



COMMUNITY DEVELOPMENT AGENCY

Brian C. Crawford
DIRECTOR

August 7, 2018

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Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Conduct a Merit Hearing on an Ordinance requiring public notifications of short term rentals

Dear Supervisors,

Building and Safety
Environmental Health Services
Planning
Environmental Review
Housing
Sustainability
Code Enforcement
GIS
Federal Grants

www.marincounty.org/cda

RECOMMENDATION:

Adopt an Ordinance requiring that notification of a short term rental be provided to surrounding properties before the owner of the short term rental obtains or renews a business license. The notification may be provided either by an on-site sign or by letters or door hangers to surrounding properties and would need to identify a local contact, a complaint hotline, and other information. The owners of short term rentals would also be required to inform their short term tenants of how to meet certain requirements of the Marin County Code related to noise, parking, vehicular access, and trash. The Ordinance would sunset after two years unless it is extended by the Board.

SUMMARY:

On July 31, 2018, your Board conducted a first reading of the Short Term notification Ordinance. With your Boards adoption of the Ordinance, it will go into effect on September 6, 2018 and would sunset after two years unless extended by your Board.

REVIEWED BY:

- | | |
|--|------------------------------|
| <input type="checkbox"/> Department of Finance | <input type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input type="checkbox"/> N/A |

SIGNATURES:

Reviewed By:

Jeremy Tejirian
Planning Manager

Brian C. Crawford
Director

Attachments:

1. Proposed Ordinance
2. Public Comments

MARIN COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING CERTAIN REQUIREMENTS FOR SHORT TERM RENTALS BY ADDING CHAPTER 5.41 NOTICE OF SHORT TERM RENTALS TO THE MARIN COUNTY CODE

SECTION I: FINDINGS

1. **WHEREAS**, the Marin County Board of Supervisors finds that the growth of Short Term Rentals may lead to neighborhood conflicts unless appropriate rules are established and understood by property owners, community members, and decision makers.
2. **WHEREAS**, on July 31, 2018, the Marin County Board of Supervisors held a duly noticed first reading of this Ordinance.
3. **WHEREAS**, on August 7, 2018, the Marin County Board of Supervisors held a duly noticed public hearing to take public testimony and consider this Ordinance.
4. **WHEREAS**, the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because it would not result in any potential environmental impacts.

SECTION II: ACTION

Chapter 5.41 of the Marin County Code is hereby added, as follows:

5.41 NOTICE OF SHORT TERM RENTALS

5.41.010 RESTRICTION

No Short Term Rental shall take place in unincorporated Marin County except in conformance with the requirements set forth below.

5.41.020 DEFINITIONS

- A. The word "Short Term Rental" is defined herein as a rental of residential property for a lease term of 30 days or less.
- B. The term "Local Contact Person" is defined herein as a person who is available to respond to Short Term Rental complaints.
- C. The term "Enforcement Officer" is defined herein as the Community Development Agency Director or his/her designee.
- D. The term "Hearing Officer" is defined herein as the Community Development Agency Director or his/her designee. However, the CDA Director shall not act as both the Enforcement Officer and Hearing Officer or designate any CDA employee as the

Hearing Officer if that person was the Enforcement Officer, with respect to that particular violation.

5.41.030 BUSINESS LICENSE AND TRANSIENT OCCUPANCY TAX

Owners of Short Term Rentals shall comply with Chapter 5.54 Business License and comply with Chapter 3.05 uniform Transient Occupancy Tax as administered by the Marin County Department of Finance and Marin County Code.

5.41.040 SHORT TERM RENTAL COMPLAINT HOTLINE

Marin County shall maintain and manage a contract with a vendor to provide a Short Term Rental complaint hotline. Hotline staff will accept complaints about Short Term Rentals received by calls and emails and notify the Local Contact Person or property owner about the complaints.

5.41.050 LOCAL CONTACT PERSON RESPONSE

The Local Contact Person shall respond to any complaint received by either Marin County Short Term Rental Hotline staff or an individual regarding the conduct of the Short Term Rental occupants or the condition or operation of the Short Term Rental, and take any necessary remedial action to resolve violations of Marin County Code requirements in a timely manner.

5.41.060 SIGNAGE

The public shall be notified that a Short Term Rental is available on a particular property using at least one of the following two methods: (1) Exterior signage, or (2) Delivery of written notice to adjacent properties. The mandatory standards for these methods are set forth below.

A. Exterior Signage

- 1) Each Short Term Rental shall be identified with a single exterior sign, issued by the Department of Finance, that includes the name of the Local Contact Person, the phone number and email address for the Local Contact Person, the phone number and the email address of the Marin County Short Term Rental Hotline, and the street address of the Short Term Rental. At the owner's discretion, an alternative design for the sign from that provided by the Department of Finance is allowed provided the size and font of the sign is no smaller than those of the sign provided by the Department of Finance and the sign is made of at least as durable a material. At a minimum, the sign shall be posted while the unit is being used as a Short Term Rental.
- 2) The sign shall be securely placed in the front of the property or unit (where there are multiple units on the property), at a height of three to five feet as measured from the top of the sign to grade, in such a way that it is readily visible to the public.

B. Written notification shall be provided to all properties within a radius of 300 feet of the property with the Short Term Rental using either door handle hangers or letters.

