



THE CITY OF SAN DIEGO

**OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT**

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Smart Growth and Land Use Committee Date: April 22, 2015

Item Number: 3

**Comparative Information on Short-Term Rentals**

**BACKGROUND**

As an informational item at the February 4, 2015 Smart Growth and Land Use (SG&LU) Committee meeting, SG&LU Committee Chair Lorie Zapf presented the 2015 SG&LU Committee priorities. Listed in the priorities for future SG&LU Committee discussion was a review of the City’s vacation rental regulations and permitting, and the remittal of Transient Occupancy Tax (TOT) and Tourism Marketing Districts (TMD) assessments from vacation rentals.

On March 30, 2015, SG&LU Committee Chair Zapf issued a memorandum outlining concerns related to short-term vacation rentals. The memorandum noted that Committee Chair Zapf requested City staff to revise language in the current municipal code to address specific goals; and requested the Office of the Independent Budget Analyst (IBA) to research how other coastal California cities and conference/destination cities address the issue of short-term vacation rentals within their respective municipal regulations. The IBA was asked to provide comparative information from selected cities for the scheduled discussion of short-term vacation rentals at the April 22, 2015 SG&LU Committee meeting.

This report responds to Committee Chair Zapf’s request and provides information from other municipalities on their respective short-term vacation rental regulations. Additionally, this report provides an overview of the current City of San Diego requirements and regulations related to short-term vacation rentals to highlight the differences in regulations amongst cities.

In developing the comparative information, our office reviewed two local municipalities and four other comparable conference/destination cities from across the nation. While local municipalities share similar geographic features, such as miles of coastline, these municipalities do not directly compare to the City of San Diego in population or the

<b>Comparison Cities</b>
<b><u>Local</u></b>
<i>City of Solana Beach</i>
<i>City of Encinitas</i>
<b><u>National</u></b>
<i>City of San Jose, CA</i>
<i>City of San Francisco, CA</i>
<i>City of Austin, TX</i>
<i>City of Portland, OR</i>

number of short-term vacation rental listings. Considering this point, our office additionally selected four cities that have a combination of large populations, high number of vacation rental listings, and/or special criteria within their respective short-term (stays for less than thirty days) vacation rental regulations. The reviewed cities include Encinitas, Solana Beach, San Francisco, San Jose, Austin, and Portland. The cities of Los Angeles, New York, and Coronado were also considered, however, these cities currently do not allow short-term rentals of residential dwellings within their jurisdictions. Although the terms “vacation rentals” and “short-term rentals” are commonly used interchangeably within the reviewed municipal regulations, this report will refer to these types of rentals collectively as Short-Term Rentals (STRs).

## FISCAL/POLICY DISCUSSION

Councilmember Zapf’s March 30, 2015 memorandum listed several factors for considering revised requirements related to STRs. Similarly, the reviewed cities drafted their respective STR regulations to address concerns related to STRs. These concerns span a variety of topics including:

- Protection of housing stock- Property owners are opting to use existing residential dwellings as short-term rental options versus searching for long-term tenants.
- Preserving neighborhood character – Concerns include familiarity of neighbors and a commitment to the well-being of the neighborhood.
- Guest behavior/Noise/Parking – Ensuring STR guests follow good neighbor etiquette.
- Protecting homeowner rights – Allowing property owners to use their property as they see fit.
- Addressing emerging businesses – Evolving online rental business provides more opportunities for property owners.
- Balancing playing field with commercial businesses – Commercial businesses, such as hotels, are required to comply with health and safety regulations.
- Collections of appropriate taxes – Cities desire to provide guidelines for collection of the appropriate taxes to support city services.

Based upon our review of the regulations of the cities we researched, each establishes a definition or use category for STRs; and creates new or modified regulations to provide criteria for allowing and monitoring STRs. The STR regulations focus on two distinct areas: (1) registration and administration of the STRs; and (2) collection of the appropriate taxes (commonly the Transient Occupancy/Hotel tax and various assessments). While each municipality’s definition of a STR varies slightly, the definitions consistently describe a STR as: “the rental of a residential dwelling unit (single family or multi-family) by a transient guest (not part of the family unit) for a stay of less than thirty (30) days.”

Regulations related to the registration and administration of STR programs typically involve the following:

- Establishment of a participant registration process
- Development of a registry or database of information of those participating in the STR program
- Identification of specific fees for the STR program
- Identifying specific criteria for participation in the STR program

These regulations and permitting requirements attempt to hold STR program participants accountable for their guests and provide safety standards for the guests. The regulations related to the collection of the appropriate occupancy taxes/assessments identify which taxes apply to participants of the STR program; assist in enforcing tax compliance; and establish agreements with Hosting Platforms (online travel/advertising websites) for the collection of occupancy taxes.

As the developed regulations support specific goals, the regulations are commonly administered by two separate city departments. The registration and administration of the STR program is typically managed by a city's Development Services or Planning Department; while the collection of the appropriate occupancy taxes is overseen by the City Treasurer or Revenue Department.

