



**Governing Body Work Session
Meeting
City of Rio Rancho
AGENDA
February 20, 2024
3:00 PM
Council Chambers**

Governing Body Members

Greggory D. Hull, Mayor	Paul Wymer, Councilor District 4
Jim Owen, Councilor District 1	Karissa Culbreath, Councilor District 5
Jeremy Lenentine, Councilor District 2	Nicole List, Councilor District 6
Bob Tyler, Councilor District 3	

Meeting Information

This meeting will be conducted in-person and streamed live on the City of Rio Rancho website at <https://rrnm.gov/2303/Watch-and-Download-City-Meetings>

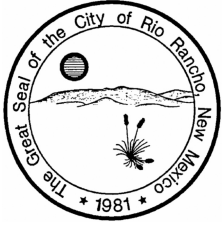
Pursuant to the Governing Body Rules of Procedures, public comment will not be taken at the work session meeting.

Call to Order and Pledge of Allegiance

Discussion

- 1.** [Noise Regulations](#)
Final GB Work Session Feb 2024 Noise
- 2.** [Short Term Rentals](#)
Short term rentals

Adjournment



**CITY OF RIO RANCHO
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Legislation Item:

AGENDA DATE:
February 20, 2024

DEPARTMENT:
City Clerk

SUBJECT:
Noise Regulations

BACKGROUND AND ANALYSIS:

IMPACT:

ALTERNATIVES:

DEPARTMENT RECOMMENDATION:

ATTACHMENT: [Final GB Work Session Feb 2024 Noise](#)



Noise Ordinance Update Discussion

Governing Body Work Session

February 20, 2024

Overview

- Noise-related issues come up regularly
- Has been researched/reviewed at different times over the years
- Staff is in agreement that more objective criteria (decibel-based) is needed for enforcement and education purposes moving forward
- Proposed ordinance changes are based on research of other communities, past experiences, recent and emerging issues related to new businesses/changing business activity and nearby residential properties, and continued higher density residential growth along with mixed uses

Current Ordinance

- Existing Municipal Code, Chapter 131 Offenses Against Order and Safety, Section 131.06 Unreasonable Noise, has elements which are subjective and undefined

Current Ordinance

- 131.06 Unreasonable Noise

(A) It is unlawful for any person to make, continue to make or cause to be made, any loud or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

Current Ordinance

(B) Unlawful noises include but shall not be limited to the following:

- (1) Horns and signal devices...
- (2) Radios and phonographs...
- (3) Loudspeakers; amplifiers used for advertising...
- (4) Yelling or shouting...
- (5) Schools, courts, churches, hospitals (excessive noise should not disturb/annoy)...
- (6) Retarders, Jake brakes, engine brakes and other like devices...

