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CITY OF FRESNO
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Agenda Item: ID#19-1683 (4-B)
Date: 5/16/2019

FRESNO CITY COUNCIL

City of FRESNO

Late Submission Information Packet

Agenda Related Item(s) – ID#19-1683 (4-B)

Contents **Revised Staff Report and a Revised Ordinance**

Item(s)

Actions pertaining to non-transient motels:
1. BILL - (for introduction) adding Article 18 to Chapter 10 of the Fresno Municipal Code adopting a non-transient motel inspection program.
2. RESOLUTION--Initiating a Text Amendment to the Zoning Ordinance of the City of Fresno to add section 15-2769 relating to non-transient residence requirements, pursuant to Fresno Municipal Code section 15-5803-a(1).

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

REPORT TO THE CITY COUNCIL

May 16, 2019

FROM: Miguel Arias, Councilmember for District 3,
Esmeralda Soria, Councilmember for District 1,
Nelson Esparza, Councilmember for District 7,
City Council Offices

SUBJECT

..Title

Actions pertaining to non-transient motels:

1. BILL - (for introduction) adding Article 18 to Chapter 10 of the Fresno Municipal Code adopting a non-transient motel inspection program.
2. RESOLUTION--Initiating a Text Amendment to the Zoning Ordinance of the City of Fresno to add section 15-2769 relating to non-transient residence requirements, pursuant to Fresno Municipal Code section 15-5803-a(1).

..Body

RECOMMENDATION

The sponsors recommend Council approve a bill for introduction adopting a non-transient motel inspection program by adding Article 18 to Chapter 10 of the Fresno Municipal Code (FMC), and approve a Resolution Initiating a Text Amendment to the Zoning Ordinance of the City of Fresno to add section 15-2769 relating to non-transient residence requirements, pursuant to FMC section 15-5803-a(1).

EXECUTIVE SUMMARY

The proposed ordinance would create a non-transient lodging inspection program by adding Article 18 to Chapter 10 of the FMC, authorizing inspection of all rental units to ensure compliance with minimum health and safety standards. The proposed Resolution would initiate a text amendment to the City's Zoning Ordinance, directing staff to review and analyze the proposed draft ordinance defining and setting minimum standards for non-transient lodging.

BACKGROUND

The proposed ordinance would create a non-transient lodging inspection program by adding Article 18 to Chapter 10 of the FMC, authorizing inspection of all rental units to ensure compliance with minimum health and safety standards. It would make renting or occupying a rental unity subject to a pending enforcement unlawful until it passes inspection. Non-transient lodging with frequent calls for emergency services, a history of complaints or code violations, or lodging over forty years old would be prioritized for inspection. A correction notice would be issued, including a time and date of re-inspection. If compliance is not achieved, remedies include issuing administrative citations, abatement proceedings, civil injunction, petition for receivership, and/or criminal prosecution.

The proposed Resolution would initiate a text amendment to the City's Zoning Ordinance, directing staff to review and analyze the proposed draft ordinance defining and setting minimum standards for non-transient lodging, and to bring the proposed ordinance before the Airport Land Use Commission and Planning Commission for consideration.

The City Attorney has reviewed and approved the documents as to form.

ENVIRONMENTAL FINDINGS

This is not a project pursuant to CEQA Guidelines section 15378.

LOCAL PREFERENCE

Local preference is not applicable because this item does not involve a bid or award of a contract.

FISCAL IMPACT

The non-transient lodging inspection program will be part of the City's Rental Inspection Program.

Attachments:

- Bill for introduction
- Resolution

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADDING ARTICLE 18 TO CHAPTER 10 OF THE FRESNO MUNICIPAL CODE, RELATING TO NON-TRANSIENT MOTEL INSPECTION PROGRAM

SECTION 1. Article 18 is added to Chapter 10 of the Fresno Municipal Code to read:

ARTICLE 18

NON-TRANSIENT MOTEL INSPECTION PROGRAM

Section	10-1801.	Purpose and Intent.
	10-1802.	Definitions.
	10-1803	Scope.
	10-1804	Inspections; Compliance with Applicable Codes and Standards.
	10-1805	Authority to Enter and Inspect.
	10-1806	Correction Notices.
	10-1807	Rules and Regulations.
	10-1808	Enforcement; Penalties.
	10-1809	Appeal.

SECTION 10-1801. PURPOSE AND INTENT.

(a) This article shall be known as the "Non-transient Motel Inspection Program."

(b) Non-transient Lodging rental properties that were built as motels have historically provided affordable rental options of last resort for low-income persons. This ordinance proactively identifies blighted and deteriorated Non-transient Facilities and encourages rehabilitation of units that do not meet minimum health and safety standards so as to provide safe, habitable Rental Units for low-income persons to occupy, and further, to preserve and enhance the quality of life for residents of the city.

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____

(c) It is important that the city not only enforce on a complaint-initiated basis, but also conduct routine inspections to better address and reduce substandard housing within structures that were built as transient motels in the city. It is important to conduct routine inspections of Non-transient Facilities due to the inherent problems associated with properties that are essentially converted from Transient to Non-transient Lodging.

SECTION 10-1802. DEFINITIONS.

