

15. Second Reading of Ordinance Amendment (OA) No. 2024-04 Repealing and Reenacting in its Entirety Article XXI to Chapter 8 of the Santa Ana Municipal Code (SAMC) Prohibiting Short-Term Rentals (STRs)

First reading November 19, 2024 City Council meeting and approved by a vote of 6-1 (Mayor Amezcua dissenting)

Department(s):

Recommended Action: Conduct a second reading and adopt an ordinance amending the Santa Ana Municipal Code (SAMC) to add Article XXI to Chapter 8 of the SAMC prohibiting Short-Term Rentals.

ORDINANCE NO. NS-3072 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA, CALIFORNIA, REPEALING AND REENACTING IN ITS ENTIRETY ARTICLE XXI TO CHAPTER 8 OF THE SANTA ANA MUNICIPAL CODE PROHIBITING SHORT-TERM RENTALS



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
December 3, 2024

TOPIC: Short-Term Rentals Ordinance

AGENDA TITLE

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First reading November 19, 2024 City Council meeting and approved by a vote of 6-1 (Mayor Amezcua dissenting)

RECOMMENDED ACTION

Conduct a second reading and adopt an ordinance amending the Santa Ana Municipal Code (SAMC) to add Article XXI to Chapter 8 of the SAMC prohibiting Short-Term Rentals.

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GOVERNMENT CODE §84308 APPLIES: No

DISCUSSION

At the November 19, 2024 meeting, the City Council conducted a first reading of a standard ordinance repealing and reenacting in its entirety Article XXI to Chapter 8 of the Santa Ana Municipal Code (SAMC) prohibiting short-term rentals (STRs), and adopted enhanced fines for violations of the short-term rentals ordinance. The ordinance, approved 6:1 with Mayor Amezcua dissenting, requires a second reading.

The ordinance continues to reaffirm and clarify that short-term rentals, as defined therein, are and have not been permissible in Santa Ana. No changes to the ordinance were made by the City Council; a clean copy of the ordinance for second reading is attached to this report as Exhibit 1.

ENVIRONMENTAL IMPACT

In accordance with the California Environmental Quality Act (CEQA), an addendum to the General Plan Update Environmental Impact Report (State Clearinghouse No. 2020029087) (GPU EIR) has been prepared for the Repeal and Reenactment of the Short-Term Rental Prohibition Ordinance. Under [CEQA Guidelines](#) Section 15164, an addendum to a previously certified EIR shall be prepared when a lead agency is asked to approve modifications to an existing project for which an EIR has already been certified. The addendum evaluates the proposed project within the context of the GPU EIR and determined that no subsequent environmental review was required. In accordance with State CEQA Guidelines, an addendum to the previously certified GPU EIR will be filed upon adoption of this ordinance.

The adoption of this Ordinance is also categorically exempt pursuant to State CEQA Guidelines Section 15301 – Class 1, Existing Facilities. Class 1 consists of the “operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, including negligible or no expansion of existing or former use.” The Ordinance reaffirms existing policy and practice, prohibiting short-term rentals within the City, and the Ordinance would not result in a significant expansion of existing uses or former uses. The operational activities associated with the Ordinance would be typical of residential development. No development, redevelopment, or change to existing development type in the City is proposed or required to implement the Ordinance.

Further, none of the exceptions to the exemptions set forth under State CEQA Guidelines Section 15300.2 apply. There will be no significant cumulative impact of successive projects of the same type in the same place, over time, as this is the only Ordinance prohibiting short-term rentals. There is no reasonable possibility that the Ordinance will have a significant effect on the environment due to unusual circumstances because it is reaffirming the existing prohibition on short-term rentals. The Ordinance will not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway, because the Ordinance does not propose any ground-breaking activity or construction, but instead continues the existing ban on short-term rentals. The Ordinance addresses a project type that is not located on a site which is included on any list compiled pursuant to Government Code section [65962.5](#). The Ordinance will not cause a substantial adverse change in the significance of a historical resource. Thus, the Ordinance also falls under the Class 1 categorical exemption, and no further environmental review is required.

On November 21, 2024, a Notice of Determination and Notice of Exemption were filed for the project.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Ordinance for Second Reading

Submitted By: Minh Thai, Executive Director of the Planning and Building Agency

Approved By: Alvaro Nuñez, City Manager

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA,
CALIFORNIA, REPEALING AND REENACTING IN ITS ENTIRETY
ARTICLE XXI TO CHAPTER 8 OF THE SANTA ANA MUNICIPAL CODE
PROHIBITING SHORT-TERM RENTALS

WHEREAS, Article XXI of Chapter 8 of the Santa Ana Municipal Code (“SAMC”), entitled “SHORT-TERM RENTALS” was adopted to preserve public peace, health, safety, and welfare by expressly prohibiting short-term rentals in the City of Santa Ana and to declare such uses as a public nuisance punishable under the SAMC; and

