



Date: November 4, 2022
To: Planning and Zoning Commission Members
From: Patrick R. Zenner, Development Services Manager
Re: Draft Regulations – Short-term Rentals

Attached please find the most current version of the draft regulations relating to short-term rentals. This draft was updated on November 3, 2022 and includes revised definitions approved at the October 20, 2022 work session. Additionally, the updated draft includes new “side-margin” notes addressing the issue of ADUs being considered permissible for STR use. Section 29-3.3(uu)(b)(13) of the draft proposes language that offers clarity on how and under what condition an ADU could be licensed as an STR. It is believed that this proposed language addresses the Commission’s request made at the end of the October 20 work session.

The proposed language addressing ADU usage as an STR was arrived at after consulting with City Legal and the belief that leaving such provisions out of the draft ordinance may lead to greater uncertainty on an ADUs potential use as an STR. There was discussion of notating that an ADU in addition to a principal residence within the description of each Tier was unnecessary as it was concluded that an ADU could also be a principal residence in certain circumstances. Following further internal discussion, it was concluded that the reference allowing an ADU as an STR in subsection B, paragraph 13 of the draft was sufficient.

The proposed language affirms that an ADU could be licensed as an STR provided that the ADU was legally authorized in the district it was located and no more than one dwelling unit on the property was registered for use as an STR. From a practical perspective, this proposed language when coupled with the existing regulatory requirements for establishing an ADU will often result in one of the dwelling units being occupied by the owner of the principal residence.

In the R-1 district, this likely outcome is associated with the fact that an ADU in this zoning is only permitted via a CUP and that, per standard Planning Commission conditions relating to support of a CUP, a condition that only one of the dwelling can be registered in the rental program is always recommended. This belief is further supported by the fact an ADU as an STR in the R-2 and R-MF districts would be limited to only those properties presently improved with a single-family dwelling. Per the regulation governing ADU’s, an ADU cannot be built upon a property containing more than two dwelling units, including the ADU itself. This means that any property improved with a duplex or multi-family structure would be ineligible for permission to construct an ADU.

The proposed language allowing an ADU to be used as an STR does not draw the distinction between dwellings registered within the City’s Rental Conservation Program and those that are not. What this may permit is a tenant of a Tier 1 dwelling unit the ability, subject to property owner authorization, to utilize a previously approved ADU as an STR. If such option is not desired, the following language could be added at the end of the current text shown within subsection B, paragraph 13 “or registered as a long-term rental in accordance with the provisions of Chapter 22, Article 5 of this Code”. If added, such a provision would, due

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to the principal dwelling being registered as a rental unit, not allow the permitted ADU to be used as an STR by the long-term tenant in any Tier 1 zoning district (i.e. R-1, R-2, or R-MF). The additional language may be viewed as a method of ensuring that additional “rental” conversion of the neighborhood outside the principal residence is controlled.

It should be noted that the length of rental opportunity (i.e. 30, 120, greater than 120 days) within each Tier would remain unchanged. The key aspect of the proposed language is that it opens the opportunity for a principal resident to use either the principal residence or the authorized ADU for STR purposes, but not both. In the instance of an R-1 district ADU, the Commission or Council could further limit the usage of the dwelling for STR purposes per the CUP.

Aside from the changes to the draft discussed above, staff believes that the remainder of the proposed language within the document represents what, at a minimum, would be necessary to be added to the UDC to address the topic of STR. The margin notes within the draft either explain what impact a particular provision will have or a request for clarification on what staff understood the Commission’s intent was with that specific provision. At this time, staff desires to discuss the content of each additional regulatory standard and gain consensus on those standards before considering structural changes to the ordinance’s layout.

The attached document represents a significant accomplishment relating to this topic that would not have been possible without your commitment. It is with sincere appreciation that I thank each of you for “staying the course” in getting us here. I look forward the upcoming work session and the ensuing discussion.

Please let me know if you have questions.

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