Enforcement and penalties for violations of the STR regulations and payment of the appropriate taxes are commonly addressed within the existing code enforcement regulations and penalties of the respective cities. Enforcement of noise or nuisance is addressed through the land/neighborhood codes and citations; and the collection of taxes is addressed through tax codes and penalties. Citation fees are commonly determined by multiplying an established administrative fee by a multiplier. Repeat violations result in usage of a higher multiplier, resulting in a higher citation fee amount. For cities with an established permit program, revoking the permit after multiple violations has been implemented by several of the cities. Penalties related to tax collection are commonly set as a percentage of the amount of taxes owed, in addition to the principal amount due. The established citation fees and penalties hold the Operators and property owners financially accountable for the STRs.

A summary of the STR regulations for each reviewed city is provided in Attachment 1. Attachment 2 provides additional information for each city. The information focuses on the licenses/permits required for STRs including costs and the regulations for allowing and monitoring the respective STR programs. Additional information on the enforcement protocol and penalties of the cities is not provided in this report.

A summary of the current land use codes and requirements for STRs for the City of San Diego is provided below, followed by several highlighted permitting criteria and STR regulations from the reviewed cities.

### **City of San Diego**

Estimated number of STR listings<sup>1</sup>: 3,100

Currently, the City of San Diego's Municipal Code (SDMC) does not establish Vacation Rental or Short-term Rental as a defined term or as a Use Category for land use. Use Categories and Use Subcategories are used to classify specific types of allowable uses for land (Open Space, Industrial, Residential, etc.) and for determining the applicable use regulations.

In order to use a residential property for short-term rentals, the Operator<sup>2</sup> of the property must receive a Transient Occupancy Registration Certificate for the property, and use of the property is subject to the Rental Unit Business Tax (RUBT).

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<sup>1</sup> The number of available listings will vary from day-to-day and the same listing may be shown on multiple hosting platforms at the same time. Estimates may vary based on the source of information.

<sup>2</sup> An Operator of a property may be the property owner or anyone with permission from the property owner to occupy or manage the dwelling or the room being rented.

Transient Occupancy Registration Certificate: Each Operator renting to Transients needs to register with the City Treasurer and obtain a Transient Occupancy Registration Certificate<sup>3</sup>. The certificate states that the Operator of the property is required to collect TOT and remit to the City Treasurer. The certificate needs to be posted at the rental property at all times. Revenue generated from this tax is deposited into the TOT Fund and is to be used in accordance with the City's Municipal Code regulations.

Rental Unit Business Tax (RUBT): The RUBT is imposed annually upon anyone who owns, operates, or manages the rental of any residential real estate within the City of San Diego. Property advertised or otherwise held out for lease or rent during the calendar year is subject to the rental tax. The RUBT fee<sup>4</sup> for a Single Family Residence is \$50.00 per parcel + \$5.00 per unit; Multi-family Residence is \$50.00 per parcel + \$5.00 per unit (2 – 10 units)<sup>5</sup>.

The following are features of the current City regulations.

Residential Use Category and Use Subcategories – Short-term rental of a dwelling unit is regulated by the Residential Use Category (uses that provide living accommodations for one or more persons). The Residential Use Subcategories determine the appropriate use regulations to be applied to each accommodation situation. The Use Subcategories considered potentially applicable for this discussion are: Dwelling Unit (Single or Multi-family), Boarder/Lodger, Rooming House, and Bed and Breakfast.

- Dwelling Unit (Single or Multi-family) - The owner can occupy the unit and/or rent the unit as a whole to tenants (short-term/long-term) as a residential use for living or sleeping purposes. No minimum stay is specified in single dwelling unit zones. Multiple dwelling unit zones (with the exception of Residential-Multiple Unit Zone 5-12[RM-5-12<sup>6</sup>]) require that non-owner occupants reside on the premises for a minimum of seven (7) consecutive calendar days.
- Boarder/Lodger – Owner of primary dwelling unit resides on the premises and provides sleeping accommodations and/or rental of a room for a total maximum of two (2) individuals as an accessory residential use. Boarders and lodgers must occupy the premises for a minimum of seven (7) consecutive calendar days in multiple dwelling unit zones and commercial zones, and a minimum of thirty (30) consecutive calendar days in single dwelling unit zones.
- Rooming House – Residential use applies where an owner/operator rents out a dwelling unit with three (3) or more bedrooms on a per room basis and rooms are rented separately to different individuals/parties. No minimum stay is specified in the code.
- Bed and Breakfast – A type of visitor accommodations (lodging for visitors and tourists in rented guest rooms) that is classified as a commercial use (similar to hotel use), but where the commercial service (guest room rentals) is offered in a residential structure. Requires a use permit within some residential zones based on the number of guest rooms rented. In single dwelling unit zones, the owner/Operator must reside on the premises.

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<sup>3</sup> Transient Occupancy Registration Certificate allows for the collection of TOT and the appropriate TMD Assessments.

<sup>4</sup> Fee schedule for RUBT includes additional classifications not shown.

<sup>5</sup> Additional fees apply for Bed and Breakfasts and Multi-family properties with more than 10 units.

<sup>6</sup> RM-5-12 permits visitor accommodations or medium *density multiple dwelling units* at a maximum *density* of 1 dwelling unit for each 1,000 square feet of lot area.

