

PLANNING COMMISSION AGENDA

CHAIRPERSON:

Adam Peck



VICE CHAIRPERSON:

Mary Beatie

COMMISSIONERS: Marvin Hansen, Chris Tavarez, Bill Davis, Mary Beatie, Adam Peck

MONDAY, SEPTEMBER 25, 2023

VISALIA COUNCIL CHAMBERS

LOCATED AT 707 W. ACEQUIA AVENUE, VISALIA, CA

MEETING TIME: 7:00 PM

1. CALL TO ORDER –
2. THE PLEDGE OF ALLEGIANCE –
3. CITIZEN'S COMMENTS – This is the time for citizens to comment on subject matters that are not on the agenda but are within the jurisdiction of the Visalia Planning Commission. You may provide comments to the Planning Commission at this time, but the Planning Commission may only legally discuss those items already on tonight's agenda.

The Commission requests that a five (5) minute time limit be observed for Citizen Comments. You will be notified when your five minutes have expired.
4. CHANGES TO THE AGENDA –
5. CONSENT CALENDAR - All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.
 - No Items on the Consent Calendar
6. PUBLIC HEARING – Josh Dan, Senior Planner
Variance No. 2023-03: A request by Michael Germaine LLC to allow a variance to the maximum fence height limit of four feet to six feet within the required 15-foot yard setbacks along the perimeter of a Commercial Mixed Use (C-MU) zoned property. The project site is located at 2439 West Whitendale Avenue (APN: 121-090-052). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Categorical Exemption No. 2023-32.

7. PUBLIC HEARING – Josh Dan, Senior Planner

Zoning Text Amendment No. 2023-01: A request by the City of Visalia to amend Title 17 (Zoning) Chapter 17.32 Special Provisions to regulate Short-Term Rentals in residential zones, Citywide. A Notice of Exemption was prepared in accordance with State California Environmental Quality Act (CEQA) Guidelines Section 15183 (Public Resources Code §21083.3). Notice of Exemption No. 2023-45 disclosed that the zoning code amendment to Section 17.32 will have no significant effect on the environment because the proposed ordinance will establish codified objective performance standards that regulate Short-Term Rentals in residential zones.

8. CITY PLANNER/ PLANNING COMMISSION DISCUSSION –

- a. Update on pending Zoning Ordinance revisions to address Sente Bill 1186.
- b. American Planning Association State Conference Update.

The Planning Commission meeting may end no later than 11:00 P.M. Any unfinished business may be continued to a future date and time to be determined by the Commission at this meeting. The Planning Commission routinely visits the project sites listed on the agenda.

For Hearing Impaired – Call (559) 713-4900 (TTY) 48-hours in advance of the scheduled meeting time to request signing services.

Any written materials relating to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the City Office, 315 E. Acequia Visalia, CA 93291, during normal business hours.

APPEAL PROCEDURE

THE LAST DAY TO FILE AN APPEAL IS THURSDAY, OCTOBER 5, 2023, BEFORE 5:00 PM

According to the City of Visalia Zoning Ordinance Section 17.02.145 and Subdivision Ordinance Section 16.04.040, an appeal to the City Council may be submitted within ten days following the date of a decision by the Planning Commission. An appeal form with applicable fees shall be filed with the City Clerk at 220 N. Santa Fe, Visalia, CA 93291. The appeal shall specify errors or abuses of discretion by the Planning Commission, or decisions not supported by the evidence in the record. The appeal form can be found on the city's website www.visalia.city or from the City Clerk.

THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, OCTOBER 9, 2023



REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: September 25, 2023

PROJECT PLANNER: Josh Dan, Senior Planner
Phone: (559) 713-4003
E-mail: josh.dan@visalia.city

SUBJECT: Zoning Text Amendment No. 2023-01: A request by the City of Visalia to amend Title 17 (Zoning) Chapter 17.32 Special Provisions to regulate Short-Term Rentals in residential zones, Citywide.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. 2023-51, recommending that the City Council approve adoption of Zoning Text Amendment No. 2023-01, which amends Title 17, Chapter 17.32 Special Provisions to provide operating standards for short-term rentals in residential zones citywide. This recommendation is based on the findings contained therein and summarized as follows:

- The Zoning Text Amendment is consistent with the goals, objectives, and policies of the City's General Plan.
- The Zoning Text Amendment establishes objective standards to adequately address operational standards for short-term rentals, consistent with the stated goals of the City of Visalia General Plan and Zoning Ordinance to preserve and promote the public health, safety, and welfare of the city.

RECOMMENDED MOTION

I move to recommend that the City Council approve Zoning Ordinance Text Amendment No. 2023-01 based on the findings and conditions in Resolution No. 2022-06.

REASON FOR ZONING TEXT AMENDMENT

Zoning Text Amendment (ZTA) No. 2023-01 is a city-initiated request to address the increase in Short-Term Rental uses within the City's limits.

On May 1, 2023, staff conducted a work session with City Council on the subject of Short-Term Rentals (STRs) based on complaints several Councilmembers received from local residents earlier in the year. The work session detailed how the City currently addresses STRs and provided examples of regulations other agencies have implemented (see the Council Staff Report in Exhibit "A"). Council received the presentation, accepted comments from STR operators and members of the public and considered various proposals that could be incorporated into an STR Ordinance. The City Council expressed their desire to have staff prepare an ordinance to regulate STRs rather than relying on staff's current process. The Council directed staff to prepare a draft ordinance with all the provisions presented by staff at the work session.

The proposed Zoning Ordinance changes are as follows:

- Amend Title 17 Zoning to include Chapter 17.32.166 Short-Term Rental Permits.