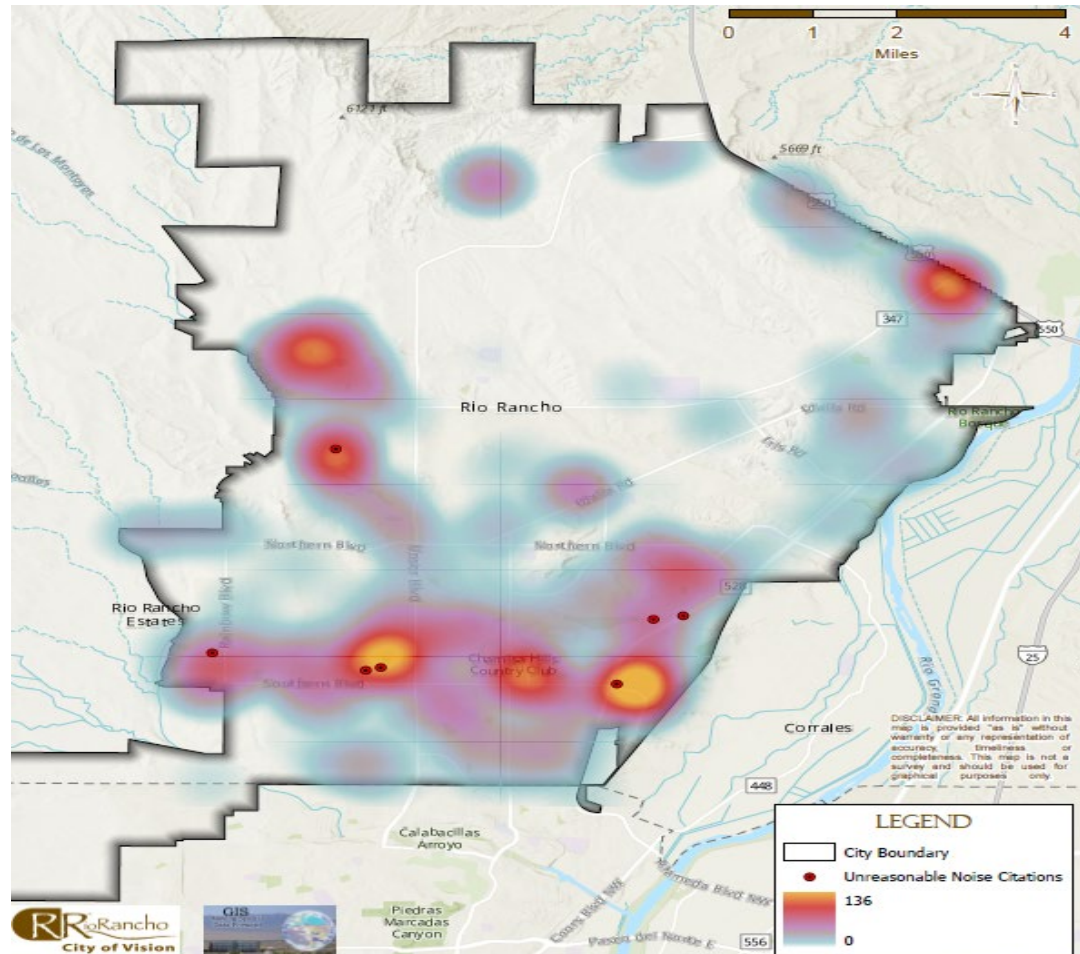
Enforcement Challenges

- As a result of subjective and undefined criteria related to unreasonable noise, adherence and enforcement are challenging
- For example, between January 1, 2022 to December 31, 2023, the Police Department received 1,323 calls for service related to noise; seven (7) citations for unreasonable noise were issued

Enforcement Challenges – Calls by Land Use/Zoning and Frequency

Zoning	Count	%	Zoning (Rolled-Up)	Count	%	Calls/Incidents	Unique Addresses	Zoning
R-1	828	62.6%	SF Residential	1221	92.4%	17	1	R-1
R-2	9	0.7%	Multifamily	20	1.5%	15	2	R-1/R-1
R-3	176	13.3%	Mobile Home	16	1.2%	14	1	R-1
R-4	199	15.1%	Non-Residential	60	4.5%	13	1	R-4
R-5	0	0.0%	Park	5	0.4%	11	2	R-1/R-4
R-6	20	1.5%		1322	100.0%	10	2	R-1/R-4
Mobile Home	16	1.2%				9	3	
E-1	9	0.7%				8	4	
C-1	51	3.9%				7	3	
NC	3	0.2%				6	5	
M-1	5	0.4%				5	14	
Intel	1	0.1%				4	13	
Park	5	0.4%				3	28	
	1322	100.0%				2	113	
						1	664	

Enforcement Challenges – Heat Map



Recommended Updates

- Based on research and review, including an analysis of other New Mexico cities and those in other States, updates would establish more objective criteria (**e.g., decibel measurement**) for what is and is not acceptable community noise levels and follow best practices and commonly adopted standards

Recommended Updates

- The proposed updates would include:
 - Applicable definitions
 - Sound level measurement standards
 - Sound level measurement testing parameters
 - Permissible hours (daytime/nighttime) for sound levels
 - Temporary variance request
 - Exceptions and exclusions

Recommended Updates

- Updates are recommended by City staff, including the Police Department, and are in-line with other communities including Albuquerque, Santa Fe, and Farmington
- Recommendations adhere to a commonly established view that unreasonable noise is a hazard to public health, welfare, safety, and does not promote the use, value and enjoyment of property, or sleep/repose

Recommended Updates

- Views unreasonable noise as a form of pollution, similar to ordinances that regulate light pollution (e.g., Night Sky Ordinance)
- Rooted in the concept that noise, above certain levels, should not transfer/travel from one private property boundary to another; private property needs to contain their activities, etc., to their own property (i.e., same concept as vegetation growth, vehicle parking, structure placement/encroachment, etc.)

Recommended Updates

- Recognizes that while a civil matter, local government is expected/assumed to be the arbitrator between private party/property disputes
- Attempts to address emerging issues of more residential areas in close proximity to businesses/restaurants
 - see examples on the following slides

Recommended Updates

- Example – along Southern Blvd.