WHEREAS, the City Council desires to repeal and reenact Article XXI of Chapter 8 of the SAMC and make additional findings for its short-term rental prohibition; and

WHEREAS, the proliferation of online vacation rental websites such as Airbnb.com and vrbo.com have encouraged and enabled City of Santa Ana (“City”) property owners, tenants, and occupants to rent their local, residential properties on a short-term rental (“STR”) basis to travelers or transients; and

WHEREAS, the City Council desires to amend the SAMC to expressly prohibit STRs within the City, to reaffirm existing policy and practice, and to preserve the residential character of City neighborhoods and stem the negative, secondary effects caused by those uses; and

WHEREAS, during the period beginning June 1, 2023 to the present, the Santa Ana Police Department (“SAPD”) has received more than 250 calls for service and approximately 80 complaints related to the negative secondary effects of STRs in Santa Ana residential neighborhoods including but not limited to excessive noise, excessive alcohol use, parking problems, and fighting. These conditions constitute a public nuisance, threatening public health and safety and degrading the residential character of homes and neighborhoods; and

WHEREAS, the City has limited police and staff resources, and these limited resources have been inordinately taxed by the need to respond to the calls for services and complaints related to the nuisance conditions created by STRs across the City; and

WHEREAS, STRs also remove housing stock that could otherwise be available for long-term rental or for sale. Data collected from various STR platforms reveals that there are more than 700 STRs currently operating in Santa Ana. These 700 STRs are advertised in 1,760 listings across multiple platforms. The City’s Regional Housing Needs Allocation (RHNA) for 2021-2029 is 3,137 permanent housing units. The 700 STRs represent about 22 percent of the City’s RHNA housing needs, diverting a significant portion of available housing away from permanent residents; and,

WHEREAS, historically, the City has prohibited STRs under a permissive zoning theory, meaning that those uses expressly listed in SAMC Section 41-190 of the Zoning Code (Chapter

41) are permissible and those not listed (including STRs) are prohibited, and this ordinance seeks to amend the SAMC to explicitly prohibit STRs in alignment with the City’s current practice and expectation, as well as compliance with recent court decisions that brought into question the City’s ability to rely on the aforementioned section of the Zoning Code in specifically addressing STRs through the Code Enforcement process; and

WHEREAS, failure to amend the SAMC to address aforementioned negative impacts will threaten the health and safety of Santa Ana neighborhoods and residents, and leave City staff powerless to uphold and maintain the quality of life in the City; and

WHEREAS, pursuant to the City’s police power, as granted broadly under Article XI, section 7 of the California Constitution, and Santa Ana Charter section 200, the Santa Ana City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and welfare of the City and its residents; and

WHEREAS, the City Council has determined that it is necessary for preserving the public peace, health, safety, and welfare to expressly prohibit short-term rentals within the City and to declare such uses as a public nuisance punishable under the SAMC; and

WHEREAS, the City Council held a duly-noticed public hearing on November 19, 2024 to consider the first reading of this Ordinance.

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

SECTION 1. Recitals. The recitals above are true, correct and each incorporated herein by reference and adopted as findings by the Santa Ana City Council (“City Council”)

SECTION 2. Repeal. Article XXI (Sections 8-3400 – 8.3402) of Chapter 8 of the SAMC is hereby repealed in its entirety.

SECTION 3. Reenactment. Article XXI (Sections 8-3400 – 8-3402) of Chapter 8 of the SAMC is hereby reenacted in its entirety as follows:

ARTICLE XXI. – SHORT-TERM RENTALS

Sec. 8-3400. – Definitions.

The definitions set forth in this Section shall govern the application and interpretation of this Article:

- (a) *Home-sharing rental* means the rental of a dwelling unit, or portion thereof, to a person or group of persons, for compensation whether monetary or otherwise, for lodging or sleeping purposes for a period of less than thirty (30) consecutive calendar days while at least one of the dwelling unit’s owners lives on-site, in the dwelling unit, throughout the visitors’ stay.

(b) *Short-term or vacation rental* means the rental to a person or group of persons of a dwelling unit, or portion thereof, for compensation whether monetary or otherwise, for lodging or sleeping purposes for a period of less than thirty (30) consecutive calendar days without concurrently being occupied by the property owner.

Sec. 8-3401. -Prohibited.

It shall be unlawful for any person or entity to: offer or make available for rent (via advertisement on a short-term or vacation rental website or otherwise) or to rent (by way of a rental agreement, lease, sublease, license, via a short-term or vacation rental website, or any other means, whether oral or written) for compensation or consideration a home-sharing rental, short-term or vacation rental for less than 30 days, pursuant to a rental agreement, lease, sublease, license, via a short-term or vacation rental website, or any other means, whether oral or written, for compensation or consideration, or maintain any advertisement of a home-sharing rental, short-term or vacation rental for less than 30 consecutive days.

Sec. 8-3402. -Violation; nuisance.