BACKGROUND

The City of Visalia Title 17 “Zoning” provides a precise and detailed plan for the use of land within the city, and more precisely works to achieve the policies and objectives of the General Plan. Similarly, of the various chapters in Title 17 Zoning, Chapter 17.32 Special Provisions has served as a chapter of the Zoning Ordinance to address items which have not otherwise been explicitly address in specific zones but work to structure performance standards or operational standards for specific uses or within specified zones. ZTA No. 2023-01 is a city-initiated request to implement objective Short-Term Rental (STR) operational standards.

STRs have gained popularity in the City but are not explicitly listed in the municipal code. A STR is defined in California Government Code Section 36900(d)(2) as a residential dwelling, or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less. (Please note this definition excludes State licensed group homes and board and care facilities, which are defined in the Zoning Ordinance.) STRs are commonly reserved through third-party internet hosting platforms such as Airbnb and VRBO. In addition, guests may also book STRs through travel sites such as Expedia or Hotwire, or directly with a homeowner or tenant via social media platform marketplaces or word of mouth.

Staff reviewed two of the major platforms that list SRTs in Visalia; Airbnb and VRBO. A search on Airbnb identified between 340 to 867 spaces listed in Visalia, depending on availability and dates. VRBO identified a total of 93 properties available to reserve. Although these sites identified STR availability in Visalia, the overall number of active STRs within the City is difficult to quantify. This is due to several factors including the failure of STR operators to accurately report activities and the lack of distinction on City Business Tax records between STRs and other types of landlord business licenses.

PROJECT EVALUATION

Based on the direction provided by City Council, and input received from the Planning Commission at the August 28th meeting, staff analyzed suitably structured operational standards. These standards, as outlined below, are crafted to address public concerns, process operator application requests, and regulate STRs via codified objective standards. As the State definition above [California Government Code Section 36900(d)(2)] details, the use would only be permissible within residential dwellings. As such, staff has structured the proposed chapter below to regulate the use within residences only.

Short-term Rental Permits (VMC Section 17.32.166):

Staff has drafted the following Section 17.32.166 for Short-Term Rental operational standards. The draft ordinance solidifies Council’s direction by providing objective standards to address the use in residential zones. The new code section to be added to the Special Provisions chapter of the Zoning Ordinance is listed below:

Section 17.32.166 Short-term rental permits.

This new section identifies how STR applications will be processed administratively by the City Planner, which is consistent with the processing procedures used for Administrative Adjustments (Chapter 17.04) and Temporary Conditional Use Permit (Chapter 17.38) processes. Approval of an STR application through an administrative process will be subject to the proposed codified requirements as noted below and as contained in the attached resolution. In addition to the processing requirements, this section also provides definitions related to the operational standards as noted below.

- “Local contact person” shall mean a person designated by an owner or the owner’s agent, who, if designated to act as such, shall be available to respond to notification of a complaint regarding

the dwelling, and take remedial action necessary, as required under subsection “d” of this section. A local contact person may be the owner or the owner’s agent.

- “Occupant” shall mean any person who is on or in a short-term rental property other than service providers or the owner, whether or not the person stays overnight.
- “Operator” shall mean the owner or the designated agent of the owner who is responsible for compliance with this section.
- “Owner” shall mean the person(s) or entity(ies) that holds legal or equitable title to a dwelling. “Owner” includes a lessee.
- “Short-term rental” shall mean the rental of a dwelling or a portion thereof by the owner to another person or group of persons for occupancy, dwelling, lodging or sleeping purposes for a period of less than thirty (30) consecutive calendar days. The rental of units within City-approved hotels, motels, bed and breakfasts, and time-share projects shall not be considered to be a short-term rental.
- “Short-term rental unit” shall mean the habitable interior space of a dwelling, or any portion thereof, that is being rented, or is intended to be rented, as a short-term rental to a person or group of persons.

Objective Operational Standards

In addition to noted changes above, Section 17.32.166.2 through 20 contains operating standards to ensure that both owners/operators and renters of STRs are aware of local requirements. The following are a few notable operating standards while the entire STR ordinance is contained in the attached resolution to this report.

Section 17.32.166.4:

While a short-term rental unit is rented, the owner or a local contact person shall be available by telephone twenty-four (24) hours per day, seven (7) days per week to respond to complaints regarding the use, condition, operation or conduct of occupants of a short-term rental unit. The owner or a local contact person must be on the premises of the short-term rental at the request of an enforcement officer of the City’s Police Department within forty-five (45) minutes of contact to satisfactorily correct or take remedial action necessary to resolve any complaint, alleged nuisance or violation of this chapter by occupants occurring at the short-term rental property. Failure of the owner or a local contact person to respond to calls or complaints in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this chapter and/or Chapter 7 of Title 1.

Section 17.32.166.5:

A Short-term rental property(ies) and short-term rental unit(s) shall be used only for overnight lodging accommodations. At no time shall a short-term rental unit or short-term rental property be used for activities in excess of the occupancy limits established in subsection 7 of this section, or for weddings, receptions, parties, commercial functions, advertised conferences, or other similar assemblies that are separate from the purpose of lodging.

Section 17.32.166.7

The owner shall limit occupancy of a short-term rental property to a specific number of occupants.

The following table sets forth the maximum number of occupants:

<u>Number of Bedrooms</u>	<u>Total Adult Occupants</u>
<u>Studio – 1</u>	<u>2</u>
<u>2</u>	<u>4</u>
<u>3</u>	<u>6</u>
<u>4</u>	<u>8</u>
<u>5</u>	<u>10</u>
<u>6</u>	<u>12</u>

If the home occupation permit for short-term rental limits occupancy to a number less than that shown on the table, the limit in the permit shall govern.

In addition, the proposed STR ordinance does not quantify the number of children permitted in an STR as an additional metric to limit occupancy. Through staff's research of other jurisdictions STR ordinances, the quantifiable metric used to establish maximum occupancy is adults. Staff has elected to use this metric in the proposed STR ordinance.