(a) "Director" shall mean the Director of the Development and Resource Management Department, or his or her designee. "Director," as used in this article, may also mean any other city department director or charter official authorized to enforce violations of the municipal code.

(b) "Health and Safety Standards" shall mean the standards set forth in California Civil Code 1941.1, as well as any additional standards specific to Non-transient Facilities that may be set forth in state or local law.

(c) "Non-transient Lodging" or "Non-transient Facility" shall mean any building containing six or more guestrooms or efficiency units intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for habitation and sleeping by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, which is primarily used by transient guests who do not occupy that

building as their primary residence.

(d) "Operator" shall mean the person who is proprietor of the Non-transient Facility, whether in the capacity of owner, property manager, lessee, sublessee, mortgagee in possession, licensee, or any other capacity.

(e) "Rental Unit" shall mean any room or group of rooms located within a Non-transient Facility and forming a single unit with the facilities that are used, or intended to be used, for living, sleeping, cooking, and/or eating.

(f) "Transient Lodging" shall mean a building or unit occupied or intended to be occupied, for compensation, as the temporary residence for transient guests, primarily by persons who have residence elsewhere, and for which occupancy by a particular guest does not exceed 30 days continuously or 30 days total in a 90 day period. The burden of establishing the housing or facility is transient lodging shall be on the property owner or licensee.

SECTION 10-1803. SCOPE. The provisions of this article shall apply to all existing Non-transient Lodging Rental Units, properties, buildings, or portions thereof used, or designed or intended to be used, for human habitation. This article shall supplement, and be in addition to any, regulatory ordinances and state or federal law existing or hereafter enacted by the city, state, or federal government or any other legal entity that may have jurisdiction. This article shall not apply to rental properties

used entirely for Transient Lodging purposes.

SECTION 10-1804. INSPECTIONS; COMPLIANCE WITH APPLICABLE CODES AND STANDARDS.

(a) For all Non-transient Facilities within the city, the Director, or his or her designee, hereinafter referred to as the Inspector, is authorized to inspect all, or a sampling of, Rental Units, at his or her discretion, to determine whether such Rental Units meet minimum Health and Safety Standards. Rental Units shall be required to be in conformance and maintained in accordance with the code standard that was in effect at the time the Rental Unit was constructed, substantially altered, or remodeled, erected, or converted, except for any additional requirements mandated by this Code or state law.

(b) It shall be unlawful for any Operator, or agent thereof, to rent to or otherwise allow a person to occupy a vacant Non-transient Rental Unit that is the subject of a pending enforcement action under this article, until such Rental Unit has been inspected by the city for code compliance, and has passed inspection.

(c) The Director shall prioritize inspection of Non-transient Facilities that:

(1) Have frequent calls for police or fire service. "Frequent" means such response is occurring more than 1.50 times than the average number of such responses for property of similar size and character in the same policing district established by the Police Chief;

(2) Have a history of complaints or Code violations; or

(3) Are over forty years old.

SECTION 10-1805. AUTHORITY TO ENTER AND INSPECT.

(a) The Inspector is authorized to enter upon the premises and directed to make inspections of property, buildings, and premises and complete investigations to determine compliance with this Code. No inspection warrant shall be required for these regulatory inspections.

(b) The Inspector may expand the scope of any inspections to include other Code violations noted during the inspection.

SECTION 10-1806. CORRECTION NOTICES.

(a) Content. Whenever it is determined by the Inspector that a violation of Health and Safety Standards exists, the Inspector shall issue a written correction notice. The notice shall contain a description of the violation, the specific action required to correct the violation, and a demand the violations be corrected within the specified time period listed in the notice. The notice shall contain the scheduled re-inspection date and time.

(b) Time for Correction. The notice shall provide a reasonable time for correction. The time shall depend on the time it would take a reasonably diligent person to complete the required action; the potential harm to the public welfare, health and safety; the harm to the tenant or nearby properties; and the extent of the corrections required. Certain imminently dangerous life-safety violations in occupied units shall require

immediate correction.

(c) Compliance Re-inspections. Compliance re-inspections shall be conducted to verify the violations identified on the correction notice have been abated. Violations that were not noted on the initial correction notice but are discovered during any re-inspection due to subsequent activities, damage or deterioration, shall be subject to correction.

SECTION 10-1807. - RULES AND REGULATIONS. The City Manager, with the assistance of the Director, may make rules and regulations enforceable hereunder, which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article.

SECTION 10-1808. - ENFORCEMENT; PENALTIES. If, after a correction notice has been issued, the Operator fails to abate the violations, the city may proceed with all remedies available under law to compel compliance, including but not limited to issuing administrative citations, abatement proceedings, civil injunction, petition for receivership, and/or criminal prosecution, or any combination of remedies. In any action or proceeding brought by the city to enforce this article, the city shall be entitled to recover its attorney's fees and costs when it is the prevailing party. The City Attorney may, at his or her discretion, charge any violation of this ordinance as either an infraction or a misdemeanor.

SECTION 10-1809. - APPEAL. The Operator of a Rental Unit or a party

with a legal property interest in the unit may appeal to the Administrative Hearing Officer in the manner provided in Chapter 1, Article 4 of this code.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2019.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Katie Doerr Date
Chief Assistant City Atttorney