 30 minutes. Permit renews every 2 years
City of Citrus Heights	No Specific Regulation	N/A
City of West Sacramento	No Specific Regulation	N/A
City of Rancho Cordova	No Specific Regulation	N/A
City of Sacramento	Permit Required	Requires annual renewal and may revoke permit/deny renewal if the short-rental has a history of disturbances, criminal activity, or nuisance violations
County of Sacramento	No Specific Regulation	N/A

Conclusion Concerning Options.

The three options proposed represent a spectrum of least restrictive (Option 1) to most restrictive (Option 3). Staff requests that the Council provide policy direction as to these options, or others, and the scope of regulation desired by the City Council. As noted above, regardless of the approach directed by the City Council, staff recommends amendments to the Zoning Code clarifying definitions for short-term rental uses.

FISCAL IMPACT:

This Council agenda item is for consideration and direction only and, therefore, has no fiscal impact. Though this item itself has no specific fiscal impact, there is a yet-to-be-quantified loss of Transient Occupancy Tax (TOT) occurring. The lack of information available to staff regarding how many short-term rentals are occurring and the cost of those rentals makes knowing the City's loss of TOT hard to gauge. Staff's current research using search tools on short-term rental websites reflect between 25 and 150 potential rentals. Assuming those rentals are rented every weekend, the potential annual TOT (12% of the rent) loss ranges from \$15,600 (25 rentals at two nights per week for 52 weeks at \$50.00 per night) to \$93,600 (150 rentals using the same formula). Airbnb offers a program by which it will collect TOT for their hosts and make payments directly to the City. Staff will research if other short-term rental brokers offer similar programs.

Implementation of Council's direction may have a fiscal impact. Staff would further analyze such fiscal impact, depending on the direction given and option selected, if any.

ATTACHMENTS:

None