Section 17.32.166.10

This section requires that all vehicles related to the occupants of a short-term rental unit shall be parked only in an improved driveway or garage on the short-term rental property. The maximum number of vehicles allowed on a short-term rental property shall be limited to the number of available off-street parking spaces; however, such property must have a minimum of two (2) off-street parking spaces.

Sections 17.32.166.13 and 14

These two sections address noise issues to ensure occupants of a short-term rental do not create noise disturbances within a neighborhood. No musical instrument(s), phonograph, loudspeaker, amplified or reproduced sound, or any machine or device for the production or reproduction of any sound shall be used outside or be audible from the outside of a short-term rental unit between the hours of 7:00 p.m. and 6:00 a.m. In addition, occupants shall not engage in outdoor activities on a short-term rental property between the hours of 10:00 p.m. and 6:00 a.m. that involve the use of swimming pools, hot tubs, spas, tennis and paddleboard courts, play equipment and other similar and related improvements. The hours between 10:00 p.m. and 6:00 a.m. are considered to be "quiet time," where all activities at a short-term rental property shall be conducted inside of a short-term rental unit so that no outdoor activity will disturb the peace and quiet of the neighborhood.

Section 17.32.166.20

This section ensures that only one dwelling unit on a site can be used for the purposes of a Short-term rental, thereby prohibiting the use of an ADU or JADU in addition to the primary dwelling from being rented out as a short-term rental.

Section 17.32.166.C and D

This section addresses the revocation process for a short-term rental permit and the appeal process for an operator/owner of short-term rental to follow in the event they seek to appeal a revocation determination.

Environmental Review

The requested action is considered exempt under Section 15061(b)(3), Per Section 15061(b)(3) of the State Guidelines for the California Environmental Quality Act (CEQA). A Notice of Exemption has been prepared for the project because Section 15061 (b) (3) states that the project is exempted from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed text amendment to establish performance standards for smoke shops will not have a significant effect on the environment.

RECOMMENDED FINDINGS

1. That the proposed Zone Text Amendment is consistent with the intent of the General Plan, and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The proposed zoning amendment is crafted to address public concerns, process operator application requests, and regulate STRs via codified objective standards.
2. That the proposed Zone Text Amendment is not inconsistent with any other Element of the General Plan.
3. That the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption).

APPEAL INFORMATION

The Planning Commission's recommendation on Zoning Ordinance Text Amendment No. 2023-01 is advisory only and is automatically referred to the City Council for final action.

Attachments:

- Related Plans and Policies
- Resolution No. 2022-06 - Draft Ordinance Short-Term Rentals
- Exhibit A – Council Staff Report (May 1, 2023)

RELATED PLANS AND POLICIES

Chapter 17.44 ZONING AMENDMENTS

Sections:

17.44.010	Purpose.
17.44.020	Initiation.
17.44.030	Application procedures.
17.44.040	Public hearing—Notice.
17.44.050	Investigation and report.
17.44.060	Hearing.
17.44.070	Action of city planning commission.
17.44.090	Action of city council.
17.44.100	Change of zoning map.
17.44.110	New application.
17.44.120	Report by city planner.

17.44.010 Purpose.

As a general plan for Visalia is put into effect, there will be a need for changes in zoning boundaries and other regulations of this title. As the general plan is reviewed and revised periodically, other changes in the regulations of this title may be warranted. Such amendments shall be made in accordance with the procedure prescribed in this chapter.

17.44.020 Initiation.

A. A change in the boundaries of any zone may be initiated by the owner of the property within the area for which a change of zone is proposed or by his authorized agent. If the area for which a change of zone is proposed is in more than one ownership, all of the property owners or their authorized agents shall join in filing the application, unless included by planning commission resolution of intention.

B. A change in boundaries of any zone, or a change in a zone regulation, off-street parking or loading facilities requirements, general provision, exception or other provision may be initiated by the city planning commission or the city council in the form of a request to the commission that it consider a proposed change; provided, that in either case the procedure prescribed in Sections 17.44.040 and 17.44.090 shall be followed.

17.44.030 Application procedures.

A. A property owner or his authorized agent may file an application with the city planning commission for a change in zoning boundaries on a form prescribed by the commission and that said application shall include the following data:

1. Name and address of the applicant;
2. Statement that the applicant is the owner of the property for which the change in zoning boundaries is proposed, the authorized agent of the owner, or is or will be the plaintiff in an action in eminent domain to acquire the property involved;

3. Address and legal description of the property;
 4. The application shall be accompanied by such sketches or drawings as may be necessary to clearly show the applicant's proposal;
 5. Additional information as required by the historic preservation advisory board.
- B. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of processing the application.

17.44.040 Public hearing—Notice.

The city planning commission shall hold at least one public hearing on each application for a change in zone boundaries and on each proposal for a change in zone boundaries or of a zone regulation, off-street parking or loading facilities requirements, general provisions, exception or other provision of this title initiated by the commission or the city council. Notice of the public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the city, and by mailing notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use that is the subject of the hearing.

17.44.050 Investigation and report.

The city planning staff shall make an investigation of the application or the proposal and shall prepare a report thereon that shall be submitted to the city planning commission.

17.44.060 Hearing.

- A. At the public hearing, the city planning commission shall review the application or the proposal and may receive pertinent evidence as to why or how the proposed change is necessary to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020.
- B. If the commission's recommendation is to change property from one zone designation to another, the commission may recommend that conditions be imposed so as not to create problems adverse to the public health, safety and general welfare of the city and its residents.

17.44.070 Action of city planning commission.

The city planning commission shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020. The commission shall transmit a report to the city council recommending that the application be granted, conditionally approved, or denied or that the proposal be adopted or rejected, together with one copy of the application, resolution of the commission or request of the Council, the sketches or drawings submitted and all other data filed therewith, the report of the city engineer and the findings of the commission.