Recommended Updates

- Example – along N.M. 528



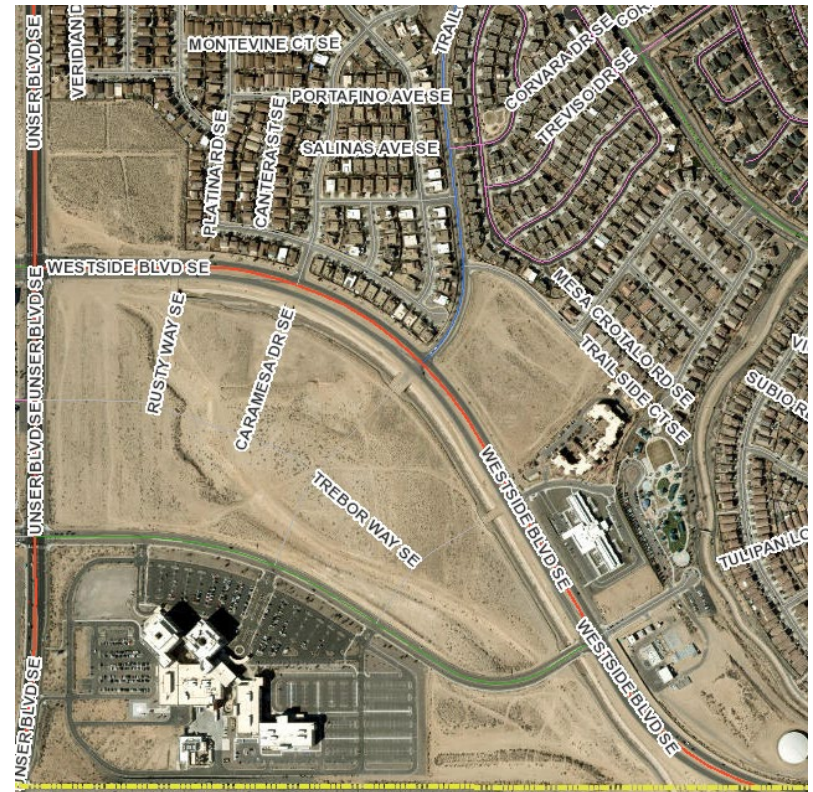
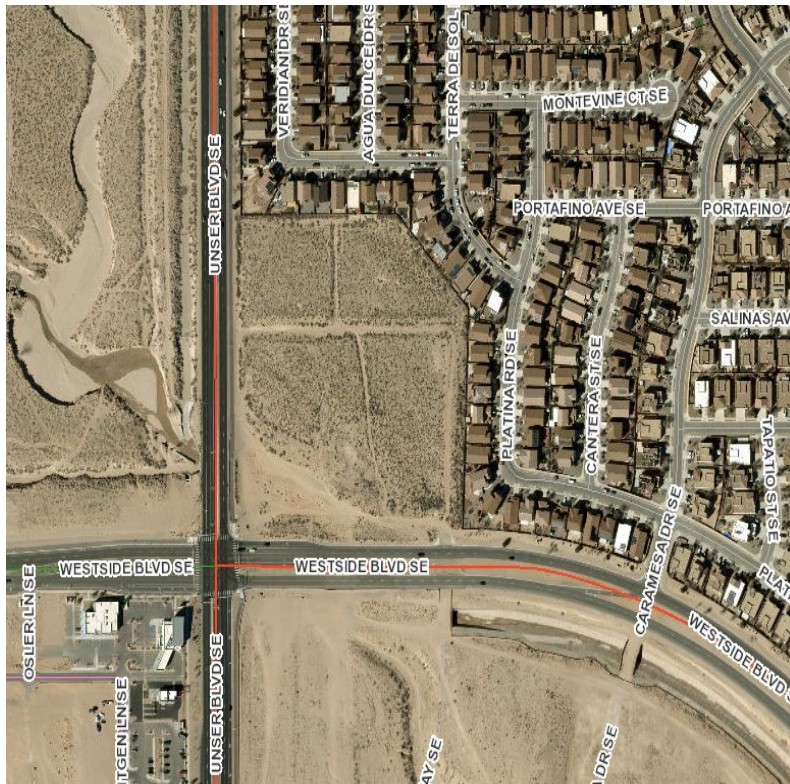
Recommended Updates

- Example – Unser Blvd.



Recommended Updates

- Example: along Westside Blvd.