Any violation of this Article is unlawful, is hereby declared a public nuisance, and constitutes a misdemeanor punishable as set forth in Chapter 1 of the SAMC section 1-8. At the discretion of the City Attorney, a violation of this Article may be prosecuted as an infraction or misdemeanor. In any civil action brought pursuant to this Article, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party. Pursuant to Municipal Code Section 1-21, the City may issue an administrative citation for any violation of this Article. Such administrative remedy may be exercised in place of, or in addition to, any administrative, criminal, civil, or equitable remedy allowed by law.

SECTION 4. Severability. If any section, subsection, sentence, clause, phase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions might subsequently be declared invalid or unconstitutional.

SECTION 5. CEQA Determination. State CEQA Guidelines section 15164 requires lead agencies to prepare an addendum to a previously certified EIR if some changes or additions to the project are necessary, but none of the conditions requiring preparation of a subsequent or supplemental EIR are present. The City Council has reviewed and considered the General Plan Update EIR (State Clearinghouse No. 2020029087) ("GPU EIR"), the Addendum to the GPU EIR, and finds that these documents taken together contain a complete and accurate reporting of all the potential environmental impacts associated with this Ordinance. The City Council finds that the Addendum has been completed in compliance with CEQA and the State CEQA Guidelines. The City Council further finds and determines that the Addendum reflects the City's independent judgment.

Based on the substantial evidence set forth in the record, including but not limited to the GPU EIR and the Addendum, the City Council finds that an addendum is the appropriate document for disclosing the changes to the GPU, and that none of the conditions identified in Public Resources Code section 21166 and State CEQA Guidelines section 15162 requiring subsequent environmental review have occurred, because the Ordinance does not change or alter in any way the existing land use designations City-wide set forth in the General Plan Update and analyzed in the GP EIR. No development, redevelopment, or change to existing development type in the City is proposed or required to implement the Ordinance. The buildout of housing had previously been analyzed within the scope of the GPU EIR, and the Ordinance would not result in additional development of housing within the City. Based on these findings, the City Council makes the following findings:

- a) The Ordinance does not constitute a substantial change that would require major revisions of the GPU EIR due to the involvement of new significant environmental effects.
- b) There is not a substantial change with respect to the circumstances under which the Ordinance will be implemented that would require major revisions of the GPU due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects.

New information of substantial importance has not been presented that was not known and could not have been known with the exercise of reasonable diligence at the time the GPU was certified or adopted, showing any of the following: (i) that the modifications would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those analyzed previously would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt.

The City Council approves and adopts the Addendum, attached hereto as Exhibit A.

The GPU EIR, the Addendum, and any other documents and materials that constitute the record of proceedings upon which these findings have been based are on file and available for public review at the Planning Division public counter located at 20 Civic Center Plaza, Santa Ana, CA 92701. The custodian of these records is the City Clerk of the City of Santa Ana.

In the alternative, the adoption of this Ordinance is categorically exempt pursuant to State CEQA Guidelines section 15301 – Class 1, Existing Facilities. Class 1 consists of the “operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, including negligible or no expansion of existing or former use.” Here, the Ordinance reaffirms existing policy and practice, prohibiting short-term rentals within the City and the Ordinance would not result in a significant

expansion of existing uses or former uses. The operational activities associated with the Ordinance would be typical of residential development. No development, redevelopment, or change to existing development type in the City is proposed or required to implement the Ordinance. Further, none of the exceptions to the exemptions set forth under State CEQA Guidelines section 15300.2 apply. There will be no significant cumulative impact of successive projects of the same type in the same place, over time, as this is the only Ordinance prohibiting short-term rentals. There is no reasonable possibility that the Ordinance will have a significant effect on the environment due to unusual circumstances because it is reaffirming the existing prohibition on short-term rentals. The Ordinance will not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway, because the Ordinance does not propose any ground-breaking activity or construction, but instead continues the existing ban on short-term rentals. The Ordinance is not located on a site which is included on any list compiled pursuant to Government Code section 65962.5. The Ordinance will not cause a substantial adverse change in the significance of a historical resource. Thus, the Ordinance falls under the Class 1 categorical exemption, and no further environmental review is required.

A Notice of Determination and Notice of Exemption will be filed and posted with State Clearinghouse and the County Clerk within five working days of the adoption of this Ordinance.

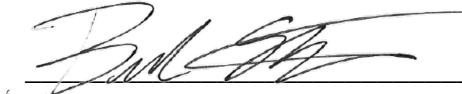
SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption.

SECTION 7. Publication. The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be posted as required by law.

ADOPTED this ____ day of _____, 2024.

Valerie Amezcua
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney



Brandon Salvatierra
Deputy City Attorney

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSTAIN: Councilmembers: _____

NOT PRESENT: Councilmembers: _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Jennifer L. Hall, City Clerk, do hereby attest to and certify the attached Ordinance No. NS-XXXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, 2024.

Date: _____

City Clerk
City of Santa Ana