

RESOLUTION PC 17-052

A RESOLUTION OF THE PLANNING COMMISSION OF CITY OF PASO ROBLES RECOMMENDING AN ORDINANCE TO THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AMENDING SECTIONS 5.04.310, 21.23A.010, 21.23A.020, 21.23A.030, AND 21.23A.050, REPEALING SECTIONS 21.15.210, 21.15.220, 21.15.230, and 21.15.240 OF CHAPTER 21.15, AND ADDING CHAPTER 21.34 TO THE PASO ROBLES MUNICIPAL CODE REGARDING SHORT-TERM VACATION RENTALS

(City of Paso Robles - Short-Term Rental Ordinance)

WHEREAS, the growing popularity of “home-sharing” and other short-term vacation rentals, through the use of websites such as Airbnb, VRBO, and Homeaway, allow individual homeowners, landlords, and tenants to list homes, apartments, and rooms for rent at the price and duration of their choosing; and

WHEREAS, the City Council finds that unregulated “home-sharing” and use of existing housing as short-term rentals can escalate the demand for City services and create adverse impacts in residential zones; and

WHEREAS, as of November, 2016, the City issued 167 business licenses for short-term rentals which are required to pay Transient Occupancy Tax (TOT) to the City; and

WHEREAS, the City has conducted several community workshops attended by operators of short-term rentals and concerned neighbors; and

WHEREAS, a Short-Term Rental Task Force met eight times to review issues related to short-term vacation rentals and explore potential policies; and

WHEREAS, there was a consensus that there should be a reasonable balance between the regulation of short-term rental operations and the recognized need to protect the character of residential neighborhoods; and

WHEREAS, the Short-Term Rental Task Force submitted an outline of items to be addressed in a short-term rental ordinance; and

WHEREAS, the Short-Term Rental Task Force also issued a statement that it felt it was beyond its scope of responsibility and expertise to address whether the ordinance should limit the number and location of short-term vacation rentals and recommended that the Planning Commission and City Council thoroughly examine those issues; and

WHEREAS, the proposed ordinance is beneficial to the public health, safety and general welfare of the community as it establishes performance standards to ensure the compatibility between short-term vacation rentals and the residential character of neighborhoods in which they may be located;

WHEREAS, on October 10, 2017 the Planning Commission held a public hearing to consider the proposed Short-Term Rental Ordinance and continued the hearing to October 24, 2017 with direction to staff to further analyze the section of the ordinance prohibiting transfers of permits and the 3-year term;

WHEREAS, on October 24 2017 the Planning Commission reconvened the public hearing to consider a recommendation the City Council on the proposed Short-Term Rental Ordinance

NOW, THEREFORE, the Planning Commission of the City of El Paso de Robles does hereby recommend to the City Council:

Section 1. The Planning Commission hereby adopts the recitals of this Ordinance as true and correct and such recitals are hereby incorporated by reference as though fully set forth in the text of this Ordinance.

Section 2. Section 5.04 of the Paso Robles Municipal Code is here by amended to read in full as follows:

5.04.310 - License tax—Hotels.

For the business of operating a hotel, as defined in Section 5.06.020, and not serving meals, the license tax shall be two dollars per year for each room.

Section 3. Part II (Bed and Breakfast Establishments) of Chapter 21.15 of the Paso Robles Municipal Code is hereby repealed in its entirety, specifically Sections 21.15.210, 21.15.220, 21.15.230, and 21.15.240.

Section 4. The following sections in Chapter 21.23A are hereby amended as follows:

Section 21.23A.010 - Purpose: Paragraph O. is hereby added to read as follows:

O. Short-Term Rental Permits

Section 21.23A.020 - Authority to make decisions:– Sub-paragraph l. to Paragraph C.1. is hereby added to read as follows:

l. Appeals to modify or overrule decisions of the director of community development with respect to the issuance, denial or revocation of Short-Term Rental Permits, in accordance with Chapter 21.34.

Section 21.23A.030 – Hearing requirements: Paragraph O. is hereby added to read as follows:

O. Appeal of Short-Term Rental Permits. Public hearings, noticed as prescribed by Section 21.23A.040(A) shall be conducted by the planning commission.