Recommended Updates

- Example: along Enchanted Hills Blvd.



Decibel-Based (A-weighted)

Source Premise Zoning	Daytime (6 a.m. to 9 p.m.)	Nighttime (9 p.m. to 6 a.m.)
Residential	55	50
Office; Neighborhood Commercial; Retail Commercial; Business Park; Special Use; Overlay & Special Purpose	65	60
Wholesale & Warehousing; Central Business; Mixed Use; Activity Center; Industrial	75	70

Decibel-Based (C-weighted)

Source Premise Zoning	Daytime (6 a.m. to 9 p.m.)	Nighttime (9 p.m. to 6 a.m.)
Residential	60	55
Office; Neighborhood Commercial; Retail Commercial; Business Park; Special Use; Overlay & Special Purpose	70	65
Wholesale & Warehousing; Central Business; Mixed Use; Activity Center; Industrial	80	75

Decibel-Based

For reference, the Federal Occupational Safety and Health Administration (OSHA) notes the following for typical sound levels:

0 (1000 Hz)	Threshold of Hearing	80 dB(A)	Freight Train (100 ft. away)
20 dB(A)	Silent Study Room	90 dB(A)	Boiler Room
30 dB(A)	North Rim of Grand Canyon	100 dB(A)	Construction Site
40 dB(A)	Soft Whisper (5 ft. away)	110 dB(A)	Night Club (w/music)
50 dB(A)	Urban Residence	120 dB(A)	Operating Heaving Equipment
60 dB(A)	Conversation (3 ft. away)	130 dB(A)	Jet Taking Off (200 ft. away)
70 dB(A)	Classroom Chatter	140 dB(A)	Threshold of Pain

Testing / Measuring

- Unreasonable noise would be that above established decibel levels and based on the applicable zoning of the source property; the noise would have to be continuous for a 10-minute interval (objective criteria)
- Provision to account for extreme noise that causes harm to the health and welfare of another; accounts for situations outside the scope of specific decibel and time criteria
- Measurement taken from the noise source property line
 - accounts for anonymous complaints received, which stem from safety/retaliation concerns
 - allows for less confusing standards related to abutting properties and applying different zoning/decibel standards

Exceptions/Exclusions

- Aircraft and airports
- Earthshaking vibrations
- Construction, demolition, or repair work (emergency-related or when authorized by governmental agency)
- Entertainment/sporting events (includes school-based activities)
- Horns and signal devices (does not apply to emergency responses or when used for danger warning)
- Human voices (unamplified and not yelling or shouting)
- Fireworks and displays (legally permitted)
- Mass transit
- Parades and protests
- Retarders, Jake brakes, engine brakes, and other like devices (when used in emergency situation)
- Refuse/recycling collection
- Approved temporary variances for amplified or construction sound

Temporary Variance – Amplified or Construction Sound

- Proposed that the City Manager or their designee may grant a temporary variance, after receiving activity detail and required event/sound mitigation information, which allows non-compliance with the sound level limitations for the purpose of amplified or construction sound for a non-reoccurring, short duration activity

Penalty & Misc.

- Each instance of unreasonable noise would be subject to the standard Municipal Code penalty via Municipal Court that is currently in place:

10.99 General Penalty: Any person found guilty of violating any of the provisions of this code shall be fined not more than \$500 or imprisoned for a period of not more than 90 days, or by both such fine and imprisonment, and each day this code is violated shall constitute a separate offense, provided, however, that if a specific penalty is provided therefor in any particular and individual section of this code, then the specific penalty shall prevail.

Penalty & Misc.

- In relation to noise caused by animals, existing Municipal Code remains applicable:

90.02 Definitions: Continuously or Continual. Continuing without interruption for a period of 10 minutes, and/or interrupted then starting again where the animal noise occurs in each of the 10 one-minute period intervals.

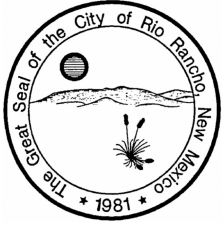
90.22 Animals Disturbing the Peace: (A)(1) No person shall allow any animal to persistently or continuously bark, howl or make noise common to their species, or otherwise unreasonably disturb the peace and quiet of the inhabitants of the city. This section does not differentiate from any particular time frame of the day or night, nor does it discriminate if the owner or keeper is at the premises or not. Reasonable barking or noise that is common under normal circumstances is not to be considered as disturbing the peace under this section.