17.44.080 [Reserved].

17.44.090 Action of city council.

- A. Upon receipt of the resolution or report of the city planning commission, the city council shall review the application or the proposal and shall consider the resolution or report of the commission and the report of the city planning staff.

B. The city council shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020. If the council finds that the change is required, it shall enact an ordinance amending the zoning map or an ordinance amending the regulations of this title, whichever is appropriate. The city council may impose conditions on the change of zone for the property where it finds that said conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the city and its residents. If conditions are imposed on a change of zone, said conditions shall run with the land and shall not automatically be removed by a subsequent reclassification or change in ownership of the property. Said conditions may be removed only by the city council after recommendation by the planning commission. If the council finds that the change is not required, it shall deny the application or reject the proposal.

17.44.100 Change of zoning map.

A change in zone boundary shall be indicated on the zoning map.

17.44.110 New application.

Following the denial of an application for a change in a zone boundary, no application for the same or substantially the same change shall be filed within one year of the date of denial of the application.

17.44.120 Report by city planner.

On any amendment to the zoning code changing property from one zone classification to another, the city planner shall inform the planning commission and the city council of any conditions attached to previous zone changes as a result of action taken pursuant to Sections 17.44.060, 17.44.070 and 17.44.090.

RESOLUTION NO. 2023-51

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT NO. 2023-01, A REQUEST BY THE CITY OF VISALIA TO AMEND TITLE 17 (ZONING) CHAPTER 17.32 SPECIAL PROVISIONS TO REGULATE SHORT-TERM RENTALS IN RESIDENTIAL ZONES, CITYWIDE.

WHEREAS, Zoning Text Amendment No. 2023-01 is a request by the City of Visalia to amend Title 17 (Zoning) Chapter 17.32 Special Provisions to regulate Short-Term Rentals in residential zones, Citywide. The specific amendments are specified in Attachment "A" of this Resolution; and

WHEREAS, the project is exempt under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on September 25, 2023; and

WHEREAS, the Planning Commission of the City of Visalia considered the Zone Text Amendment in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia and on the evidence contained in the staff report and testimony presented at the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council concur that the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption).

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of the proposed Zone Text Amendment based on the following specific findings and evidence presented:

1. That the proposed Zone Text Amendment is consistent with the intent of the General Plan, and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. The proposed zoning amendment is crafted to address public concerns, process operator application requests, and regulate STRs via codified objective standards.
2. That the proposed Zone Text Amendment is not inconsistent with any other Element of the General Plan.
3. That the project is exempt from further review under the California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) (common sense exemption).

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of the Zone Text Amendment described herein in Attachment "A", in accordance with the terms of this resolution and under the provisions of Section 17.44.070 of the Ordinance Code of the City of Visalia.

Resolution No. 2023-51

ATTACHMENT "A"

Zoning Text Amendment (ZTA) No. 2023-01, implementing objective operational standards to address Short-term Rentals in the City of Visalia.

Changes to City of Visalia Municipal Code Title 17 – Zoning Ordinance, as specified by underline & italics for additions.

Section 17.32.166 Short-term rental permits.

- A. Short-term rental permits may be processed as an administrative matter by the city planner and no hearing shall be required.
- B. In addition to all other requirements of this chapter, and notwithstanding any contrary provisions in this Code, short-term rentals are subject to the following operational standards:
 1. Definitions. The definitions in this subsection shall govern the construction, meaning, and application of the following words and phrases used in this chapter:
 - a. "Local contact person" shall mean a person designated by an owner or the owner's agent, who, if designated to act as such, shall be available to respond to notification of a complaint regarding the dwelling, and take remedial action necessary, as required under subsection "d" of this section. A local contact person may be the owner or the owner's agent.
 - b. "Occupant" shall mean any person who is on or in a short-term rental property other than service providers or the owner, whether or not the person stays overnight.
 - c. "Operator" shall mean the owner or the designated agent of the owner who is responsible for compliance with this section.
 - d. "Owner" shall mean the person(s) or entity(ies) that holds legal or equitable title to a dwelling. "Owner" includes a lessee.
 - e. "Short-term rental" shall mean the rental of a dwelling or a portion thereof by the owner to another person or group of persons for occupancy, dwelling, lodging or sleeping purposes for a period of less than thirty (30) consecutive calendar days. The rental of units within City-approved hotels, motels, bed and breakfasts, and time-share projects shall not be considered to be a short-term rental.
 - f. "Short-term rental unit" shall mean the habitable interior space of a dwelling, or any portion thereof, that is being rented, or is intended to be rented, as a short-term rental to a person or group of persons.
 2. The owner of a short-term rental unit shall not be relieved of any personal responsibility or personal liability for noncompliance with any applicable law, regardless of whether such noncompliance was committed by the owner's agent, a local contact person or the occupants of the owner's short-term rental unit.
 3. The owner shall ensure that the short-term rental property and short-term rental unit(s) comply with all applicable codes regarding fire, building and safety, and all other relevant laws, regulations and ordinances, obtain all permits required, and pay all applicable fees.