Occupancy limits – The limit for the number of occupants per unit is based upon the 2013 California Building Code (“Code”). Per the Code, the maximum floor area allowance per occupant for residential buildings is 200 square feet per occupant<sup>7</sup>.

Administrative Citation – The City has an existing administrative citation program in place to address nuisance noise in violation of the noise ordinance that is associated with loud music and parties at houses. At the discretion of the San Diego Police Department, separate \$1,000 citations may be issued to any individuals responsible for the nuisance noise including rentals tenants (guests) and the property owner.

Recordkeeping requirement – Every Operator that is liable for collection and remittal of TOT to the City is required to keep and preserve all business records for three (3) years. The City shall have the right to inspect and audit the records at all reasonable times.

**Regulations from other Municipalities**

Summaries of the permitting criteria and regulations related to STRs for each of the reviewed municipalities are provided in the attachment to this report. The following are several selected permitting criteria or regulations from the reviewed municipalities.

***Permit fees***

Permit fees associated with the STR programs are set to generate revenue to cover the cost of implementation and monitoring of the program by city staff. The fees are based upon existing fee schedules or cost estimates developed by the respective city departments. Additional costs for participants, such as fees for obtaining a required business license or application notification to adjacent properties, may also apply based upon each specific municipality. The STR permit fees range from a low of \$0 (San Jose)<sup>8</sup> to a high of \$235 (Austin)<sup>9</sup>.

City	STR Permit
San Diego	N/A
Solana Beach	\$110
Encinitas	\$150
San Francisco	\$50
Austin	\$235
Portland*	\$178
San Jose	\$0

\*Fee for Single Family Dwelling

The established fees for the STR programs are designed to balance the cost of participating in the STR program and recovering the city cost for performing certain tasks, such as property inspections, directly related to administering the STR program. Several cities noted the concern of high fees prohibiting participants from registration with the city while continuing to offer their residential dwellings as short term rentals. Minimal additional staff, if any, has been added by the researched cities to implement and enforce the STR programs. The increase in permit applications is commonly addressed by the Treasurer/Revenue department through the hiring of temporary staff or reallocation of existing resources. Additional neighborhood code enforcement responsibilities are typically assigned to existing Code Enforcement Department staff.

***Permitting criteria and regulations***

Limited number of non-owner occupied rentals – The Operator of the rental unit must occupy the unit for a minimum number of days during the calendar year, thereby limiting the number of days the unit is available for non-owner occupied (owner not present) rentals during the calendar year. The City of San Francisco requires the primary resident of the rental unit to occupy the unit for a minimum of 275 days during the calendar year. As such, the rental unit is limited to 90 days of non-owner occupied rentals. If

<sup>7</sup> Occupancy limits defined in Section 1004 of the 2013 California Building Code.

<sup>8</sup> City of San Jose does not require a permit.

<sup>9</sup> Fee for Austin includes required inspection of bedrooms for single family dwelling.

the primary resident is present at the rental unit during the rental period, there is no limit to the number of days or frequency that the unit may be rented.

Exterior posting of Rental Unit Information – The cities of Solana Beach and Encinitas require the Operator to place a 24-hour, seven-day a week phone number for a party responsible for the rental unit on the exterior of the rental unit in plain view of the general public. The notice is also to include the number of bedrooms, the maximum number of overnight occupants permitted in the unit, and the maximum number of vehicles for overnight parking.

Notification to Adjacent Properties – Multiple cities require that contact information (party responsible for addressing complaints) for the rental unit be provided to all the adjacent property owners or property owners within a specific distance (100 to 300 feet) from the rental unit.

Liability Insurance – Several cities require the property owner to carry or show proof of liability insurance. The City of San Francisco requires the Operator of the unit to maintain liability insurance to cover the rental unit in the aggregate amount of not less than \$500,000; or maintain that any transaction through a Hosting Platform will provide equal or greater amounts of coverage.

Locations of fire extinguishers and fire exits – Several cities require the Operator to post a clearly printed sign inside the rental unit that provides information regarding the location of all fire extinguishers, gas shut off valves, fire exits, and fire alarms in the unit/building.

Limits on number of occupants – Several cities limit the number of occupants per rental unit. Limits on the number of occupants are determined by the type of rental unit (dwelling), the type of permit obtained, and/or the presence of the Operator.

Response to complaints/code violations – All of the reviewed cities have regulations to address code violations such as loud noise, nuisance, or parking. However, several cities, such as Solana Beach and Encinitas, include required response times from the identified contact for the rental unit. Failure to respond to the complaint/violations within the identified time period and failure to use best efforts to prevent reoccurrence of such conduct, by the rental unit occupants, would lead to a penalty or fine, and possibly the revocation of the ability to use the dwelling as a STR.

Establishment of agreement with Hosting Platform(s)<sup>10</sup> – Several cities have established agreements with a Hosting Platform (e.g., Airbnb) to facilitate the reporting, collection, and remittance of applicable taxes (TOT) on behalf of the Operators of the STRs. Airbnb has agreements with the reviewed cities of San Francisco, San Jose, and Portland. The agreements are designed to assist the Operator in fulfilling their obligations while ensuring the cities receive the appropriate taxes from transactions booked through their website.

