

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Planning	DATE: 3/3/2017
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SUBJECT: Amendments to the Land Development Code and Local Coastal Program Related to Home Sharing and Whole Home Accommodations

PRIMARY CONTACT (NAME, PHONE): Raynard Abalos, 619-525-8261 MS 413	SECONDARY CONTACT (NAME, PHONE): Jeff Murphy, 619-236-6057 MS 413
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COMPLETE FOR ACCOUNTING PURPOSES

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE):

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Environmental Analysis	ORIG DEPT.		
Liaison Office	CFO		
	DEPUTY CHIEF	Graham, David	03/17/2017
	COO		
	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

STAFF RECOMMENDATIONS:
Based upon public testimony and input, provide policy direction for the regulation of short term vacation establishments.

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S): All

COMMUNITY AREA(S):	All
ENVIRONMENTAL IMPACT:	This activity is not a project per CEQA Guidelines Section 15060(c)(3).
CITY CLERK INSTRUCTIONS:	

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 3/3/2017

ORIGINATING DEPARTMENT: Planning

SUBJECT: Amendments to the Land Development Code and Local Coastal Program Related to Home Sharing and Whole Home Accommodations

COUNCIL DISTRICT(S): All

CONTACT/PHONE NUMBER: Raynard Abalos/619-525-8261 MS 413

DESCRIPTIVE SUMMARY OF ITEM:

Planning Department staff requests that the Smart Growth and Land Use Committee consider the options presented and provide policy direction on the development of a preferred ordinance for short term vacation establishments that would be forwarded to the Council for consideration.

STAFF RECOMMENDATION:

Based upon public testimony and input, provide policy direction for the regulation of short term vacation establishments.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:Over the last few years, the success of online platforms has made it easier and more convenient for private residences to advertise the availability of their homes for what is commonly referred to as “vacation rentals” or “short-term rentals.” As a result, the City of San Diego, like many other cities along the coast have seen an increase in the use of private residences for these purposes.

The California Coastal Commission has provided guidance on the matter. In a letter dated December 6, 2016, the California Coastal Commission recognizes vacation rentals as an important source of visitor accommodations while understanding legitimate community concerns associated with the use. The letter explains that the Coastal Commission has not historically supported blanket vacation rental bans and has found such programs in the past to be inconsistent with the Coastal Act. The letter also highlights certain regulations that have been historically supported by the Commission and provides guidance and direction on developing vacation rental regulations in the coastal zone (Attachment 1). Some of those suggestions have been incorporated into the options provided in the attached Report to Council.

For more than 2 years, the City has attempted to address not only Coastal Commission’s concerns, but also issues identified through memos, letters, reports and public testimony, including ambiguity in the Land Development Code (Attachment 2). Although these views have offered several opposing opinions on the matter, the City Council voted 7-2 on November 1, 2016 to request the Mayor’s Office bring forward a framework for a comprehensive ordinance to allow for and regulate vacation rentals or short-term rentals.

The attached Report to Council provides a brief history of the public hearings to date on this matter and explains the development of the framework with three options that attempt to balance the interests and concerns that have been raised in prior hearings.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):The proposed options described in this staff report are consistent with Goal #1: Provide high quality public service; Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods; and, Goal 3: Create and sustain a resilient and economically prosperous City.

FISCAL CONSIDERATIONS:Costs associated with implementation of an ordinance would be covered by project applicants.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee):N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:Efforts included presentations to and recommendations from the Code Monitoring Team, the Technical Advisory Committee and the Community Planners Committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:Key stakeholders include neighborhood and community planning groups, residents, visitors, transients, owners and operators of visitor accommodations.

Originating Department

Graham, David
Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO

Report to the City Council

DATE ISSUED: March 14, 2017 REPORT NO. 17-022

ATTENTION: Committee on Smart Growth and Land Use

SUBJECT: Amendments to the Land Development Code and Local Coastal Program Related to Home Sharing and Whole Home Accommodations

REQUESTED ACTION:

Planning Department staff requests that the Smart Growth and Land Use Committee consider the options presented and provide policy direction on the development of a preferred ordinance for short term vacation establishments that would be forwarded to the Council for consideration.

STAFF RECOMMENDATION:

Based upon public testimony and input, provide policy direction for the regulation of short term vacation establishments.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Background

Over the last few years, the success of online platforms has made it easier and more convenient for private residences to advertise the availability of their homes for what is commonly referred to as “vacation rentals” or “short-term rentals.” As a result, the City of San Diego, like many other cities along the coast have seen an increase in the use of private residences for these purposes.

The California Coastal Commission has provided guidance on the matter. In a letter dated December 6, 2016, the California Coastal Commission recognizes vacation rentals as an important source of visitor accommodations while understanding legitimate community concerns associated with the use. The letter explains that the Coastal Commission has not historically supported blanket vacation rental bans and has found such programs in the past to be inconsistent with the Coastal Act. The letter also highlights certain regulations that have been historically supported by the Commission and provides guidance and direction on developing vacation rental regulations in the coastal zone (Attachment 1). Some of those suggestions have been incorporated into the options provided in this report.