4. While a short-term rental unit is rented, the owner or a local contact person shall be available by telephone twenty-four (24) hours per day, seven (7) days per week to respond to complaints regarding the use, condition, operation or conduct of occupants of a short-term rental unit. The owner or a local contact person must be on the premises of the short-term rental at the request of an enforcement officer of the City's Police Department within forty-five (45) minutes of contact to satisfactorily correct or take remedial action necessary to resolve any complaint, alleged nuisance or violation of this chapter by occupants occurring at the short-term rental property. Failure of the owner or a local contact person to respond to calls or complaints in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this chapter and/or Chapter 7 of Title 1.
5. Short-term rental property(ies) and short-term rental unit(s) shall be used only for overnight lodging accommodations. At no time shall a short-term rental unit or short-term rental property be used for activities in excess of the occupancy limits established in subsection 7 of this section, or for weddings, receptions, parties, commercial functions, advertised conferences, or other similar assemblies that are separate from the purpose of lodging.
6. All advertising appearing in any written publication or on any website that promotes the availability or existence of a short-term rental shall include the City-issued permit number as part of the rental offering. No person shall advertise the use of a dwelling as a short-term rental unless the City has approved a home occupation permit for short-term rental pursuant to this chapter.
7. The owner shall limit occupancy of a short-term rental property to a specific number of occupants. The following table sets forth the maximum number of adult occupants:

<u>Number of Bedrooms</u>	<u>Total Adult Occupants</u>
<u>Studio – 1</u>	<u>2</u>
<u>2</u>	<u>4</u>
<u>3</u>	<u>6</u>
<u>4</u>	<u>8</u>
<u>5</u>	<u>10</u>
<u>6</u>	<u>12</u>

For any dwelling having more than eight (8) bedrooms, the maximum number of adult occupants shall not exceed nineteen (19). If the home occupation permit for short-term rental limits occupancy to a number less than that shown on the table, the limit in the permit shall govern.

8. Only the habitable interior portions of a dwelling shall be utilized as a short-term rental. Garages, tents, camper trailers, recreational vehicles, or other exterior structures or spaces are not permissible as short-term rentals or as bedrooms within short term rental units.
9. In any advertising concerning the availability of a dwelling as a short-term rental, the owner or a local contact person shall advertise the maximum number of occupants allowed to occupy the short-term rental.

10. All vehicles of occupants of a short-term rental unit shall be parked only in an improved driveway or garage on the short-term rental property. The maximum number of vehicles allowed on a short-term rental property shall be limited to the number of available off-street parking spaces; however, such property must have a minimum of two (2) off-street parking spaces. The owner shall provide access to the garage of the dwelling if that area has been included in the determination of the number of available off-street parking spaces pursuant to this chapter. In no event shall off-street parking include the use of landscaped areas, any private or public sidewalk, parkway, walkway or alley (or any portion thereof) located on, at or adjacent to the short-term rental property, or the blocking of the driveway or street in front of said property. The term "sidewalk" shall include that portion of a driveway that is delineated for pedestrian travel or is in the public right-of-way.
11. No on-site exterior signs shall be posted advertising the availability of a short-term rental at the short-term rental property.
12. If an enforcement officer has received a complaint concerning a suspected violation of this chapter or of this code or any applicable law, rule, or regulation pertaining to the use or occupancy of a short-term rental unit, or if the enforcement officer has reason to believe that such a violation has occurred, the enforcement officer may notify the owner or the local contact person of the complaint or suspected violation and the notified person shall cooperate in facilitating the investigation and the correction of the suspected violation.
Failure of the owner or the local contact person to affirmatively respond to the officer's request within forty-five (45) minutes by reasonably cooperating in facilitating the investigation and the correction of the suspected violation shall be deemed to be a violation of this chapter. Notwithstanding the foregoing, it is not intended that an owner or the local contact person act as a peace officer or place himself or herself in an at-risk situation.
13. No musical instrument, phonograph, loudspeaker, amplified or reproduced sound, or any machine or device for the production or reproduction of any sound shall be used outside or be audible from the outside of a short-term rental unit between the hours of 7:00 p.m. and 6:00 a.m.
14. Occupants shall not engage in outdoor activities on a short-term rental property between the hours of 10:00 p.m. and 6:00 a.m. that involve the use of swimming pools, hot tubs, spas, tennis and paddleboard courts, play equipment and other similar and related improvements. The hours between 10:00 p.m. and 6:00 a.m. are considered to be "quiet time," where all activities at a short-term rental property shall be conducted inside of a short-term rental unit so that no outdoor activity will disturb the peace and quiet of the neighborhood adjacent to a short-term rental property or cause discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.
15. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the responsible trash hauler, as set forth in Chapter 8.28, which provides for containers to be placed at the curb on the day of pickup and removed by 7:00 p.m. on the day of collection. The owner of a short-term rental property shall provide sufficient trash collection containers and service to meet the demand of the occupants. The short-term rental property shall be free of debris both on site and in the adjacent portion of the street.

16. It is unlawful for any owner, occupant, renter, lessee, person present upon, or person having charge or possession of a short-term rental to make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area, or violates any provision of Title 8 Health and Safety.
17. The owner and the local contact person shall ensure that the occupants of a short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any State law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol, or the use of illegal drugs. Owners and local contact persons are expected to take any measures necessary to abate disturbances, including, but not limited to, directing the occupants of a short-term rental unit to cease the disturbing conduct, calling for law enforcement services or enforcement officers, removing the occupant(s), or taking any other action necessary to immediately abate the disturbance.
18. The owner shall post a sign at a conspicuous location within the short-term rental unit advising occupants of all rules and operational standards imposed upon occupants under this section.
19. All short-term rentals shall be subject to the City's transient occupancy tax, as required by Title 3 Revenue and Finance, Chapter 3.28 Transient Occupancy Tax. The owner shall also maintain, at all times, a valid City of Visalia business license.
20. Short-term rentals shall not exceed one unit per parcel in any residentially zoned district.
- C. A short-term rental permit shall be revoked by the city planner upon violation of any condition or regulation, or any limitation of any permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked if three or more violations occur within a one-year period or the required transient occupancy tax payments are not made to the City as required under Chapter 3.28.
- D. In the event of denial or revocation, or objections to limitations placed thereon, an appeal may be made in writing to the planning commission. Such appeal shall be filed in writing with the city planner, in writing, within ten (10) business days after notification of the denial or revocation, with payment of appeal fees in the same amount as required for the appeal of a site plan review permit as provided in Chapter 17.28. The planning commission shall review and either uphold or deny the city planner decision. The decision of the planning commission shall be final unless appealed to the city council pursuant to Section 17.02.145.



