



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** April 9, 2020

**AGENDA DATE:** April 16, 2020

**SUBJECT:** **Zoning Ordinance Text Amendment Pertaining to the Definition of Hotels and Similar Uses**

**TO:** Planning Commission

**FROM:** Greg Lusitana, Assistant City Attorney  
Tava Ostrenger, Assistant City Attorney

### I. PURPOSE

The purpose of this hearing is for the Planning Commission to hold a public hearing to review and consider a proposed amendment to the Zoning Ordinance (Title 30) to amend the definition of “Hotels and Similar Uses” to include short-term rentals for clarification purposes.

### II. RECOMMENDATION

Staff recommends that the Planning Commission make a motion forwarding the attached Draft Ordinance amending Santa Barbara Municipal Code (SBMC) section 30.295.040.P to specifically add “short-term rentals or similar uses of single or multi-unit residential dwellings” to the definition of “Hotels and Similar Uses,” to the Ordinance Committee with a recommendation for adoption.

### III. DISCUSSION

The City continues to face litigation related to short-term rentals in residential zones. This litigation is costly, and in at least one instance, clearly without merit. Since at least 1983, the City has regulated short-term rentals in residential zones, i.e. residential rentals for periods of 30 days or less. For over 30 years, the consistent administrative interpretation of the City agencies charged with enforcement of the Zoning Ordinance, including the City Council, Community Development Department, and City Attorney, has been that short-term rentals for residential use are hotels, and therefore unlawful uses except in zones expressly permitting hotels and similar uses.

Recently, however, homeowners within the City who have been prohibited from operating short-term vacation rentals have alleged in court that the City’s definition of hotel, as found in Santa Barbara Municipal Code (SBMC) section 30.295.040.P, is ambiguous as applied to the rental of residential homes. While the City Attorney’s Office and Zoning Staff believe this argument to be frivolous, in an effort to eliminate any uncertainty in present or future litigation, the City Council, on recommendation

from the City Attorney, voted unanimously on March 3, 2020 to adopt an interim urgency ordinance (Interim Urgency Ordinance) to amend section 30.295.040.P to specifically include reference to “short term rental[s] or similar uses of single or multi-unit residential dwelling[s]” as hotel uses.

The current Interim Urgency Ordinance is set to expire on April 17, 2020, however, on April 14, 2020 Council will decide whether to extend the Interim Urgency Ordinance for an additional 10 months and 15 days, to March 3, 2021. This extension will allow staff to proceed to the Planning Commission and Ordinance Committee for review of a permanent ordinance amending section 30.295.040.P. In making the determination to implement the Interim Urgency Ordinance, and recommending adoption of a permanent amendment to SBMC section 30.295.040, the City Council determined that the City has an overriding municipal interest in planning and regulating the development of property within the City in order to maintain and improve the quality of urban life and the character of the City's neighborhoods. Without stable, well-planned neighborhoods, residential sections of the City can quickly deteriorate, with detrimental consequences to social, environmental, and economic values. The intent of the ordinance is to ensure that residential neighborhoods remain well-planned and residents maintain a high quality of life. One means of ensuring these goals and interests has been to closely regulate commercial transient uses in residential neighborhoods.

To eliminate the uncertainty resulting from the current litigation and preserve the City’s current and long-standing interpretation of hotel use, the Interim Urgency Ordinance made the following simple change to the definition of “Hotels and Similar Uses” as follows:

“P. **Hotels and Similar Uses.** Establishments providing overnight accommodations to transient patrons for payment. This classification includes establishments that offer accommodations for periods of 30 consecutive calendar days or less. Establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This use classification includes, but is not limited to, auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, timeshare projects, short-term rental or similar use single or multi-unit residential dwellings, and tourist courts, ~~but does not include rooming houses, boarding houses, or private residential clubs.~~”

The last sentence was stricken from the ordinance because it was a confusing exclusion that has had no practical application for many years, and is inconsistent with the overall intention of the ordinance which is intended to define transient occupancy is based on length of stay and payment.

While only Title 30 was amended under the Interim Urgency Ordinance, City Council made the finding that the interpretation of the definition of, and restriction on, the location of hotels under Title 28, which previously applied citywide but now applies only in the Coastal Zone, are intended to be and shall be read to be consistent with each other. The permanent ordinance amendment that is being proposed similarly only amends Title 30 but makes the finding that the definition is intended to apply equally within the Coastal Zone.

Staff recommends that the Planning Commission forward the draft Ordinance (Exhibit 1 – Draft Ordinance) to the Ordinance Committee with a recommendation that the amendment made through the Interim Urgency Ordinance be made permanent and that the ordinance be adopted.