Section 21.23A.050 – Effective date of decisions: Paragraph O is hereby added to read as follows:

- O. Short-Term Rental Permit Appeals. Fifteen calendar days following planning commission adoption of a resolution specifying the decision made; provided, that an appeal has not been filed to the city council and that the city council has not called the Short-Term Rental Permit up for council hearing.

Section 4. Chapter 21.34 is hereby added to the Municipal Code of the City of El Paso de Robles as follows:

CHAPTER 21.34 SHORT-TERM RENTAL PERMITS

21.34.010 Scope, Purpose and Findings.

A. The purpose of this Chapter is to document the procedures and regulations that govern the application for, and the issuance and implementation of, permits for the operation of any short-term rental use within the City.

B. The City Council hereby finds that unregulated transient occupancy uses in residential and non-residential districts present a threat to the public welfare relating to compatibility with residential uses and preservation of the character of the neighborhoods in which they are located.

C. The City Council hereby finds that the adoption of a comprehensive ordinance regulating the issuance of and operating conditions attached to short-term rental permits is necessary to protect the public health, safety and welfare. The purpose of this Chapter is to provide a permit system and to impose operational requirements to minimize the potential adverse impacts of transient uses in residential neighborhoods and zoning districts on traffic and noise, and to ensure the health, safety and welfare of renters and guests patronizing short-term rentals.

D. The provisions of this Chapter will also benefit the public welfare by providing an additional source of revenue to the City, as operators of short-term rentals are required to pay transient occupancy tax to the city, which will offset some of the additional costs of providing services to the renters.

E. The City Council hereby finds that the City's regulation of short-term rental uses in accordance with this Chapter is a valid exercise of the City's police power in furtherance of the legitimate governmental interests documented in this Chapter.

21.34.020 Definitions

A. "Applicant" means any person, firm, partnership, association, joint venture, corporation, or an entity, combination of entities or consortium, who seeks or seek approval of a Short-Term Rental Permit under the authority of this Chapter.

B. "Authorized Agent" means the person specifically authorized by an Owner, in writing, to represent and act on behalf of the Owner and to act as an

operator, manager and contact person of a Non-Hosted Accommodation, and to provide and receive any notices identified in this Chapter on behalf of the Owner.

C. “Bed and Breakfast” means a Homeshare with no more than five (5) bedrooms, a permit issued by the San Luis Obispo County Health Department for food service, and which may be used for special events only when special events are authorized by a conditional use permit issue in compliance with this Code.

D. “Bedroom” means any habitable room with no less than 70 square feet of floor area and no dimension less than seven (7) feet, in a dwelling, with at least one wall located along an exterior wall with a window that can be used for emergency egress, and equipped with ventilation, heating, smoke detector and carbon monoxide detector. Egress window requirements shall be based on the California Building Code requirements at the time of original construction of the room.

E. “Director” means the Director of Community Development of the City, or a designee of the Community Development Director or City Manager.

F. “Enforcement Officer” means the Director, Chief Building Official, Fire Marshal, City manager or any other City employee designated by the Director or City Manager to enforce this Chapter.

G. “Good Neighbor Brochure” means a handbook prepared by the City regarding the general rules of conduct to be followed by Renters and applicable provisions of the Paso Robles Municipal Code.

H. “Guest” means an invitee of a Renter or other person visiting a Renter of a Short-Term Rental unit who does not rent the unit.

I. “Homeshare” means a Short-Term Rental structure in which the Owner both resides and remains during the time a Renter is occupying the Short-Term Rental unit.

J. “Hotline” means the telephonic service maintained by the City for the purpose of receiving complaints regarding the operation of any Short-Term Rental.

K. “Hotline Contact” means the person designated on the Permit who shall be available by telephone 24 hours a day, 7 days a week during the entire time a Short-Term Rental property is occupied by a Renter.

L. “Non-Hosted Accommodation” means a Short-Term Rental structure which is not occupied by either the Owner or an Authorized Agent while it is being occupied by a Renter.

M. “Owner” means the person or entity holding fee title to the real property that is the subject of a Short-Term Rental Permit.

N. “Permit” means the permit issued by the City, in accordance with the procedures set forth in this Chapter, allowing an Owner or Authorized Agent to rent a Short-Term Rental unit at the specified location.

O. “Permittee” means the person or entity to whom a Permit is issued pursuant to this Chapter.

P. “Renter” means a person, not an Owner or Authorized Agent, renting or occupying a Short-Term Rental property in accordance with the terms of this Chapter. For purposes of Chapter 5.06, “Renter” shall have the same meaning as “Transient,” as defined in Section 5.06.020.