## CONCLUSION

Each municipality has crafted their short-term rental permitting criteria, fees, and regulations specifically to address local concerns. The municipalities made considerable efforts to identify their concerns related to STRs, and set regulations to achieve certain goals. As the SG&LU Committee discusses the topic of STRs, and potentially the addition or modification of current regulations to address concerns related to STRs, our office recommends developing a definition or new use subcategory within the SDMC for short-

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<sup>10</sup> A Hosting Platform is an online booking service that allows Operators of residential dwelling units to be matched with those desiring accommodations. Services offered to the Hosts by the Hosting Platforms vary.

term rentals. While all of the reviewed regulations varied, the one consistent component of the regulations was a defined term for short-term rentals. This action would provide guidance for City staff and the public as to the classification of specific dwellings and the appropriate regulations to be applied to these dwellings.

Should the SG&LU Committee desire to propose new registration requirements or regulations for STRs, our office recommends considering the potential unintended impacts of the regulations. An example of this would be establishing a requirement for an exterior posting of contact information for a rental unit. While this may provide an avenue to address complaints, the exterior posting of information can also become a public advertisement of the dwelling as a short term rental. The identification of the dwelling as a rental unit may not have the intended positive impact that is desired. Achieving the goal of providing access to the rental unit's contact information might alternatively be accomplished by providing adjacent property owners with the contact information or by using other informational methods.

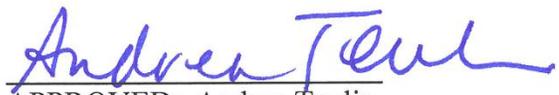
Additionally, the City will need to consider the desired level of enforcement for any new STR regulations. The reviewed cities have absorbed the responsibilities of enforcing the additional regulations into their existing code enforcement programs (normally investigate complaints on a reactive basis). However, the City, due to the density of the coastal communities and the overall large area of the City, may want to consider the necessary staffing levels to successfully enforce any new regulations.

It should be noted that the time required for each city to garner input from public and commercial stakeholders, draft the regulations, and allow for public discussion of the proposed regulations ranged from 12 to 24 months. Should the City follow a similar process for the discussion of potential STR regulations, it would be reasonable to expect a similar length of time before the City Council could implement new STR regulations.

Lastly, the City should anticipate a review of any proposed land use modifications in the coastal areas from the California Coastal Commission (Coastal Commission). The Coastal Commission has reviewed the proposed STR regulations from several other local municipalities including the City of Encinitas and the City of Solana Beach, and provided findings based upon the specific information from each city. Findings ranged from supporting the respective cities proposed regulations to recommending modifications resulting in partial implementation of the originally proposed regulations. Information related to the Coastal Commission's findings can be found on the Coastal Commission's website.



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- Attachments: 1.Summary of Comparative Information on Short-term Rentals  
2.Comparative Information on Short-term Rentals

**SUMMARY OF COMPARATIVE INFORMATION ON SHORT TERM RENTALS**

CITIES	Estimated number of STR listings	Business Tax Certificate / License required	Fee Amount	Restrictions	Occupancy Tax Certificate required	Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations
San Diego	3,100	No	N/A	N/A	Yes	TOT - 10.5%	No	N/A	N/A	Use Categories and Use Subcategories to identify appropriate uses and regulations
						TMD Assessments:  Category A (30 or more units) - 1.45%  Category B (all lodgings)- 0.55%				Administrative penalties may apply to the guest and property owner
						Owner required to maintain TOT payment records to the City for three (3) years				
Solana Beach	200	No	N/A	N/A	Yes	TOT - 13.0%	Yes	\$110	Applicant can be owner or owner's agent	Seven day minimum stay required
									Valid for calendar year	Posting of contact information on exterior of rental unit
									Permit to be placed inside rental unit	Contact information to be provided to adjacent property owners
										Contact person required to response to complaints within 24 hours
Encinitas	200	No	N/A	N/A	Yes	TOT - 10.0%	Yes	\$150	Applicant can be owner or owner's agent	Single Family and Duplex dwellings only
									Owner responsible for complying with STR regulations	Number of occupants is limited
									Application to include floor plan of rental unit	Posting of contact information on exterior of rental unit
										Contact information to be provided to adjacent property owners
									Valid for twelve (12) months	Packet of STR and city regulations to be provided to guests
Contact person required to response to complaints within two hours										

# SUMMARY OF COMPARATIVE INFORMATION ON SHORT TERM RENTALS

CITIES	Estimated number of STR listings	Business Tax Certificate / License required	Fee Amount	Restrictions	Occupancy Tax Certificate required	Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations
San Francisco	6,960	Yes	\$76.00	Valid for one (1) year	Yes	TOT - 14.0%	Yes	\$50	Registration number to be placed on all advertisements for rental unit	Primary Resident must occupy rental unit for no less than 275 days of the calendar year
									Resident required to provide documentation of residency	Primary Resident required to maintain minimum amount of \$500,000 in liability insurance
									Valid for two (2) years	Record of number of days owner present and days unit rented must be kept for two (2) years
									Property owner may only register one property	Location of fire extinguishers and exits must be posted
									Controller to review revenue and costs after six (6) months to determine if fee is cost recoverable	Hosting Platforms are required to provide city information to all potential hosts City Planning Department to designate a contact person for the public; and provide annual report on program to Board of Supervisors
Austin	1,500	No	N/A	N/A	Yes	HOT - 7.0%	Yes	\$235 (includes inspection fee)	Owner of property to obtain permit	Identifies three (3) dwelling categories for STRs
									Requires Certificate of Occupancy or inspection	
									Valid for twelve (12) months	Limits non-owner occupied rental units to three (3) percent of dwelling units within each census tract
									City to provide owner with information packet of city regulations related to STR	
									Owner to provide all guest with copy of information packet from City	City's Code Department developed database to monitor number of STRs per census track
City will notify property owners within 100 ft. of property applying for STR permit										