For more than 2 years, the City has attempted to address not only Coastal Commission's concerns, but also issues identified through memos, letters, reports and public testimony, including ambiguity in the Land Development Code (Attachment 2). Although these views have offered several opposing opinions on the matter, the City Council voted 7-2 on November 1, 2016 to request the Mayor's Office bring forward a framework for a comprehensive ordinance to allow for and regulate vacation rentals or short-term rentals.

This report provides a brief history of the public hearings to date on this matter and explains the development of the framework with three options that attempt to balance the interests and concerns that have been raised in prior hearings.

Discussion

A. Previous Hearings

On May 29, 2015, the Smart Growth and Land Use (SG&LU) Committee voted 4-0 to request the Mayor's Office develop a budget for enhanced Code Enforcement to address issues related to noise, occupancy, trash and other matters, as it related to vacation rentals or short-term rentals for inclusion in FY16 budget. The Committee also voted to direct City Staff to draft an ordinance based on feedback from the meeting.

On December 3, 2015, a Short Term Vacation Rental and Home Sharing Ordinance was brought to the Planning Commission for a recommendation to the Council (Attachment 3). The Commission made a motion to return the item to staff for further evaluation and continued the item to January 28, 2016 to address the ministerial permit aspect, registration fee, verified complaints causing revocation or possible triggering of the Neighborhood Use Permit and annual inspection for health and safety code.

On January 5, 2016, the SG&LU Consultant informed the Planning Commissioners that the item would not return to Planning Commission, but would go directly to the full Council.

On November 1, 2016, the City Council voted 7-2 to approve a motion requesting that the Mayor's Office develop a budget for enhanced Code Enforcement; requesting City Staff to bring forward a framework for a comprehensive ordinance to allow regulation for short term vacation rentals and home sharing; directing City Staff to have the ordinance go through the normal review process, which includes the Technical Advisory Committee, Code Monitoring Team, Community Planners Committee, and Planning Commission; and directing that this matter come back to the Smart Growth & Land Use Committee within four months.

On February 21, 2017, the Chair of the SG&LU Committee requested that the ordinance framework be directly forwarded to the SG&LU Committee given the amount of past public testimony on the subject. In response, the Planning Department has prepared a draft framework to allow the regulation for vacation rentals or short term rentals (Attachment 4). Staff has developed three options for consideration and requests further policy direction to finalize the draft ordinance.

B. Use Types

Vacation rentals or short-term rentals can be broken up into two categories as described below.

1. Whole Home

A whole home is a dwelling unit that is occupied as a whole by transients for compensation for fewer than thirty consecutive days. This use would be a separately regulated use in the Land Development Code

2. Home Sharing

Home sharing is an accessory use within a dwelling unit where the primary resident resides in the dwelling unit while providing accommodations to guests for compensation. The guests would not have free access to and use of all of the dwelling unit. This use would be a separately regulated use in the Land Development Code.

C. Limited Use Regulations

The following describes three limited use regulations that apply to all three options presented below.

1. Annual Permit

The annual permit would be required for all whole home and home sharing uses that are subject to the limited use regulations. The permit is valid for 12 months unless revoked. If revoked, a new permit would not be issued until 12 months after the date of revocation. In addition, the permit would not be issued to properties with a related pending code violation case unless the permit is required to remedy the violation.

The annual permit is an essential component of regulating a whole home or a home sharing use and provides an important tool to effectively enforce the regulations. By requiring the annual permit for these uses, whole home or home sharing uses that do not possess a valid permit could be easily identified by the City and appropriate action taken.

2. Occupancy Agreement

The occupancy agreement is intended to serve as an information tool and guide for occupants of a whole home or home sharing use. The agreement would provide information on local noise ordinance regulations, parking restrictions, rules for trash and recyclable containment and disposal, including information regarding the remedies available to the City to address and enforce violations of these rules. The agreement would also include a “good neighbor policy,” reminding the guests to be respectful of the surrounding neighborhood. A copy of the agreement shall be provided to guests prior to their occupancy of the unit.

The occupancy agreement language would be standardized and incorporated into the annual permit application. This would streamline review of the annual permit and reduce costs by simplifying the permit application, reducing the information the applicant provides and reducing the information staff would review.

3. Local Contact

The local contact is a designated person who would remain available during the use of a property as a whole home or home sharing use to respond to complaints related to potential nuisance activity including excessive noise, excessive accumulation of refuse, illegal parking, etc. The contact information for the local contact would be provided on the occupancy agreement, annual permit and shall be displayed on the premises in a location visible to the general public.

D. Framework Ordinance Options

The following describes the three options staff has prepared for a whole home and the three options for home sharing use. An annual permit, an occupancy agreement, and a local contact are required for all options.