Q. “Short-Term Rental” means the permanent structure constructed for residential occupancy under the California Building Code in which the Short-Term Rental use is permitted to operate, pursuant to a Permit.

21.34.030 Permit Requirements

A. No Owner may operate, or allow his or her property to be operated, as a Short-Term Rental unless and until it has been issued (1) a business license, pursuant to Chapter. 5.04 of the Paso Robles Municipal Code; and (2) a Permit issued by the City in accordance with this Chapter 21.34. The Owner or Owner’s Authorized Agent shall be responsible for applying for and for renewing the business license and the Permit.

Table 21.34.030.1. Short Term Rental Permitting Table

Rental Type	Homeshare Permit	Non-Hosted Accommodation Permit
Short-Term Rental	Short-Term Rental Permit may be issued for the following: <ul style="list-style-type: none"> • Primary dwelling • Second Units • Guest Houses • Multi-family residential apartments 	Short-Term Rental Permit may be issued for the following: <ul style="list-style-type: none"> • Primary dwelling • Second Unit (multi-family residential apartment units may not be used as a Non-Hosted Short-Term Rental - No more than two (2) Non-Hosted Short-Term Rental permits per legal parcel.)
Bed & Breakfast - Food Service	Conditional Use Permit San Luis Obispo County health permit	Not permitted

B. The application form for a Permit shall be available from the Community Development Department. The Owner (for a Homeshare) or the Owner

and/or Authorized Agent (for a Non-Hosted Accommodation) shall be required to provide the following information on the Permit application:

1. Name and contact information (including telephone number(s)) of the Owner of the Short-Term Rental property.
2. Specify whether the Short-Term Rental is a Homeshare and/or Non-Hosted Accommodation. If it is a Non-Hosted Accommodation, the application must include the contact information for the Authorized Agent (including telephone number(s)).
3. Address of the Short-Term Rental property.
4. Floor plan (to scale) showing all interior rooms and location of each Bedroom to be rented as part of the Short-Term Rental and approximate square footage in the Short-Term Rental property, and the maximum number of overnight Renters, subject to the limitations set forth in the Good Neighbor Brochure.
5. Site plan showing entire property on which Short-Term Rental unit is located, including the number and location of designated on-site parking spaces available for use by Renter(s) and location of trash containers.
6. Evidence satisfactory to City that each Bedroom meets all local building and safety code requirements.
7. Acknowledge that the Owner or Authorized Agent, as the case may be, has read all regulations pertaining to the operation of a Short-Term Rental, including this Chapter, the City's business license tax requirements (Chapter 5.04), the City's transient occupancy tax requirements (Chapter 5.06), City Council Resolution 17-082 creating the Paso Robles Tourism Improvement District and the required assessments to be paid thereunder; and any additional administrative regulations promulgated by the Director to implement this Chapter.
8. The name and telephone number of the designated contact person (who may be the Owner or the Authorized Agent) who shall be available by telephone 24 hours a day, 7 days a week, while the Short-Term Rental property is occupied by a Renter.
9. Provide any other information as the Director deems reasonably necessary to administer this Chapter.
10. Acknowledge and agree that any and all use of the property for Short-Term Rental shall cease upon the expiration of the permit or upon revocation of the Permit, pursuant to Section 21.34.060.

11. Agree to hold harmless, indemnify and defend the City against any claims or litigation arising from the issuance of the Permit.
12. Agree to pay any costs to enforce the conditions of the Permit, including, but not limited to inspections of the Short-Term Rental Property.
13. Certify under penalty of perjury as to the accuracy of the information provided on the Permit application and agree to comply with all conditions of the Permit and this Chapter.