# SUMMARY OF COMPARATIVE INFORMATION ON SHORT TERM RENTALS

CITIES	Estimated number of STR listings	Business Tax Certificate / License required	Fee Amount	Restrictions	Occupancy Tax Certificate required	Occupancy Tax Rate	Short-Term Rental Permit	Fee Amount	Criteria for STR Permit	STR Regulations							
Portland	1,600	Yes	2.2% of net income or a minimum of \$100	Valid for one (1) year	Yes	TOT - 11.5%	Yes	\$178 - Single Family Dwelling	Owner or person with permission from owner may obtain permit	Rental stays without owner present are limited to 95 days per year							
									Two types of permits - Type A for up to two bedrooms; Type B for three to five bedrooms								
									Inspection required for Single Family dwellings		Number of occupants per rental unit limited by type of permit (A or B)						
										If business gross income is less than \$50,000, no tax due					\$100 - Multi-family Dwelling	Notification letter with contact information to be sent to all properties across or abutting rental unit	Food and alcohol may be served
																Registration number to be placed on all advertisements for rental unit	A guest log book must be maintained and made available for inspection by city staff upon request
																Valid for two (2) years	
San Jose	300	Yes	\$150	Valid for one (1) year	Yes	TOT - 10.0%	No	N/A	N/A	If host present, unit can be rented 365 days per year; If host not present, unit can only be rented 180 days per year							
										Number of occupants limited by presence or lack of presence of host, and type of dwelling							
										Contact information to be provided to rental guests and all occupants of all adjacent properties							
										Host to maintain payment records of TOT to city for three (3) years							

The following summaries are to provide information on STR programs and regulations. The noted criteria cited in the summaries are extracts from the full set of regulations for each municipality.

## **City of Solana Beach**

Estimated number of STR<sup>1</sup> listings: 200

On May 20, 2003, the Solana Beach City Council adopted an ordinance to allow short-term rentals to regulate the activity of renting a dwelling unit in a residential zoning district; and to safeguard the peace, safety, and general welfare of the residents, visitors, and rental guests. On February 3, 2004, the City Council adopted amendments to the short-term rental program.

In order to use a residential property as a STR, the owner or the owner's agent must obtain a Short-Term Vacation Rental Permit in lieu of a Business Certificate.

Short-Term Vacation Rental Permit: The applicant for the permit may be the owner or owner's agent. The applicant will be responsible for compliance with all the short term vacation rental regulations. The short-term vacation rental permit is required to be placed inside of the main entry door of each rental unit. Permit fee is \$110 and is valid for the calendar year. Annual renewal fee is \$17.

The following are noted features of the STR regulation.

- Seven (7) day stay requirement – Rental for less than seven consecutive calendar days in duration is prohibited within all residential zoning districts.
- Exterior posting of Contact Information – The applicant is required to place a 24-hour, seven-day a week phone number for a party responsible for the rental unit on the exterior of the rental unit in plain view of the general public.
- Notification to Adjacent Properties – The contact information for the rental unit is to be provided by the applicant to all the adjacent property owners.
- Response to complaints within 24 hours – Upon receiving notification that the guests or tenants of the rental unit are violating city regulations (noise, disorderly conduct, etc.), the applicant shall respond and abate the violation within 24 hours. Failure to respond or abate the tenant violation shall be considered a failure to respond to a complaint. Failure to respond to two or more complaints is grounds for penalties. A third violation related to the rental unit within any 12-month period will result in an administrative hearing and potentially revocation of the permit for a period of one year.

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<sup>1</sup> For the City of Solana Beach, the definition of a STR is the rental of any structure for occupancy for more than seven days, but no more than thirty (30) consecutive days in a residential zoning district.

## City of Encinitas

Estimated number of STR listings: 200

On June 15, 2005, the Encinitas City Council adopted an ordinance to allow short-term rentals in residential zones. The ordinance established regulations to address and mitigate impacts to neighborhoods such as excessive noise, disorderly conduct, and overcrowding. Subsequent amendments modified the regulations to include additional noticing requirements.

In order to use a residential property as a STR, the owner or the owner's agent must obtain a Short-Term Rental Permit from the City Clerk's Office and register with the Finance Department for the collection of TOT.

Short-Term Rental Permit – The owner or owner's agent may obtain the permit; however the owner is responsible for complying with the short-term rental regulations. The permit application includes the applicant's contact information, the owner's contact information, and information for the identified contact person. In addition to the contact information, the application is to include a description of the dwelling with an illustrated floor plan; and a copy of the proposed guest rental agreement. The fee for the Short-Term Rental Permit is \$150 and is valid for twelve (12) months.

