



Agenda Report

Fullerton City Council

MEETING DATE: DECEMBER 7, 2021

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: STEVE DANLEY, ACTING CITY MANAGER

PREPARED BY: GREG PFOST, INTERIM DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

SUBJECT: SHORT-TERM LODGING WITHIN ACCESSORY DWELLING UNITS

SUMMARY

Mayor Pro Tem Dunlap, with approval of the Mayor, has requested agendizing this item for City Council to consider whether to amend the Municipal Code to allow Short-Term Lodging in an Accessory Dwelling Unit permitted prior to January 1, 2020.

RECOMMENDATION

1. Determine whether to initiate a municipal code amendment to modify the Accessory Dwelling Unit Ordinance to allow Short-Term Lodging in an Accessory Dwelling Unit permitted prior to January 1, 2020.
2. If determined to initiate said request, adopt Resolution No. 2021-XX and direct staff to prepare an analysis of the matter and draft Ordinance for Planning Commission and City Council consideration.

RESOLUTION NO. 2021-XX - A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, DECLARING ITS INTENTION TO CONSIDER AMENDMENTS TO TITLE 15 (SECTION 15.17.100 AND RELATED CHAPTERS OR SECTIONS, IF APPLICABLE) OF THE FULLERTON MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS WITH A FOCUS ON SHORT-TERM LODGING REQUIREMENTS WITHIN ACCESSORY DWELLING UNITS

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement:

- Infrastructure and City Assets.

FISCAL IMPACT

Staff recently received this proposal and will analyze its fiscal impacts if City Council determines it wishes to consider modifying the Accessory Dwelling Ordinance.

DISCUSSION

Background

Since the City adopted its original ordinance in 1984, it has continually amended the Fullerton Municipal Code (FMC) to remain in compliance with State law regarding accessory dwelling units (ADUs). Subsequent ADU amendments to the FMC have occurred in 1989, 1997, 2004, 2009, 2013, 2017 and most recently in 2020. The City adopted the 2020 amendment in response to State legislation that further amended the parameters that specify how cities may regulate ADUs.

One of the State's recent changes to ADU law restricted ADUs from occupation as short-term lodging (STL), which the state defines as less than 31 days. The perceived intent of adding this provision into State law was to preserve rental housing for long-term tenants to help address the State's housing crisis. Consistent with State law, the City's most recent amendment adopted on April 7, 2020, incorporated this provision into the FMC. Prior to the 2020 amendment, the FMC had no provision that would specifically prohibit the rental of an ADU as STL. However, prior State law did allow local agencies to elect whether to require owner occupancy of the primary dwelling or ADU, effectively limiting rental of the ADU. The current State law removed the owner-occupancy allowance on most ADUs.

Request

The City has received multiple correspondence from a resident claiming that when City Council received the staff presentation at its April 7, 2020, City Council meeting, staff presented inaccurate information to City Council regarding their options related to the State's regulation of STL in ADUs. Specifically, while the resident acknowledges that the State clearly bans STL in ADUs in its latest revision, which became effective on January 1, 2020, the resident believes that staff's presentation to City Council should have included an option for City Council to consider whether to allow STL units within ADUs constructed pursuant to building permits issued prior to the January 1, 2020, effective date of the State law. The resident filed a complaint with the State Department of Housing and Community Development and stated they might also turn this issue over to the District Attorney.

The April 7, 2020 presentation by staff to City Council included a slide summarizing the new State law provisions, one of which indicated "Short-Term Rentals – Prohibited for ADUs / JADUs." Additionally, the draft Ordinance attached to the Agenda Report and a comparative analysis attachment included the new prohibition of STL in ADUs. Beyond that, no discussion of this specific issue arose during the public hearing nor did City Council receive any public comments at the hearing.

City Council could consider an option that would allow use of a STL in an ADU, provided that the ADU was constructed pursuant to building permits issued prior to January 1, 2020. While staff has some initial concern that this may remove valuable long-term rental housing stock, if City Council desires staff to conduct further analysis and prepare an

amendment to the FMC to address this issue, then City Council could direct staff to initiate a Code amendment.

Attachment:

- Attachment 1 - Draft Resolution No. 2021-XX