C. Permit Application Process.

1. Processing Fee. The City Council, by resolution, shall determine the amount of the Permit application and processing fee, based upon the City's reasonable estimated costs for processing and reviewing the Permit application materials and for maintaining the Hotline. The City Council shall establish the Permit application processing fee by resolution.
2. Review. Upon review of the materials submitted with the Permit application, the Director shall determine whether a Permit will be issued or the application is incomplete and notify the Applicant within 30 days. If the Director determines that the Permit may be issued upon compliance with certain conditions, the Director shall notify the Applicant in writing of the nature of the conditions that must be satisfied in order to receive a Permit. If the Director determines that the Permit should be denied, the Director shall notify the applicant in writing of the reasons for the denial. The decision of the Director may be appealed to the planning commission pursuant to the procedures set forth in Chapter 21.23A.
3. Permit Renewal. No earlier than 12 months and at least sixty (60) days prior to the expiration of a Permit, the Owner or Authorized Agent of a Short-Term Rental shall submit an application to renew the Permit on a form available from the City, along with a renewal fee in an amount to be established by resolution of the City Council. The Owner or Authorized Agent shall identify any notice of violation or concern (including any compliance or citation issued by the City) issued for the Short-Term Rental use during the Permit Term, and shall document how the violation or concern has been addressed. If the Director determines that any past violation or concern has not been adequately addressed, or that a history of past violations is detrimental to the public health, safety, or welfare, the Director may determine that the Permit is ineligible for renewal. The Applicant or any interested person may appeal the decision of the Director to the planning commission pursuant to the procedures set forth in Chapter 21.23A.

4. Permit Transfer Prohibited. No Permittee shall transfer, or attempt to transfer, a Permit to any other person.

D. Permit Conditions. Each Permit issued pursuant to this Chapter shall be subject to all of the following conditions:

1. The term of each Permit issued pursuant to this Chapter shall be for Three (3) years. Upon the expiration or lapse of any Permit, it shall be of no further force or effect.
2. A copy of the Permit shall be posted in a prominent location inside the Short-Term Rental unit.
3. The Permittee shall require any Renter to sign an agreement acknowledging receipt of the Good Neighbor Brochure and agreement to comply with its terms. If the rental is through a third party hosted on-line platform, the Permittee shall require the third party to provide an on-line link to the Good Neighbor Brochure and a mechanism by which a Renter shall provide an acknowledgement of receipt of the Good Neighbor Brochure and agreement to comply with its terms.
4. The Permittee shall limit (i) overnight occupancy and (ii) daytime guests of the Short-Term Rental property to the numbers specified in the Good Neighbor Brochure.
5. The Permittee shall require Renters to utilize the designated on-site parking spaces to the maximum extent possible consistent with the Good Neighbor Brochure.
6. The Permittee shall provide access to the garage of the Short-Term Rental if the garage has been included in the determination of the number of available on-site parking spaces.
7. It is the intent of the City to enforce sections of the Streets and Highways Code related to the provision for emergency vehicle access. Accordingly, no limousine or bus parking, and no stopping without the driver's presence, shall be allowed in any manner that would interfere with emergency vehicle access. In the event of an emergency, the vehicle driver shall immediately move the vehicle from the emergency vehicle access area.
8. The Permittee shall provide appropriate refuse and recycling service for the Short-Term Rental property. Property shall be free of debris both onsite and in the street. Refuse and recycling cans shall be maintained in a clean and sanitary condition.
9. The Permittee shall ensure that the Renters and/or Guests of the Short-Term Rental property do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this

Code or Good Neighbor Brochure, including but not limited to noise regulations contained in Chapter 9.07 (Prohibited Conduct), or any state law pertaining to noise or disorderly conduct; provided, however, that the City does not intend to authorize, and the City does not authorize, the Permittee to act as a peace officer or place himself or herself in harm's way.

10. The Permittee shall, upon notification that Renters and/or Guests of the Short-Term Rental property have violated any rules of the Good Neighbor Brochure, (including any unreasonable noise or disturbances, disorderly conduct, or violations of this Code or state law), promptly act to stop the violator(s) and prevent a recurrence of the violation.
11. The Permittee shall not allow the Short-Term Rental property for any gathering where the number of persons will exceed the permitted daytime occupancy limits, as set forth in the Good Neighbor Brochure absent an approved City use permit for a special event.
12. The Owner (for a Hosted Accommodation) and the Authorized Agent (for a Non-Hosted Accommodation) must be available by telephone at all times when the Short-Term Rental is rented, 24-hours a day.
14. The Permittee shall allow the City, upon written 24-hour notice from the City, to inspect, with cause, the Short Term Rental for compliance with the requirements of this Chapter. Permittee shall pay an inspection fee in an amount set by the City Council by resolution based on the estimated reasonable cost to perform the inspection.