Enforcement, Cost & Other

- Complaint driven
- Decibel (sound) level meter with certification; approximately \$400 per device (e.g., 30 personnel with devices equates to \$12,000)
- *Potential Issue*: disagreement with decibel measurement and standards (e.g., 1 decibel could be the difference between a violation and no violation)

Next Steps / Questions

- Governing Body input from today's meeting
- Follow-up, as applicable, based on Governing Body input
- Bring before the Governing Body an Ordinance in the near future that incorporates the recommendations/proposals presented today along with Governing Body input



**CITY OF RIO RANCHO
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Legislation Item:

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DEPARTMENT:
City Clerk

SUBJECT:
Short Term Rentals

BACKGROUND AND ANALYSIS:

IMPACT:

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DEPARTMENT RECOMMENDATION:

ATTACHMENT: [Short term rentals](#)

Short-term rentals

Informational presentation



Overview

- A Short-Term Rental (STR) is a dwelling unit or a portion thereof that is rented for short periods of time (typically fewer than 30 days) most often using peer-to-peer online platforms like Airbnb, VRBO or Expedia.
- Single rooms and casitas are usually “hosted” by an on-site homeowner, where entire houses rentals are often “unhosted” and owned by commercial operators.
- While STRs are not currently permitted under the Rio Rancho City Code, there are a growing number of STRs being advertised within the City.
- Citizens are divided, with roughly equal numbers expressing support of and opposed to STRs.
- Changes to the City’s Code are recommended to provide clearer guidance to citizens on the status of STRs.



Current status

- Rio Rancho takes the positions that under current ordinances STRs of less than 30 days in residentially zone areas are prohibited.
- Any rental less than 30 days is subject to the City's Lodger's Tax. If the STR is subject to Lodgers Tax, it creates a commercial use in violation of the City's permissive zoning uses in Chapter 154.
- The City enforces this prohibition based on complaints it receives.
- Most violations are voluntarily cured prior to formal citation when advertisements are removed from hosting platforms.

Evolution of Regulatory Responses

- The first online peer-to-peer STR platform came online in 1995, followed by a period of rapid proliferation in the early 2000's with additional sites like Airbnb, Booking.com and Expedia.
- During this period of growth, municipalities around the globe found their current ordinances did not clearly and sufficiently restrict or regulate STRs.
- Beginning in 2015, cities with large tourism markets and housing shortages like New York and San Francisco began to adopt regulations to limit STRs and establish safety guidelines.
- In 2019, legislation was passed in NM to amend the Lodger's Tax Act to permit the collection of occupancy tax on STR's.
- The pandemic saw another period of rapid growth in the STR sector, this time in less densely populated areas close to natural attractions like NM, with some areas reporting 85% growth.
- Between 2019 and 2021 Los Ranchos, Corrales, Santa Fe, Las Cruces and Albuquerque adopted ordinances to regulate the STR market.



Impacts of STRs on municipalities

When directly addressing STR's, each municipality must consider the impacts of short-term rentals on its unique character and specific circumstances.

STRs can have both positive and negative effects on a location's:

1. Housing costs and availability
2. Public health, comfort and wellbeing
3. Neighborhood quality and character
4. Economy

Housing costs and availability

- Entire houses or apartment rentals are often owned by commercial operators who may own multiple properties.
- When houses or apartments are purchased for commercial purposes, the number of dwellings available for purchase or long-term rental decreases.
- In a tight housing market like Rio Rancho, this can raise the purchase price for homes and increases long-term rental prices.
- Most of the price pressure is seen in moderately priced dwellings because of the high return on investment.
- Because of the income potential, houses used as STRs may be purchased above market value, which may in turn drive up the assessment of neighboring houses and associated property tax.



Public health, comfort and wellbeing

- Unlike hotels, unregulated STR's are not subject to fire or code inspections.
- Property owner may modify buildings for a use as a STR without following code.
- Unregulated STRs are not required to be insured as STRs to cover damages to guests, caused by guests.
- Property owners can be difficult to contact in the case of an emergency or code violation.
- In communities with shared amenities, keys to common areas change hands often. They may be copied and used for unauthorized access.
- Unregulated STRs are not required to be accessible to people with special needs or impairments.



Neighborhood Quality and Character

- STR renters are unknown to neighbors; rapid turn over further increases the number of different people in the neighborhood.
- Visitors are less invested in the neighborhood and feel less obligated to behave appropriately.
- Renters may not know or respect local ordinances regarding noise, parking, pets, trash, etc.
- STRs are at times rented to host large parties, which may create safety and nuisance concerns.