Visalia City Council

Visalia City Council
707 W. Acequia
Visalia, CA 93291

Legislation Text

File #: 23-0135, Version: 1

Agenda Item Wording:

Consideration of and direction on initiating potential Municipal Code Updates related to Short-Term Rentals (STRs).

Deadline for Action: 5/1/2023

Submitting Department: Community Development

Contact Name and Phone Number:

Josh Dan, Senior Planner, josh.dan@visalia.city <mailto:josh.dan@visalia.city>, (559) 713-4003

Paul Bernal, Community Development Director, paul.bernal@visalia.city <mailto:paul.bernal@visalia.city>, (559) 713-4025

Renee Nagel, Finance Director, renee.nagel@visalia.city <mailto:renee.nagel@visalia.city>, (559) 713-4375

Department Recommendation:

Staff recommends that the City Council conduct a review of current processes and standards related to Short-Term Rentals and consider the information presented in this staff report. Based on the staff report, presentation and comments received, the City Council may direct staff to formulate potential changes related to Short-Term Rentals and begin processing a Municipal Code Text Amendment to implement these changes. Revisions to be considered as part of the Municipal Code Text Amendment process related to Short-Term Rentals will be subject to a future work session discussion.

Background Discussion:

A Short-Term Rental (STR) is defined in the California Government Code Section 36900(d)(2) as a residential dwelling, or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less. (Please note this definition is different than group homes licensed through the state. Also different are board and care facilities which are defined in the Zoning Ordinance.) STRs are commonly booked through third-party internet hosting platforms such as Airbnb and VRBO. In addition, guests may also book STRs through travel sites such as Expedia or Hotwire, or directly with a homeowner or tenant via social media platform marketplaces or word of mouth.

Complaints from local residents in the community identifying concerns and issues with SRTs have been brought to the City Council's attention and questions asked regarding if this use should be regulated differently in our community.

Based on direction from City Council, staff has researched regulation of STRs to better understand how other agencies are addressing STRs in their communities. Through this research, staff is presenting various options that the City Council may consider should the Council elect to move forward with directing staff to begin formulating a draft ordinance that will address and regulate how

SRTs are reviewed in the future.

Current City of Visalia Municipal Code Sections Related to Transient Rental Uses:

Currently, the Visalia Municipal Code (VMC) does not explicitly address STRs. Staff has addressed STR requests like most other forms of home-based businesses, as detailed below:

1. An interested STR operator files for a business license with the Business Tax office.
2. Business Licenses are reviewed and processed by the Business Tax and Planning Divisions for compliance with the Municipal Code.
3. Once approved, the STR operator is permitted to rent out their home in short intervals.

Transient Occupancy Tax

The City's Finance Department collects a Transient Occupancy Tax (TOT) as detailed in Title 3 Revenue and Finance, Chapter 3.28 Transient Occupancy Tax. This chapter defines and details the percentage of tax levied for the privilege of occupancy in any hotel by a transient (ten percent of the rent charged by the operator, VMC 3.28.020). Further, the chapter details an operator's duties, obligation to report TOT, and possible penalties for failure to comply with or report TOT subject to the requirements of the chapter. (Please note California Government Code Section 13000 governs the collection of transient occupancy tax, and more specifically, Section 13204 lists a variety of uses not to be considered hotels and thusly are exempt from TOT, which include any hospital, convalescent home, sanitarium, medical clinic, home for aged people, foster home, or similarly operated for the care or treatment of human beings, etc.).

Section 3.28.060 of the Municipal Code details an operator's requirement to report tax collected to the tax collector on the last day of the month following the close of each calendar quarter, or at any interval required of the operator by the tax collector. Figures provided by the Finance Department have shown that while Airbnb actively collects and submits a monthly TOT payment to the department on behalf of operators, the platform does not detail collected monies in any category (i.e., the number of operators or collection amounts from specific addresses). For reference, Airbnb submitted \$411,000 in TOT to the City for fiscal year 2021/2022. In addition, other STR platforms (ex. VRBO) place the requirement of TOT collection and reporting on the operator. STR proprietors that use social media and word of mouth may have no knowledge of a requirement to collect or report TOT.

Number of Short-Term Rentals within the City:

There are several websites that host STR's. Due to the number of websites available, staff reviewed two of the major platforms that list SRTs in Visalia, Airbnb and VRBO. Airbnb is the most popular of all STR platforms, a search on their website identified a range of 340 to 867 spaces listed in Visalia, depending on availability and dates. The second most popular site, VRBO, identified a total of 93 properties. As noted above, the number of active STRs is difficult to quantify. Foremost, the City's Business Tax office does not currently distinguish STRs from other types of landlord business licenses. Subsequently, TOT collected is reported after the fact as mentioned above, and unless a specific operator reports and posts TOT payment to the Finance Department, it is very difficult to understand how many active STRs are currently operating within the city.

It should be noted that staff could not query the list for properties only within the City's limits and the

site may have included properties within the vicinity of the city. Additionally, some STR operators may advertise their properties on both platforms, producing some overlap in figures.

There are short-term compliance service companies, one of which the Finance Department previously worked with to identify short-term rentals. However, staff found that the service did not yield the desired outcome. A list of operators/owners of STRs was compiled by referencing various rental sites and state revenue reporting; but very few operators/owners responded to City letters for compliance with obtaining a Business License and submitting TOT. However, if the City Council, based on information received, desires to have staff research further the benefits of using a third party service to track STRs operating in the community, staff can research this further and present our findings a future work session.