The following are noted features of the STR regulation.

- Allowable Dwelling Units - Short-term rentals are only allowed for single-family and duplex dwellings in residential zones. Multi-family dwellings and condominiums are prohibited from usage as short-term rentals in residential zones. Commercial activities, such as weddings or corporation parties, are not an allowed use within short-term rentals.
- Limited number of occupants – Occupancy of short-term rental units is limited to two (2) persons per bedroom plus one additional person per dwelling.
- Exterior posting of Rental Unit Information – The applicant is required to place a 24-hour, seven-day a week phone number for a party responsible for the rental unit on the exterior of the rental unit in plain view of the general public. The displayed notice is also to include the number of bedrooms, the maximum number of overnight occupants permitted in the unit, and the maximum number of vehicles for overnight parking.
- Notification to Adjacent Properties – The contact information for the rental unit is to be provided by the applicant to all the adjacent property owners.
- Rental Agreement – The applicant shall provide a packet of information to prospective renters which will include the permitted occupancy of the unit, parking capacity for the unit, and trash disposal requirements prior to their occupancy of the unit.
- Response to complaints – The applicant shall, upon receiving notification of a disturbance or violation occurring at the rental unit, respond to the complaint within two hours of the time the initial complaint was made; and within 24 hours of the initial call use best efforts to prevent a recurrence of such conduct by the rental unit occupants.

## City of San Francisco

Estimated number of STR listings: 6,960

On October 27<sup>th</sup>, 2014 Mayor Ed Lee signed an ordinance to allow permanent residents of residential properties to conduct short-term rentals under certain circumstances. In developing the STR regulations, the City was concerned about protecting the housing affordability and housing stock, protecting neighborhood character, and stemming complaints about the hours of guests. The law became effective February 1, 2015.

In order to use a residential property as a STR, the Operator of the property must obtain a Business Registration Certificate (business license), file a Certificate of Authority (to collect TOT), and enroll in the Short-Term Residential Rental Registration.

Business Registration Certificate: All hosts in San Francisco are required to obtain a Business Registration Certificate from the City Treasurer's Office. The Business Registration Certificate is valid for the City's fiscal year (July 1 – June 30). The fee amounts vary based upon the type of business and prior year payroll expenses. The fees start at \$76.00 per year and increase based upon a fixed schedule.

Certificate of Authority: Operators of STRs are required to obtain and hold a valid Certificate of Authority to collect TOT<sup>2</sup>. The City will allow a qualified website company to enter into an agreement with a host to act as the host's agent for the collection of TOT. Under the agreement, the website company undertakes the obligation to collect and remit the entirety of TOT on each transaction and remit TOT and tax filings to the Office of the Treasurer & Tax Collector. The host will not be required to submit TOT filings or to obtain a Certificate of Authority.

Short-Term Residential Rental Registry: A Permanent Resident<sup>3</sup> is required to register the rental unit with the Short-Term Residential Rental Registry (administered by the Planning Department). The registration number is required to be placed on all listings/advertisements for the property. Lack of a registration number on listings is grounds as evidence for a violation/citation. The Permanent Resident may only register one property and the property may not have any outstanding code violations. The registration fee is \$50 and valid for two years. After six months, the Controller will review the revenues and expense related to establishing and maintaining the registry and enforcement of the regulations. Based upon the review by the Controller, the Controller will determine if an adjustment in the fee is necessary to recover the cost of the program.

The following are noted features of the STR regulation.

- Primary Residency Requirement – The Primary Resident must occupy the rental unit for no less than 275 day out of the calendar year. As such, the rental unit is limited to 90 days of non-owner occupied rentals. If the Primary Resident is present at the rental unit during the rental period, there is no limit to the number of day or frequency as to the unit may be rented.

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<sup>2</sup> The Moscone Expansion District Assessment is not charged to Hosts renting out private residences.

<sup>3</sup> A person who occupies the residential unit for at least sixty consecutive days with intent to establish that unit as his or her primary residence.

- Liability Insurance in the amount of \$500,000 – The Primary Resident will maintain liability insurance to cover the rental unit in the aggregate amount of not less than \$500,000; or maintain that any transaction through a Hosting Platform will provide equal or greater amounts of coverage.
- Recordkeeping – The Primary Resident will maintain a record of the number of days per calendar year he or she has occupied the rental unit and the number of days the unit has been rented as a STR. The records will be maintained for two years.
- Locations of fire extinguishers and fire exits – The Primary Resident will post a clearly printed sign inside the rental unit on the inside of the front door that provides information regarding the location of all fire extinguishers, gas shut off valves, fire exits, and fire alarms in the unit/building.
- Hosting Platforms notice to potential hosts – Prior to listing the rental unit, the Hosting Platforms are required to provide potential hosts the following information: the City’s Administrative codes related to STRs, the requirements for registering the unit with the City, and the obligation of the transient occupancy tax.
- Establishment of agreement with Airbnb (Hosting Platform) – The City and Airbnb have established an agreement in which Airbnb is to collect the appropriate transient occupancy tax from rental guests when Airbnb is commissioned by the Host of the property for the rental transaction. Collection of the transient occupancy tax will be enforced by the City Treasurer/Tax Collector.
- Establishment of Department (Planning) Contact and Reporting Requirements – The department will designate a contact person for members of the public to contact for complaints or seek information related to STRs. Additionally, within one year of the effective date and annually thereafter, the department will report to the Board of Supervisors regarding the administration and enforcement of the program.