Economy

- STRs would allow homeowners in Rio Rancho to supplement their income by renting out spare spaces to tourists, actors, contractors, travelling nurses, Facebook & Intel employees, possibly at up to a 30% higher yield than long-term leases.
- STRs increase area demand for supporting services like cleaning, laundry and pool maintenance, and food service etc.
- STRs increase available temporary lodging within the City, creating the potential for increased gross receipts tax from dining, entertainment and shopping activities.
- If regulated, the City would collect annual permit and inspection fees.
- The City could additionally collect gross receipts taxes and a 5% Lodger's tax on rental fees.
- Regulating the STR market would require the City to incur expenses for administration, compliance and enforcement.

Lodger's Tax

- Lodger's Tax is a "bed tax" charged on overnight hotel/lodging stays
- The City of Rio Rancho collects 5% Lodger's Tax on hotel lodging receipts and are in turn deposited into the 225 Fund, the primary source of funding for the Convention & Visitors Bureau/Visit Rio Rancho
- Per State Statute the main use of the Lodger's Tax Funds is *"advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or county and tourist facilities or attractions within the area"*
- There are time and use restriction on how Lodger's Tax revenue can used.
 - 50% of generated revenue is required to be spent on "publicizing and promoting tourist-related facilities and attractions and tourist-related events."
 - Only 50% can be used for administration, including salaries and capital expenditures.
 - Proceeds are required to be used within two years of the close of the fiscal year.



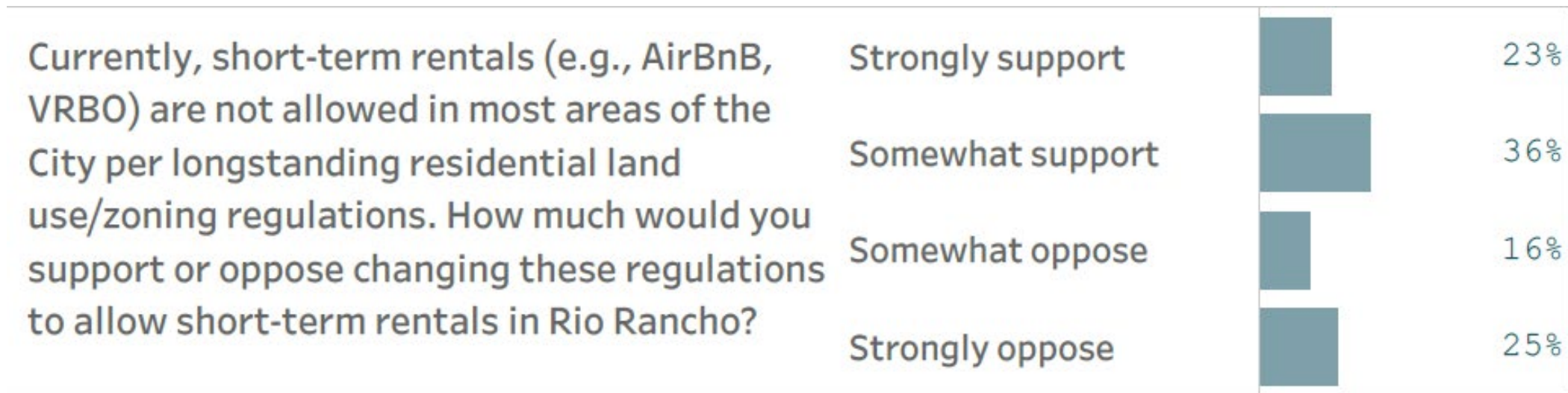
RR Events supported by Lodger's Tax

- 9-10 NMAA State Championships per year
- USSSA Youth Baseball Tournaments
- NMYSA Soccer Tournaments
- NM Open Bowling
- Conflict at Cleveland – Wrestling
- RRHS Volleybash
- Southwest Duals - Wrestling
- RRHS Girls Basketball Tournament
- RRHS Holiday Hoops
- RRHS X-Country Jamboree
- Cleveland HS X-Country Invite



What are we hearing from the Citizens?