What Other Cities and Counties Have Done:

Staff's research of other agencies throughout the valley and across the state have presented a common concern that the proliferation of unregulated STRs has the potential to impact housing for future home buyers or renters, and negatively erode neighborhood character. Many communities have described the necessity of establishing regulations derived by complaints about loud parties and a general disregard for community hospitality. While some agencies have taken a heavy-handed approach, processing STRs as a land use entitlement requiring a public hearing, the majority of communities researched have adopted requirements within their code's finance chapters to identify the use and charge nominal annual registration fees via business license requests.

The following is a list of agencies reviewed which require some form of STR permit process:

Short-Term Rental Data Collection		
Agency	Permit Required?	Process
City of Clovis	Y	Business license / Home Occup
City of Fresno	Y	Application with Finance Dept.
City of Kingsburg	Y	Business license / Home Occup
City of Long Beach	Y	Application with Development S (Enforcement)
City of Los Angeles	Y	Application through Planning
City of Morro Bay	Y	Application with Business Licer
City of Sutter Creek	Y	CUP with Community Developm Business License
Contra Costa County	Y	Community Development STR
Inyo County	Y	CUP with Planning Dept. and F
Placer County	Y	Application with Development S (Enforcement)
Tulare County	N	Draft Ordinance presented, not

(No agencies in Tulare County have ordinances or policies, although Tulare County has proposed an ordinance.)

Nearly all agencies researched have some form of conditions of approval associated with the operation of a STR. Primarily, the requirement that the operation of a STR be within a portion or entirety of a primarily or accessory dwelling unit and not within an unpermitted or nonhabitable space

(i.e., garage, shop, shed, recreational vehicle, etc.). Limitations on the total number of STRs seem to be a common approach to coastal and scenic communities. Placer County, for example, has identified that 28 percent of Eastern Placer County housing stock are STRs (Lake Tahoe area). However, enforcement of a STR cap can understandably prove difficult to enforce without the reporting of STRs by operators or by code compliance complaints.

The cities of Clovis, Fresno, and Kingsburg each have simple permitting application processes established through their finance departments via business license applications. These applications, similar to Visalia's own business license application process, are home occupation applications reviewed by planning or community development departments for consistency with code requirements. While each agency differs slightly in their regulation of STRs, each provide some language on limitation to occupants based on rooms or off-street parking figures.

Conversely, Inyo and Sutter Counties have established application processes requiring a Conditional Use Permit be obtained prior to operating a STR in a residence. Completed applications would include the applicant and subject property information, detail on the total square footage and number of bedrooms within the dwelling, operational statements, and a property owner acknowledgement complying with the ordinance. Additionally, the Tulare County planning staff presented a draft ordinance to the board of Supervisors which requires applicants apply for an administrative special use permit with the Resource Management Agency (RMA); however, this STR ordinance has not been adopted by Tulare County.

Considerations for Potential Direction on a Visalia STR Ordinance:

Given the concerns expressed at a prior City Council meeting regarding STRs, staff is seeking input and potential direction from the City Council on whether the Council wants to make any changes with regards to STRs. If that is the Council's direction, then staff would like to discuss whether to pursue a Zone Text Amendment to amended various sections in the municipal code (i.e., Finance and Zoning sections) or draft a "stand-alone" STR ordinance that would detail application, operating standards, and processing requirements in the City of Visalia. Staff has provided the following options for the City Council's consideration and direction as summarized below. Please note the following are examples of what an STR ordinance may include to address application submittal requirements, operating, and processing standards for STRs but does not encompass the wide array of options that could be considered. Based on direction received, staff will work on drafting a draft SRT ordinance that will be presented at a future work session.

1. Zone Text Amendment (ZTA) vs. Stand-alone SRT Ordinance

Option 1, ZTA Process: Using the ZTA process, staff would seek to amend various sections in both the Finance and Zoning Chapters of the municipal code to insert language and provision requirements to regulate STRs. This process could be implemented but would require applicants to navigate various sections of the municipal code on how to apply for an SRT.

Option 2, Stand-alone SRT Ordinance: This process would create a separate "stand-alone" section within the Zoning Ordinance clearly identifying process and operating requirements, while cross referencing to the transient occupancy tax section found in the Title 3 Revenue and Finance of the municipal code. Creating the stand-alone section regulating STRs would provide a clear and concise process for applicants seeking to operate STRs in the City of Visalia.

Option 3, Retain current process and use existing ordinances: Directing staff to retain current

processes still requires operators/owners of STRs to obtain a business application, enroll in TOT collection and remittance to the Finance Department, and any site that becomes a public nuisance due to an increase in calls for service”) will be subject to administrative enforcement citations to correct the issue. Please note pursuant to Visalia Municipal Code Section 8.40.060.C.1, “for an individual residential unit, whether the unit is a standalone residence or part of a multi- family complex, more than six substantiated police and/or fire calls over a one-year period (other than a medical emergency) can result in the property being declared a public nuisance.

Staff Recommendation: Option 2

Staff recommends Option 2 be directed as this option would provide a stand-alone section within the Zoning Ordinance, preferably under Section 17.32 “Special Provisions”, that would seek to establish all processing and operating provisions in one section rather than dispersed throughout the municipal code. Please note that this option will require a cross-reference to the City’s Title 3 Revenue and Finance Chapter 3.28 of the municipal code specifying requirements related to Transient and Occupancy Tax registration, collection, and reporting requirements.

2. Processing of STRs - Administrative Approval or Use Permit

Administrative Approval Process: If the City Council desires to keep the STR process simplified, maintaining an “Administrative Approval Process” would keep the review and approval of STR application request with the Community Development Director and/or their designee similar to the Administrative Adjustment (Chapter 17.04) and Temporary Conditional Use Permit (Chapter 17.38) processes. Approval of an STR application through an administrative process will be subject to any codified requirements that the Council may consider as part of the STR process. Codified requirements for City Council’s direction/discussion are provided in Section 3 below.

