



## STAFF REPORT

**To:** Planning Commission

**From:** Leslie Hamilton, AICP, Senior Planner

**Date:** October 18, 2023

**Subject:** Request for Approval of Community Development Code Amendments  
Case File CDCA-005-23: Short Term Rentals

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### **Requested Planning Commission Action:**

Planning Division staff request that the Planning Commission open the public hearing for Case File No. CDCA-005-23 on October 25, 2023, accept testimony, and deliberate on the proposed text amendments to the Community Development Code (CDC) that relate to Short Term Rentals (STRs).

### **Background/ Project Overview:**

The CDC was adopted by City Council in August 2014 as Ordinance No. 6094 and is maintained on an ongoing basis to address changes in legislation, terminologies, or land uses. An STR is the renting out of furnished property for 30 days or less. Hosting platforms like AirBnB and Vacation Rentals by Owner (VRBO) provide on-line booking services to link available properties to travelers. Generally, an STR is located in a residential zone, and the owner/occupant rents the entire dwelling or portions of the dwelling to guests. The CDC does not list STRs as a specified use in any zone, but a 2015 staff interpretation classified STRs as a Bed and Breakfast Inn (B&B). A Conditional Use permit is required to operate an STR or B&B.

Application of the B&B regulations to STRs has been problematic. First, some features of B&Bs are not present in the STR model, notably, the provision of a morning meal to each guest. Second, decisions issued by the Planning and Zoning Hearings Board (PZHB) for STRs have broadened the definition of the B&B “site” to include (1) properties that abut the host’s primary residence and (2) properties that have an intervening parcel between the STR site and the host’s primary residence. Because each PZHB decision is site-specific and based on unique facts, it is difficult to give guidance to any potential STR host who lives off-site, whether in close proximity or not. This lack of clarity can lead to inconsistent outcomes, affecting both STR hosts as well as neighborhood character.

Additionally, analysis by Host Compliance, a software company that offers STR monitoring and compliance services to municipalities, identified 168 unique STR rental units in Hillsboro in April of 2023. However, the Planning Division has only received five applications for STRs since 2015, which means that approximately 97% of the STRs operating in Hillsboro are non-compliant (Exhibit D).

### **Planning Division**

Last, as part of the City’s Housing Needs Analysis (HNA), the City evaluated the potential impacts of STRs on current and future rental housing availability and affordability. An analysis by Johnson Economics notes that STR impact is just one, usually minor, component of all of the factors that contribute to housing price growth. Still, applying the assumptions from one academic study estimates that STR activity has contributed to roughly 1% of rental growth and 1.5% of home price growth since 2019. The report from Johnson Economics is included as Exhibit C

To facilitate a path for clearer STR regulations and based on direction from the Planning Commission in July 2023, Planning Division staff has developed draft CDC text that creates a hybrid approach to regulating STRs. Partial-dwelling STRs will be permitted under Type I review procedures, and full-dwelling STRs will be permitted under the Type II review procedures. Type I permits can usually be issued over the counter, or within a few days of submittal; the criteria are clear and objective and there is no requirement for public notice or opportunity for appeal by the general public. Full-dwelling STRs would require approval of a Development Review application, which is a Type II review. A Development Review application requires public notice to property owners within 200 feet, a 2-week public comment period, and the staff decision can be appealed to the Planning Commission. Staff expects this review structure to attain the highest level of compliance while balancing an appropriate level of public notice and impact on staff resources. The STR amendments, which are included in Exhibit A, also propose the following:

- Prohibit commercial activities such as weddings and conferences at STRs;
- Clarify that the operator of a partial-dwelling STR must live on the same property as the rented space;
- Prohibit more than one rental at a time on any STR property; and
- Prohibit the owner of a full-dwelling STR from operating more than one full-dwelling STR in Hillsboro.

**Summary of Procedures:**

DLCD Notice of Proposed Amendment: 09/20/2023  
Planning Commission Initiation: 09/27/2023  
Published Hearing Notice 10/5/23,  
10/12/2023  
Public Hearing: 10/25/2023

**Public Testimony:**

As of the writing of this report, staff has received one piece of written testimony regarding the proposed STR amendments. Michele Gila, Director of Realtor Advocacy for Portland Metropolitan Association of Realtors (PMAR), notes that PMAR supports limiting STR opportunities to property owners only, and supports the two-level structure for STR permitting. PMAR does not support the limitation that a property owner can only operate one STR in the Hillsboro city limits. PMAR’s comments are attached as Exhibit E.

**Key Considerations:**

Key considerations for this project include the following:

- Updating the CDC to address current land use trends.
- Integrating a commercial use in residential zones while maintaining neighborhood character.
- Efficiently balancing staff and hearing body resources.
- Limiting impacts to housing availability and affordability.

These issues are discussed in detail within the findings document which is attached to the draft order for the Planning Commission review.

**Project Analysis Based on Approval Criteria:**

The approval criteria are provided below in this staff report. Staff's analysis of the project's compliance with the approval criteria is provided in the form of findings and is attached as Exhibit B of the draft Order.

**Approval Criteria:**

CDC Section 12.80.140.D specifies the approval criteria for a proposed CDC Amendment (CDCA) as follows:

1. *The CDCA addresses an issue or issues of concern on a variety of properties or conditions, and is not intended to resolve a property-specific or condition-specific situation;*
2. *The CDCA is consistent with relevant goals and policies of the Hillsboro Comprehensive Plan, any applicable Community Plans, and with the provisions of this Code;*
3. *The CDCA is consistent with relevant provisions of the Metro Urban Growth Management Functional Plan;*
4. *The CDCA is consistent with relevant provisions of the Statewide Planning Goals, the Oregon Administrative Rules, and State statutes; and*
5. *The CDCA is deemed by the Review Authority to be desirable, appropriate, and proper.*

**Cost:**

This is a City-initiated CDCA application. The associated costs are staff, City Attorney, and consultant time; cost of public notice printing and mailing; and time spent by the Planning Commission and City Council.

**Recommendation:**

Based on findings contained in Exhibit B, staff recommends the Planning Commission approve the proposed CDCA, attached as Exhibit A. Should the Planning Commission find that the proposal is consistent with the applicable approval criteria, attached for the Commission's consideration is draft Order No. 8421, which is a recommendation to City Council for approval of the CDCA with supporting findings attached as Exhibit B.

**Attachments:**Decision Documents

- Draft Order No. 8421
  - Exhibit A: Draft Amendment Language
  - Exhibit B: Findings of Fact
  - Exhibit C: Johnson STR Analysis
  - Exhibit D: STR Map
  - Exhibit E: Letter from Portland Metropolitan Association of Realtors (PMAR)

cc: Michele Gila, Director of Realtor Advocacy, PMAR  
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