In the summer of 2023, the City conducted a Citizen Survey with the following question on Short-term Rentals:

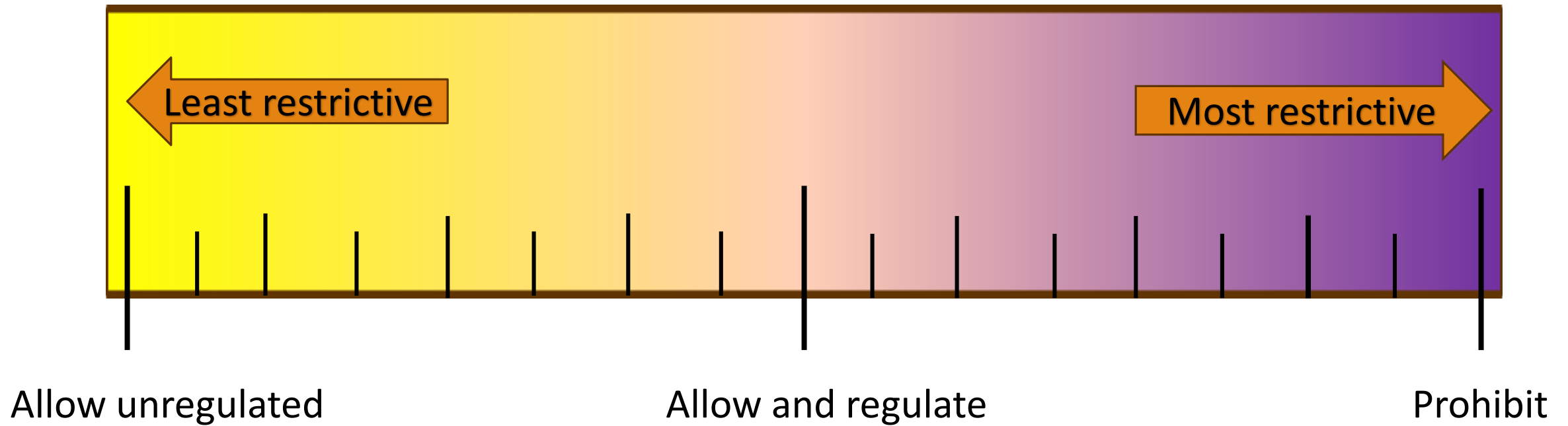




What are we hearing from the Citizens?

- There has been a steady increase in both complaints about operating STRs and inquires about how to establish and register STRs.
- The Clerk's office, the Convention & Visitors Bureau, and Development Services have all received inquires from citizen about how to establish STRs
- Development Services reported that on average, they field one to two calls a month on how to start a STR, with an uptick in September and October around Balloon Fiesta.
- These inquires may be fueled by hosting websites that inaccurately state that STRs are permitted in the City.

The City has a range of regulatory options



*Once a regulation standard is implemented it may be difficult to modify because a community expectation is established



Option 1: Affirmatively Prohibit

Through an ordinance, the City can affirmatively prohibit the operation of STRs in some or all residential zoning districts.

Pros:

- Creates an easily understood and enforceable standard, while maintaining the current status
- Will require fewer additional resources to implement and enforce than a regulated program

Cons:

- Imposes the most restriction on owners' use of property
- Current and new operators will likely continue to operate unlawful STRs due to the financial benefits, resulting in increased needed for investigation and prosecutorial resources to enforce City Ordinances.
- Operators, unable to advertise prohibited STRs on monitored hosting platforms may use less managed means of advertising which can expose operators, guests and neighbors to greater risk.



Cities that have banned STRs

Irvine, CA (population: 309,031)

Temecula, CA (population: 110,846)

Lake Worth Beach, FL (population: 38,548)

West Hollywood, CA (population: 34,938)



Option 2: Allow unregulated

- Through an ordinance, the City can affirmatively permit STRs to lawfully operate anywhere in the City under any terms set by property owners.
- Not currently aware of any jurisdictions operating under this option

Pros:

- Provides private property owners with the least restrictions on their private property use
- Eliminates administrative and enforcement costs

Cons:

- Fails to address the negative impacts on housing costs, health & safety, and neighborhood quality & character

Option 3: Minimal Regulation

- Several jurisdictions in Texas, Arizona, Florida and Oregon require only a permit, STR insurances and the payment of lodger's taxes without imposing further oversight or limitation.