## City of Austin

Estimated number of STR listings: 1,500

On October 1, 2012, the Austin City Council passed an ordinance requiring the registration of vacation rentals properties with the city. The City of Austin acknowledged the growing popularity of renting a residential dwelling as a vacation option; and developed regulations to provide a flexible, more authentic Austin experience to visitors, and allow a source of income for property owners. On September 26, 2013 the Austin City Council adopted an ordinance to amend certain city codes which provide for the regulation, monitoring, and licensing of STRs.

To operate a STR, the owner of the rental unit must obtain a Short-Term Rental license.

Short-Term Rental License: An owner of the property needs to apply in person for a Short-Term Rental License from the City Controller's Office. The application will include information for the owner and a local responsible contact for the property; proof of property insurance, and proof of payment of hotel occupancy taxes due (unless the initiation of a new business). The application requires a Certificate of Occupancy<sup>4</sup> from the Planning Department or an inspection of the property by a third party. The license fee is \$235. The license is valid for twelve (12) months from issuance and is non-transferable. The license number must be included in all advertisement for the rental unit and displayed within the unit. Non-compliant advertising of the availability of a unit is grounds for denial, suspension, or revocation of a license.

An additional \$50.00 notification fee is required. The city is required to provide the owner of the STR with an informational packet summarizing: the local contact information designated in the application; occupancy limits for the type of rental unit; noise and parking restrictions; trash schedules; information on water restrictions; and information on applicable requirements of the Americans with Disabilities Act. The owner must provide all renters with a copy of this information packet and place a packet in a visible location within the rental unit. The city will mail the contact information to all the property owners within 100 feet of the STR.

Every person owning, operating, managing, controlling, or collecting payment for occupancy in any hotel or short-term rental is required to collect the Hotel Occupancy Tax from their guests for the City.

The following are noted features of the STR regulation.

- Three Categories of Rental Units – Type 1, Type 2, Type 3
  - Type 1 – All residential homes that are owner occupied or associated with an owner-occupied principal residence. Rental could be for part or the entire unit, rental is limited to single party of individuals, and the owner is generally present during the rental.
  - Type 2 – Single-family or Duplex residential homes that are non-owner occupied or not associated with an owner-occupied principal residence. Rental is for entire unit, and the total number of rental units must not be more than three (3) percent of the single-family detached residential units within the census tract.

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<sup>4</sup> Certificate of Occupancy provide at the completion of construction and reviewed to ensure compliance with all appropriate building codes.

- Type 3 – Units located within a Multi-family Building (Multi-family units) or Commercial zone. Units are not owner-occupied, rental is for the entire unit, and the unit is part of a multi-family use (condo, apartment, etc.). If the rental unit is in a residential zone, no more than three (3) percent of the total numbers of units at the property or units within any building at the property are allowed to be used as STRs. If the rental unit is located within a Commercial zone, no more that 25% of the total units at the property or units within any building at the property are allowed to be used as STRs.
- Development of STR database – The Code Department has developed and monitors a database to track the number of licenses issued to monitor the availability of Type 2 licenses within the City’s census tracks. A map and list of available licenses is accessible by the public.

## City of Portland

Estimated number of STR listings: 1,600

In July 2014, the Portland City Council passed an ordinance to permit short-term rentals in residential zones when the rental unit is also the proprietor's primary residence. This ordinance was to address the dramatic increase in the number of residences being rented informally on a short-term basis through internet sites and allow for more efficient use of residential structures, without detracting from neighborhood character. In October 2014, an additional ordinance was passed by the City Council to allow multi-family dwellings to be made available as short-term rentals.

In order to use a residential property as a STR, a resident of the property must obtain a business license, enroll in the Transient Lodging Tax Program, and receive the appropriate registration permit.

Business License Tax: The City requires any person doing business in the City to apply for a business license. The Business License Tax is 2.2% of net income or a minimum of \$100, whichever amount is less. If a business gross income is less than \$50,000, no tax amount is due; however business still must register with the City.

Transient Lodging Tax Program: The Transient Lodging Tax Program identifies which properties are to remit the collected transient occupancy tax. Operators or Host Platforms are to remit tax amount collected on a monthly basis.

Accessory Short-Term Rental Permit: The term "accessory" in the title emphasizes that the *primary* use of the residential dwelling is long term occupancy, and only a part of the dwelling unit is used for short-term rental purposes. The resident of the dwelling must obtain a permit from the Bureau of Development Services (BDS). There are two types of permits: Type A permit (allows for up to two bedrooms to be rented) and Type B permit (allows for three to five bedrooms to be rented). Permits are valid for two years. Renters may participate in short-term rental program with notarized approval from property owners.