- 1) The notice, whether a door handle hanger or letter, shall indicate that the subject property will be the location of a Short Term Rental and provide the name of the Local Contact Person, the phone number and email address for the Local Contact Person, the phone number and the email address of the Marin County Short Term Rental Hotline, and the street address of the Short Term Rental.
- 2) An affidavit from the owner certifying that the notice has been provided in conformance with this chapter at least 10 days prior to the owner applying for a new business license or renewing an existing business license shall be submitted to the Marin County Department of Finance at the time of application for a business license or business license renewal and the business license/renewal shall not be issued in the absence of such an affidavit.

5.41.070 TENANT NOTIFICATION OF COUNTY RULES

The owner of the Short Term Rental shall post a copy of the “house rules” inside the unit or provide the tenants with a “good neighbor” brochure at the time of their arrival. The house rules or brochure shall include site specific instructions on how to comply with the following County regulations:

- A. Loud and Unnecessary Noises (Marin County Code 6.70.030)
Between 11:00pm and 7:00am:
 - No operation of any noise generating instrument (e.g. television, radio, loudspeaker, musical instrument) that generates noise audible 50 yards from the building.
 - No yelling, shouting, whistling, or singing on public roads.
- B. Parking (Marin County Code 24.04.340)
 - Typically, two off-street parking spaces shall be provided for each residence. However, where on street parking is limited, four off-street parking spaces are required.
- C. Emergency Access (California Fire Code 503.4 referenced)
 - Parking shall not obstruct roadways less than 20 feet wide.
- D. Garbage (Marin County Code 7.00.020)
 - Garbage placed outside shall be in a suitable covered container.

5.41.080 ADMINISTRATIVE CITATION OF PROPERTY OWNER(S) FOR FAILURE TO COMPLY WITH SHORT TERM RENTAL NOTIFICATION REQUIREMENTS

- A. Property owner(s) failing to comply with Section 5.41.060 are subject to an administrative citation issued by the Community Development Agency pursuant to the authority granted to the Board of Supervisors by Government Code Section 53069.4, et seq. Violations will be handled in the following manner:
 1. The penalties assessed for each violation shall not exceed the following amounts:
 - a) \$100.00 for a first violation;
 - b) \$200.00 for a second violation of this Ordinance within one year;
 - c) \$500.00 for each additional violation of this Ordinance within one year; and

- d) The fourth and subsequent violation within one year shall constitute a nuisance and be subject to the nuisance abatement procedures in Marin County Code Chapter 1.05, including payment of civil penalties of up to \$2,500 per violation per day and enforcement and other abatement costs incurred by the County.
2. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
- B. Nonpayment of any assessed violation for longer than one year shall constitute a nuisance and be subject to the nuisance abatement procedures in Marin County Code Chapter 1.05, including payment of civil penalties of up to \$2,500 per violation per day and enforcement and other abatement costs incurred by the County.
- C. The penalties assessed shall be payable to the County of Marin.
- D. Service of Citation
1. If the property owner(s) who has violated the Ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them.
 2. If the Enforcement Officer is unable to serve the property owner(s) on the premises, the administrative citation may be left with the occupant(s) of the property. If left with the occupant(s) of the property, a copy of the administrative citation shall also be mailed to the property owner(s) by certified mail, return receipt requested.
 3. If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the owner(s), occupant(s) or other person who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the owner(s) on the latest County Assessment Roll.
 4. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.
- E. The remedies provided by this chapter are cumulative and are in addition to any other remedies available at law or in equity, including withholding the issuance of any building and construction permit.
- F. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

5.41.090 ADMINISTRATIVE REVIEW ON THE IMPOSITION OF ADMINISTRATIVE FINES FOR FAILURE TO COMPLY WITH SHORT TERM RENTAL NOTIFICATION REQUIREMENT; APPEAL

- A. Any person subject to an administrative fine pursuant to this Chapter shall have the right to request an administrative review within forty-five days of the issuance of a citation for an administrative violation of this ordinance pursuant to the authority granted to the Board of Supervisors by Government Code Section 53069.4, et seq. To request such a review, the person requesting the review shall notify the Enforcement Officer in writing within forty-five days of the issuance of the citation.
- B. The Hearing Officer may conduct a hearing on the matter within ninety days of the request for the hearing unless one of the parties requests a continuance for good cause. The Hearing Officer shall render a decision within thirty days of the conclusion of the hearing, or from the receipt of the review request (if no hearing is held).
- C. The person upon whom an administrative fine is imposed pursuant to this Chapter may appeal the decision of the Hearing Officer to the Superior Court. No appeal to the Superior Court can lie unless the party filing the appeal has first properly requested the administrative review under Subsection 5.41.090(A).
- D. The appeal must be filed within twenty days after service of the final decision issued by the Enforcement Officer pursuant to California Government Code Section 53069.4, subdivision (b). The procedures outlined in Government Code 53069.4 shall apply.

5.41.100 SEVERABILITY

The provisions of this chapter are declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter.

SECTION III: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty days from and after the date of its passage and shall be published once before the expiration of fifteen days after its passage, with the names of the Supervisors voting for and against the same, in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

This Ordinance shall remain in effect for a period of 24 months from the adoption date, unless extended by the Board of Supervisors.

SECTION IV: VOTE

Introduced at a regular meeting of the Board of Supervisors held on the 31st day of July, 2018, and adopted by the Board of Supervisors of the County of Marin, State of California, on the 7th day of August, 2018, by the following vote to wit:

AYES: SUPERVISORS

NOES:

ABSENT:

DAMON CONNOLLY, PRESIDENT
MARIN COUNTY BOARD OF
SUPERVISORS

ATTEST:

Matthew H. Hymel
Clerk of the Board of Supervisors