E. Rental Agreements. The Permittee shall enter into a written rental agreement with the Renter of any Short-Term Rental property, or shall enter into an agreement provided by a third party hosted on-line platform, which agreement shall, at a minimum, include the following:

1. The name and address of the Renter.
2. The terms and conditions of the rental agreement, including occupancy limits, noise prohibitions and vehicle parking requirements.
3. Acknowledgment by the Renter that he or she is legally responsible for compliance by all occupants of the Short-Term Rental and any guests with the conditions of the Good Neighbor Brochure and the terms of the rental agreement.
4. Acknowledgment by the Renter of receipt of a copy of the Good Neighbor Brochure.

21.34.040 Occupancy and Guest Limits for Short-Term Rentals.

The number of overnight occupants and guests for each Short-Term Rental property shall be limited in accordance with the guidelines set forth in the Good Neighbor Brochure and state law, based on the number of bedrooms identified in the Short-Term Rental Permit.

21.34.050 Short-Term Rental Hotline

A. The City shall establish and maintain a telephone number for a Hotline for the express purpose of receiving complaints regarding the operation of any Short-Term Rental property, and forwarding those complaints to the designated Hotline Contact for that Short-Term Rental property and/or, if necessary to the Paso Robles Police Department. The Hotline number shall be included in all Permits, the Good Neighbor Brochure and in all rental agreements for all Short-Term Rental properties. In addition, the City shall post the Hotline number on the City website, along with a list of the Short-Term Rental properties that have been issued Permits.

B. The City / Hotline shall maintain a record of complaints received on the Hotline which shall include the following information:

1. Date and time of complaint;
2. Nature of complaint;
3. Address of the Short-Term Rental property that is the subject of the complaint;
4. Complainant's name, address and contact information; and
5. Actions taken by the Hotline attendant in response to the complaint including, but not limited to: persons contacted, including law enforcement, if applicable, and date and time of actions taken in response to complaint.
6. Corrective action taken by owner/agent in response to complaint.

C. The Owner or Authorized Agent shall respond within thirty (30) minutes of being notified of a complaint and promptly thereafter notify the Hotline attendant of the corrective action taken and results obtained.

21.34.060 Enforcement

A. Revocation of Permit. At any time during the term of permit, the Director is authorized to initiate proceedings to revoke a Permit (or pursue any other remedy set forth in Title 1 of this Code), if the Director determines in his or her discretion that (i) the Permittee provided materially false or misleading information in any submittal required under this Chapter; or (ii) the Permittee is in violation of, or has failed to comply with, any requirements of this Chapter or the Permit. In the event

the Director determines that any of the conditions described above exists, the Director is authorized to issue an order specifying the violations to be cured. If the Permittee fails to cure the violations identified in the order within the time frame specified, the Director may either pursue any of the remedies set forth in Title 1 of this Code, including but not limited to the issuance of an administrative citations, revocation of permit, criminal prosecution, and/or civil action in accordance with Chapter 1.03. The decision of the Director may be appealed to the Planning Commission by the Applicant or any interested person pursuant to the procedures set forth in Chapter 21.23A.

B. Operating without a Permit. Operating at short-term rental without a permit is a violation of the Paso Robles Municipal Code and subject to the enforce process and penalties of Section 1.02.010. Each Owner and/or Authorized Agent is guilty of a separate offense for each and every day during any portion of which the violation of this chapter or any rule or regulation promulgated there under is continued.

C. Pursuant to California Government Code Section 38771, the City Council hereby declares the following condition to constitute a public nuisance: operating and/or maintaining a Short-Term Rental without a permit.

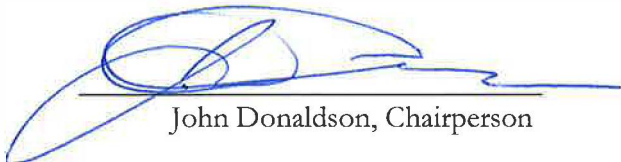
Approved at a regular meeting of the Planning Commission held on the 24th day of October 2017, by the following vote:

AYES: Commissioners Davis, Agredano, Jorgensen, Brennan and Chairman Donaldson

NOES:

ABSENT: Commissioner Rollins

ABSTAIN: Commissioner Barth



John Donaldson, Chairperson

Attest:



Warren Frace, Community Development Director