For Type A permits, the resident must provide a notification letter to all residents and owners of property abutting or across the street from the short-term rental. For multi-family units, residents and/or owners across the hall, abutting, and above/below the rental unit need to receive the notification letter. The notification letter will include contact information for the resident or operator of the rental unit.

The bedrooms proposed to be rented in single family structures (both Type A and B permits) require an initial inspection from the BDS. The inspection will verify that each bedroom being proposed to be rented meets the building code requirement for a bedroom at the time the room was created; that each rented bedroom has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and that there is a functioning carbon monoxide alarm on the floor of the rented bedroom. Multi-family units are exempt from this inspection requirement as these homes are inspected as part of the Portland Fire & Rescue Safety Inspection program.

Type B permits must be approved through a discretionary Type II or Type III Conditional Use land use review. A review is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. Impacts could include noise, late-night operations, privacy and safety

issues, and capacity of the site to address on-street parking. The conditional use review provides an opportunity to allow the use when there are minimal impacts; allow the use but impose mitigation measures to address identified concerns; or deny the use if the concerns cannot be resolved. The number of occupants may be limited as part of the conditional review.

The registration number is required to be placed on all listings/advertisements for property. Lack of registration number on listings is grounds for citation/violation. The initial fee for both types of permits for Single Family dwellings is \$178.00 with an annual renewal fee of \$62.00. For Multi-family dwellings, the initial fee is \$100.00 with an annual renewal fee of \$62.00.

The following are noted features of the STR regulation.

- Residency Requirement - The resident of the short-term rental must reside in the dwelling unit where the bedrooms are rented at least nine months each year. There is no limitation to the number of nights the bedrooms may be used as short-term rentals. However, there is a maximum of 95 days per year when the resident does not need to be present with the overnight guests. The number of units in a multi-dwelling structure or a triplex that can be used as a short term rental is limited to one unit or twenty five percent of the total number of units in the structure, whichever is greater.
- Limited number of occupants - For Type A permits, the number of occupants is limited by the Portland Zoning Code. Per the Portland Zoning Code, occupancy is limited to: “one or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than five additional persons”. For a Type B permit, the number of occupants may be determined as part of the conditional use approval.
- Food and Alcohol - Guests may be served food and alcohol subject to County and State requirements, but an employee may not be hired to come to the site to prepare/serve food or beverages to the guests.
- Guest Log - All STRs must maintain a guest log book. The log book will include the name of the guest, the home address of the guest, the room assigned to the guest, the length of stay by the guest, and vehicle information of the guest, if traveling by car. The log book will be available for inspection by City staff upon request.
- Establishment of agreement with Airbnb (Hosting Platform) – The City and Airbnb have established an agreement in which Airbnb is to collect the appropriate transient occupancy tax from rental guests when Airbnb is commissioned by the Host of the property for the rental transaction.

## City of San Jose

Estimated number of STR listings: 300

On December 16, 2014, the San Jose City Council approved an ordinance to allow incidental transient occupancy (rental by a transient for a stay of less than thirty days) as a permitted use for the purpose of obtaining TOT revenue for the City; and establishing performance standards for rental units in order to maintain compatibility with surrounding land uses. The ordinance became effective January 16, 2015.

In order to use a residential property as a STR, a resident<sup>5</sup> of the property must obtain a business license and pay the appropriate TOT to the City. TOT is the responsibility of the host but may be paid by a Hosting Platform on behalf of the host if the Hosting Platform has an agreement with the city for collection and payment of the TOT.

Business License Tax: The City requires any person doing business in the City to apply for a business license. The Business License Tax fee is \$150.00 for San Jose businesses with up to eight employees and renewed annually.

The following are noted features of the STR regulation.

- Availability determined by residency – The annual number of days the rental unit can be made available for incidental transient occupancy is determined by the presence of the host. If the host is present, the unit can be rented 365 days per calendar year. If the host is not present, the unit is limited to 180 days of rental availability.
- Limited number of occupants – The number of occupants allowed for stay in the rental unit is determined by the type of home and the presence of the host.
  - Single family dwelling/mobile home (host present) – Occupancy by up to three transients.
  - Multi-family dwelling (host present) – Occupancy by up to two transients in each dwelling unit.
  - Studio unit (no host present) – Occupancy by up to two people.
  - One bedroom unit (no host present) – Occupancy by up to three people.
  - Multi-bedroom unit (no host present) – Occupancy by up to three people in first bedroom and up to two people for each additional bedroom, but not to exceed ten persons total.
- Contact Information – If host not present during rental period, the host will provide written notice of the name and phone number of the local contact person to all transient users and to all occupants of all adjacent properties.
- Recordkeeping – The host is required to maintain records documenting compliance with the requirements related to incidental transient occupancy, including payment of the appropriate TOT to the city (by the host or hosting platform), for three (3) years.
- Establishment of agreement with Airbnb (Hosting Platform) – The City and Airbnb have established an agreement in which Airbnb is to collect the appropriate transient occupancy tax from rental guests when Airbnb is commissioned by the Host of the property for the rental transaction.

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<sup>5</sup> Incidental transient occupancy is only permitted if the host is a person who occupies the unit that is being used for incidental transient occupancy for at least 60 consecutive days, with the intent to establish that dwelling as the host's primary residence.