#### **IV. GENERAL PLAN AND CITY CHARTER CONSISTENCY**

In order for the City Council to adopt the text amendment to SBMC section 30.295.040.P, it must be found to be consistent with the City’s General Plan and the City Charter. In this instance, the amendment is minor and merely clarifying existing law that has been consistent with and compliant with the City Charter and current General Plan since its adoption.

#### **V. COMPLIANCE WITH CEQA**

Staff has determined that the ordinance amendment is not subject to environmental review pursuant to the State Guidelines for Implementation of the California Environmental Quality Act Sections 15060(c)(2) and 15060(c)(3) pertaining to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The ordinance amendment merely clarifies existing law and therefore does not have the potential to result in a direct or reasonably foreseeable indirect physical change in the environment.

#### **VI. NEXT STEPS**

The Planning Commission’s recommendation will be presented to the City Council Ordinance Committee as soon as possible, and subsequently to the City Council for review and adoption.

Exhibit 1 – Draft Ordinance



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SANTA BARBARA TO DECLARE EXISTING LAW BY  
AMENDING SANTA BARBARA MUNICIPAL CODE  
SECTION 30.295.040 P. PERTAINING TO THE DEFINITION  
OF HOTELS AND SIMILAR USES

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS  
FOLLOWS:

SECTION 1. Findings and Determinations.

A. The City of Santa Barbara ("City") has an overriding municipal affairs interest in planning and regulating the development of property within the City in order to maintain and improve the quality of urban life and the character of the City's neighborhoods. Without stable, well-planned neighborhoods, residential sections of the City can quickly deteriorate, with detrimental consequences to social, environmental, and economic values. It is the intent of the City Council to ensure that residential neighborhoods remain well-planned and that residents maintain a high quality of life. One means of ensuring these goals and interests has been to closely regulate commercial transient uses in residential neighborhoods.

B. Since at least 1983, the City's Municipal Code and Zoning Ordinance have consistently defined the term "hotel" to include all temporary abiding places of individuals for less than thirty (30) consecutive days, "including, but not limited to" auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses. These regulations have applied consistently both within the City's Coastal Zone and inland.

C. Since at least 1983, short-term rentals for residential use of any kind have been regulated by the City as hotels.

D. The consistent administrative interpretation of the City agencies charged with enforcement of the Zoning Ordinance, including the City Council, Community Development Department and City Attorney, has been that short-term rentals for

residential use are hotels, and therefore unlawful uses except in zones expressly permitting hotels and similar uses.

E. The advent of internet-facilitated short-term rental platforms such as Airbnb and VRBO has not resulted in a change in the Santa Barbara Municipal Code or its consistent interpretation by the Council and staff charged with its enforcement.

F. During certain periods of time, the City collected Transient Occupancy Tax from short-term vacation rental operators who voluntarily came forward to make such payments. While payment of taxes cannot legalize an unlawful business, and while no amnesty was conferred, the collection of taxes by the City created potential confusion among short-term vacation rental operators.

G. The City Council hereby finds, determines, and declares that this ordinance is declaratory of existing law, and is being enacted to prevent needless litigation.

H. The City Council finds, determines, and declares its intention to preserve the status quo prohibition of short-term rental use, except in zones designated for hotels, by amending the definition of “Hotels and Similar Uses” contained in the Zoning Ordinance for inland areas to avoid any uncertainty about the existing prohibition of hotels within lower density residential neighborhoods.

I. The City Council further finds, determines, and declares that the interpretation of the definition of and restriction on the location of hotels under Title 28, which previously applied citywide but which now applies only in the Coastal Zone, and the interpretation of the definition of and restriction on location of hotels under Title 30, which now applies inland of the Coastal Zone, are intended to be and shall be read to be consistent with each other.

SECTION 2. Section 30.295.040, Subsection P. of the Santa Barbara Municipal Code is amended to read as follows:

**“P. Hotels and Similar Uses.** Establishments providing overnight accommodations to transient patrons for payment. This classification includes establishments that offer accommodations for periods of 30 consecutive calendar days or less. Establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This use classification includes, but is not limited to, auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, timeshare projects, short-term rental or similar use of single or multi-unit residential dwellings,

and tourist courts, ~~but does not include rooming houses, boarding houses, or private residential clubs.~~”

SECTION 3. This Ordinance is declaratory of existing law.

SECTION 4. The City Council hereby declares that should any section, paragraph, sentence, phrase or term of this Ordinance, hereby adopted, be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance irrespective of any such portion declared invalid.

SECTION 5. In addition, the City Council finds that, on the basis of the whole record and exercising its independent judgment, this Ordinance is not subject to environmental review pursuant to the State Guidelines for Implementation of the California Environmental Quality Act Sections 15060(c)(2) and 15060(c)(3) pertaining to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. This Ordinance has no potential for resulting in physical change to the environment directly or indirectly in that it merely clarifies existing law and administrative practice.