Use Permit Process: The process would entail that any STR application submitted be subject to the public hearing process that requires a notice to be published in the local newspaper and public hearing notices to be mailed to property owners within 300-feet of the proposed STR use. This process will also require the assessment of the Use Permit fees noted in the City of Visalia Fee Schedule.

Staff Recommendation: Option 1

Staff recommends that Option 1 be directed as this option would allow STR applications to be processed in a timely manner similar to Administrative Adjustments and Temporary Conditional Use Permits, but subject to codified STR requirements as outlined in Section 3 below.

3. Existing STRs and “Grandfathering”:

As mentioned in prior sections of the report, current rental operators are required to apply for business licenses. Short-term rentals currently operating within the city will be subject to any new regulation that the City Council may enact and implement. Should a procedural and/or operating standard be established, existing operators will be required to apply for whichever means of licensing or processing may be required of them.

It has been identified that “grandfathering” will likely only become a concern if the City Council determines to limit the total number of STRs in Visalia. If that is the desire and direction of the City Council, operators/owners of existing STRs will likely need to demonstrate their operation’s

compliance with current Business Tax and TOT obligations to demonstrate they are pre-existing.

4. Potential STR Codified Operational Standards:

Recently identified issues regarding the current state of STRs in the City of Visalia is the lack of codified requirements that STRs are currently not subject to any operating requirements. To ensure that both owners/operators and renters of STRs are aware of local requirements, many jurisdictions have adopted codified operating standards as a way to manage the rapid growth of short-term rental properties in their communities. The following are examples of operating standards that the City Council may direct staff to further analyze and include as potential codified operating standards. Please note that there are several cities that codify requirements that are explicitly tailored for their communities given their geographical location to entertainment venues and/or natural amenities. Additionally, codified requirements are only enforceable when an STR is known to staff; where, as mentioned previously, many STRs are discovered and will likely be brought into compliance after the facts. The following are examples of what could be considered but are not intended to be exhaustive of what other requirements could be applied.

1. Limit the number of STR's allowed in the City of Visalia.

The City Council could consider limiting the number of STRs allowed to operate in the City of Visalia. Limiting the number of STR approvals could be a way to ensure that the conversion of residential units into STRs does not result in a loss of availability of housing options for long-term renters or home buyers in the Visalia community. In addition, limiting the number of STRs in local residential neighborhoods has the potential to prevent the transition of residential communities into "communities of transients".

2. Establish an application and registration/verification process.

As part of the codified operating requirements, clearly identify an application and registration process to ensure that the owner/operator of the STR provides staff with the appropriate information including how the STR will be properly managed.

3. Require that the property owner of the STR reside in the unit.

The City Council, if desired, could seek to have a codified requirement that the owner of the property be required to reside on-site in order to operate the STR. Similar to some state statutes requiring owner occupancy, this is achieved by having the STR operator sign an agreement acknowledging that they will reside within the home for a determined period of time. The document may be recorded with the property or kept with staff.

4. Transient Occupancy Tax (TOT) Registration.

Codified operating requirements will explicitly detail that an owner/operator of an STR shall be subject to registering and paying TOT to the City of Visalia Finance Department. As part of this process, the owner/operator shall be fully responsible for the renewal, collection, and monthly remittance of TOT to the City of Visalia Finance Department. Please note the tracking of STRs to ensure compliance with TOT registration can be time consuming and may be at times difficult to verify given the wide variety of online platforms that host STR postings.

5. Parking Requirements.

Codified provisions to be considered include establishing a parking ratio for the number of occupants and/or guest allowed. As an example, a parking ratio consideration could be one on-site parking space for every four occupants and guests. On-street parking by renters and guests could be prohibited and not included in determining the maximum occupancy of the site.

6. Establishing Quiet Hours.

Potential operating requirements can include provisions that established observed “quiet hours”.

7. Limiting the Use of an STR.

Establish language that would prohibit use of a short-term residential rental unit for any other purpose other than dwelling, lodging, or sleeping. Prohibited uses that could be included are weddings, receptions, meetings, conferences, parties, commercial filming, or any other similar uses.

8. Limiting the number of occupants in an STR.

Establish codified requirements that limit occupancy of an STR to a specific number of occupants based on the number of bedrooms, while identifying a maximum number of occupants permitted.

9. Establish Suspension/Revocation process for STR.

Include language that identifies a revocation process if an operator fails to comply with codified operating standards.

Potential codified operating requirements will also include provisions regarding the suspension and/or revocation of an STR permit if the owner/operator fails to comply with adopted regulations.

Next Steps:

If directed by the City Council, staff will return with a draft ordinance to be presented at a future work session to go over the details contained in the draft STR ordinance prior to seeking direction to proceed with moving forward with an STR ordinance through the public hearing process.

Fiscal Impact:

None.

Prior Council Action: N/A

Other: N/A

Alternatives:

The City Council, in lieu of the recommendations provided, may direct staff to consider the following:

1. Receive the staff report and take no further action at this time.

Recommended Motion (and Alternative Motions if expected):

I move to direct staff to begin drafting an STR Ordinance based on the City Council’s desired options as identified in the staff report and during the work session presentation.

Environmental Assessment Status:

No environmental assessment required at this time. The adoption of any ordinance changes will require environmental documentation pursuant to the California Environmental Quality Act (CEQA) to be completed by City staff.

CEQA Review:

The adoption of any ordinance changes will require environmental documentation pursuant to the California Environmental Quality Act (CEQA) to be completed by City staff.

Attachments: None.