Pros:

- Provides a basic level of tracking and protection, while minimizing restrictions on private property use
- Minimizes administrative and enforcement costs
- Enables the City to collect permit fees, and gross receipts and lodger's tax

Cons:

- Fails to otherwise address the negative impacts on housing costs and, health & safety, and neighborhood quality & character

Option 4: Moderate Regulation

- In addition to requiring a business license, permits and insurance, the City could further:
 - Require initial or annual fire and/or code inspections
 - Limit the total number of permits issues or the total number of days a dwelling can be rented as a STR
 - Restrict who can operate a STR to a local owner and/or natural person
 - Limit STR to primary residences
 - Limit total building occupancy and rental type
- The City could administer and enforce regulations using additional staff and/or a third-party compliance platform (costs/fees to be determined).

Option 4: Moderate Regulation

Pros:

- Allows the City to tailor regulations to address its specific housing costs, health & safety and character concerns

Cons:

- Additional staffing would be required to: monitor listings, issue permitting and licensing, verify compliance, conduct inspections and enforce compliance issues
- Costs to administer and enforce regulations is not yet known and could outpace revenue generated by taxes and fees



Cities with moderately regulated STRs

Dallas, TX (population: 1.28 Million) Banned STR in areas with single-family Residential Zoning

Montreal, Canada (population: 1.78 Million) Banned new STRs to ensure there is enough housing for residents.

Lafayette, LA (population: 121,771) Banned in Residential Single-Family zoning districts

Carlsbad, CA (population: 115,302) Banned outside coastal zone

Portsmouth, NH (population: 22,277) Requires property owner-occupied

San Francisco, CA (population: 815,201) Unhosted STR's banned

Santa Monica, CA (population: 91,105) Unhosted STRs are prohibited

North Vancouver, B.C. Canada (population: 85,395) Primary residences only



Local comparisons



Albuquerque (pop: 562,599)

Moderately Regulated

- Requires business registration, annual permit and maintenance of short-term rental insurance
- Permit Fee: \$120 initial, \$90 annually
- **Permit must be displayed in STR unit and on all marketing materials**
- Occupancy is limited to 2 adults per room
- **Gatherings are limited to 20 people or 2X total occupancy**
- **Requires operator to be available to respond to complaints 24/7**
- **Requires the display of a “Good Neighbor Agreement” in each STR unit that lists maximum occupancy and relevant city ordinances**
- Imposes a **civil monetary penalty of \$500 per day** of noncompliance after a 30 days grace period
- In 2023, Albuquerque failed to pass an ordinance limiting the number of permits issued annually to 1200
- Uses third-party compliance platform to manage enforcement



Las Cruces (population: 112,914) Minimally Regulated

- **STRs are included in the definition “Lodging” under the City’s Lodger’s Tax Ordinance**
- Vendor’s License requires:
 - Contact information
 - Number of rooms available for rent
 - Description of facilities
- Lodgers Tax of 5% is collected
- Uses third-party compliance platform to manage enforcement



Santa Fe (population: 88,193)

Moderately Regulated

- Lists among its purposes: the preservation of neighborhood character, protection of neighboring residents and prevention of purchasing multiple homes for STR purposes.
- **Inspection at initial permit**
- Fees: **\$100 application fee + \$290 annually**
- **Limited to 1000 permits issued annually**
 - **1 per natural person, 1 permit per 50-foot radius** (with some exceptions for accessory and multiple dwellings units)
- **Only one rental per 7 days except 11/15 to 1/15**
- Off-street parking required
- Prohibits activities that are “not residential in nature”; **noise prohibited after 10pm**
- Occupancy limited to 2x bedrooms
- **Requires notices to HOA, properties within 200ft**
- Uses third-party compliance platform to manage enforcement



Village of Corrales (population 8,584) Moderately Regulated

- Occupancy limited to 4-6 guest rooms, with a limit of 2 adults per room
- **Events not permitted**
- **Penalties of \$250 to \$500 per violation**
- Permit requires:
 - Map of the property, Floor plan
 - Off street parking space for each room
 - Owner must be available 24/7
 - **Application review hearing and Commission approval**
- Fire inspection required
- The Village restricted the building of Casitas in 2021, in part, to limit STRs



Los Ranchos (population: 5,866) Moderately Regulated

- Must obtain a B&B permit, capped annually at 65 total permits
- **Operators must be present on the property for the duration of the rental.**
- No events allowed.
- Adequate off-street parking must be provided.
- **Rules of operation must be posted that includes information for cleanliness, noise, and emergency service contacts.**
- **No more than four guestrooms may be utilized to provide lodging.**
- Short-term rental insurance coverage for the short-term rental unit(s) is recommended.
- **Inspected annually by the Fire Department for fire safety.**
- **Quiet hours between 10pm and 6am**



Questions and Feedback
