



San Bernardino County

Legislation Text

File #: 4487, Agenda Item #: 136

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

June 22, 2021

FROM

**LEONARD X. HERNANDEZ, Chief Executive Officer, County Administrative Office
TERRI RAHHAL, Director, Land Use Services Department**

SUBJECT

Urgency Ordinance and Companion Regular Ordinance Proposed to Increase Penalties for Short-Term Rental Code Violations

RECOMMENDATION(S)

1. Receive a report from staff regarding enhanced enforcement of short-term rentals and discuss community concerns related to impacts of short-term rentals.
2. Consider proposed urgency ordinance amending Sections 11.0206(a)(1) and 11.0208(e)(1) of Division 1 of Title 1 of the County Code relating to increased fines and penalties applicable to operation of short-term residential rental units.
 - a. Make alterations, if necessary, to the proposed urgency ordinance.
 - b. Approve introduction of proposed urgency ordinance.
 - c. Read title only of proposed urgency ordinance; waive reading of entire text and adopt urgency ordinance. (Four votes required.)
 - d. Direct the Clerk of the Board to file a Notice of Exemption.
3. Consider proposed ordinance amending Sections 11.0206(a)(1) and 11.0208(e)(1) of Division 1 of Title 1 of the County Code relating to increased fines and penalties applicable to operation of short-term residential rental units.
 - a. Make alterations, if necessary, to the proposed ordinance.
 - b. Approve introduction of proposed ordinance.
 - c. Read title only of proposed ordinance; waive reading of the entire text and SCHEDULE FOR FINAL ADOPTION ON TUESDAY, JULY 13, 2021, on the Consent Calendar.
 - d. Direct the Clerk of the Board to file a Notice of Exemption.
4. Direct staff to monitor the effect of these ordinances on compliance and to prepare recommendations for additional amendments to the County Code as needed to alleviate adverse impacts of short-term residential rental units on unincorporated communities.

(Presenter: Leonard X. Hernandez, Chief Executive Officer, 387-5418)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.
Provide for the Safety, Health and Social Service Needs of County Residents.**

FINANCIAL IMPACT

The recommended actions will not result in the use of any additional Discretionary General Funding (Net County Cost).

BACKGROUND INFORMATION

On May 18, 2021, during a regularly scheduled meeting of the Board of Supervisors (Board), the Board acknowledged community concerns and calls for a moratorium on approval of additional short-term residential rental unit (STR) permits. The Board also directed staff to prepare an urgency ordinance to enact substantial penalties for violations of STR permit requirements and STR regulations.

The recent increase in permitting and occupancy of STRs in mountain and desert communities during the COVID-19 pandemic has given rise to increasing complaints from full-time residents of these communities. The complaints are not limited to occasional nuisance noise or inconvenience to residents. The proliferation of STRs has impacted the ability of local residents and workers to find housing. The increased number of STR units, combined with the increased popularity of private home rentals has fundamentally impacted multiple neighborhoods to the point that residents feel overwhelmed.

On June 8, 2021, the Board approved the 2021-22 budget that allocated \$10.4 million to address community concerns. In response to the allocated resources, the County Administrative Office has established a multi-disciplinary task force consisting of Sheriff/Coroner/Public Administrator, District Attorney, County Counsel, Agriculture/Weights & Measures, Environmental Health Services, Land Use Services - Code Enforcement. In addition, the County has temporarily moved Code Enforcement under the new Implementations Division of the County to leverage available resources and to redesign the way Code Enforcement engages with the communities to address concerns. This approach will include additional staffing, increased direct community engagement, staff working evenings and weekends, and higher level coordination with local law enforcement agencies to continue a proactive and responsive approach. The objective of this effort is to identify as many avenues as possible to deterring illegal and nuisance activity. The Board's approval of these additional resources allows for this new approach to commence immediately. The added Code Enforcement presence in the communities will allow staff to observe neighborhood conditions first-hand and consider the changing environment in our review of STR permit applications; both new applications and renewals.

The current adverse conditions reported in mountain and desert neighborhoods warrant a full review of the STR regulations in the County Code, including occupancy limits, STR permit standards and the criteria for issuing STR permits. These conditions also justify immediate action on an urgency basis. Based on these conditions and Board direction, staff has prepared two ordinances for consideration, listed below.

Urgency Ordinance to Increase Fines and Penalties Applicable to STR Operation

The adverse conditions in mountain and desert neighborhoods necessitate an immediate change in the enforcement tools available to remedy violations of STR regulations. Section 25123 of the California Government Code provides for action by urgency ordinance when immediate action is needed to preserve public peace, health and safety. Therefore, an urgency ordinance is proposed to increase the penalties imposed for violations of STR permit requirements or STR regulations in the County Code. Currently, enforcement actions applicable to STR violations begin with a Notice of Violation, followed by a series of administrative citations with fines as follows:

Current Fines: 1st offense: \$100; 2nd offense: \$200; 3rd offense: \$500.

Operating STRs is a lucrative business that can absorb the current fines with no impetus to change. The proposed urgency ordinance would increase these penalties.

Proposed Fines for violations involving existing STR permits:

Criminal and Administrative Penalties:

1st offense: \$1,000; 2nd offense within a twelve-month period: \$2,000; 3rd offense within a twelve-month period: \$5,000.

Subsequent offenses would be subject to suspension or revocation of the STR permit.

Proposed Fines for STR operation without a valid permit:

Criminal Penalties:

Operation without a permit or operation under a suspended permit may be prosecuted as a misdemeanor: 1st offense: \$1,000; 2nd offense: \$2,000; 3rd offense: \$5,000.

Administrative Penalties:

Up to \$1,000 per violation per day until the violator indicates and Code Enforcement confirms the violation has been abated.

Ordinance to Increase Fines and Penalties Applicable to STR Operation

The other ordinance proposed for consideration is a regular ordinance identical to the urgency ordinance to increase fines and penalties applicable to STR operations, and also includes a probation clause to address changes in state law effective Jan. 1, 2021. AB 1950 restricts the period of probation for a misdemeanor to no longer than one year unless the code provisions specify the length of probation. This Ordinance will specify that a court may order probation for up to three years. The AB 1950 language is not related specifically to STR operations.

Acting on both proposed fine and penalty ordinances will allow the County to act immediately to implement the increased fines and penalties while also completing the amendment of Title 1 of the County Code according to the standard process of introduction and first reading, followed by final adoption at a later meeting. If all of the recommended actions are approved, staff will immediately implement the increased fines and penalties. At the same time, a thorough review and revision of STR regulations in Title 8 of the County Code will commence. STR regulations include criteria and procedures for issuing STR permits, occupancy limits, parking requirements, operating standards and management requirements for STR units detailed in Chapter 84.28 of the County Code. As soon as the contemplated revision of Title 8 (Chapter 84.28) of the County Code is drafted, that ordinance will be presented to the County Planning Commission for review in a public hearing. The Planning Commission will forward a recommendation to the Board for final action.

California Environmental Quality Act Compliance

The proposed ordinances are recommended to minimize and reduce environmental impacts in San Bernardino County neighborhoods. Neither ordinance is subject to the California Environmental Quality Act (CEQA), pursuant to sections 15060(c)(2) and 15061(b)(3) of the CEQA Guidelines. These sections apply to actions that will not result in significant physical impacts to the environment. Each ordinance would also be exempt from CEQA pursuant to section 15308 of the CEQA Guidelines, which applies to actions undertaken by a regulatory agency to ensure protection of the environment.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Kristina Robb, Supervising Deputy County Counsel, 387-5455) on June 18, 2021; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412) on June 14, 2021; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on June 14, 2021.