1. Whole Home

- *Option 3*

This is the most permissive option and allows whole home rentals without requiring compliance with limited use regulations in zones that currently allow both visitor accommodations and residential as permitted uses. These zones include the RM-4, RM-5, CR-1, CV, CN, CO-1, CO-3, CC-1, CC-3, CC-4, CC-5 and the Mission Beach PDO zones. This option would allow the use as a limited use in the OR, AR, RE, RS, RX, RT, RM-1, RM-2, RM-3, and IP-3 zones.

Option 3 would also allow the use of a companion unit as a whole home use, but unlike Options 1 and 2, with no additional regulations or restrictions.

- *Option 2*

This option would allow a whole home rental as a limited use in all zones that currently allow single or multiple dwelling unit development. A minimum stay of 21 days in RS zones or in detached dwelling units located in RM zones. Option 2 would allow the use of a companion unit as a whole home rental if the property owner resides in the primary residence.

- *Option 1*

This option allows whole home rentals without requiring compliance with limited use regulations in zones that currently allow both visitor accommodations and residential as permitted uses. These zones include the CR-1, CV, CN, CO-1, CO-3, CC-1, CC-3, CC-4, CC-5 and the Mission

Beach PDO zones. This option would allow the use as a limited use in the R-1, RM-2, RM-3, OR, AR, RE, RS, RX, RT and IP-3 zones.

This option would also increase the process level and require permits based on the number of bedrooms provided or the total number of occupants. Specifically, a whole home with 6 or more bedrooms or one that allows more than 10 occupants requires approval of a Neighborhood Use Permit. These thresholds are comparable to California Building Code thresholds that could result in a change of occupancy of a building. Beyond these thresholds, the dwelling units would be subject to building code requirements that are associated more with commercial uses of a building rather than residential. Because of the introduction of this commercial aspect, the Neighborhood Use Permit would allow additional review or criteria to determine the appropriateness of the uses in their particular setting.

Option 1 allows the use of a companion unit as a whole home use. If used concurrently with the primary dwelling unit as a whole home use, the number of bedrooms and occupants for both the companion unit and primary dwelling unit would be combined to determine permit requirements. That is, if both the companion unit and primary dwelling unit are concurrently used as whole home uses and both units combined have 6 or more bedrooms or allow more than 10 occupants, the use would require approval of a Neighborhood Use Permit.

2. Home Sharing

- Option 3

This option allows home sharing in all zones that currently allow single or multiple dwelling unit development. Home sharing uses that provide one or two bedrooms would not be subject to limited use regulations. Home sharing uses that provide three or more bedrooms would require compliance with limited use regulations. Like Options 1 and 2, Option 3 allows the use of a companion unit as a whole home use, but with no additional regulations or restrictions. Unlike Options 1 and 2, Option 3 does not require additional parking over that required for the primary use.

- Option 2

This option allows home sharing without requiring compliance with limited use regulations in the RM-5-12 zone and in all commercial and Mission Beach PDO zones. Home sharing is allowed in the OR, AR, RE, RS, RX, RT, RM (except RM-5-12) and the IP-3 zones, subject to limited use regulations.

In addition, Option 2 limits the number of guest to four, limits the maximum floor area used for the home sharing use to 25 percent of the existing floor area of the unit, and requires one additional parking space over that required for the primary use. Option 2 would allow the use of a

companion unit as a whole home rental if the property owner resides in the primary residence.

- Option 1

This option allows home sharing in all zones that allow currently allow single or multiple dwelling unit development. Home sharing uses that provide one or two bedrooms would not be subject to limited use regulations. Home sharing with three to five bedrooms would require compliance with limited use regulations. Home sharing with six or more bedrooms requires approval of a Conditional Use Permit. For the same reasons described in Option 1 for the whole home use above, these thresholds would allow additional review or criteria to determine the appropriateness of the uses in their particular setting. In addition, the thresholds are similar to existing thresholds for bed and breakfast establishments in the Land Development Code.

In addition, Option 1 does not require additional parking other than the required parking for the primary use for up to two bedrooms. Home sharing uses with three or more bedrooms requires 0.5 parking spaces for each bedroom greater than two.

If a property contains a primary dwelling unit and companion unit, Option 1 allows the use of either the companion unit or primary dwelling unit. Concurrent use of both the companion unit and primary dwelling unit as a home sharing use requires approval of a Neighborhood Use Permit.

E. Enforcement

The approach and costs associated with enforcement is largely dependent upon how the City ultimately decides to regulate such uses. Once the Committee provides policy direction on the regulation of short-term rentals, staff will be in a better position to develop possible enforcement approaches and funding options. The enforcement options, along with the code changes resulting from Committee direction, could be presented to the full City Council for consideration.

Conclusion

Planning Department staff requests that the SG&LU Committee consider the options being presented and provide policy direction on the development of a preferred ordinance that would be forwarded to the Council for consideration.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

The proposed options described in this staff report are consistent with Goal #1: Provide high quality public service; Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods; and, Goal 3: Create and sustain a resilient and economically prosperous City.

FISCAL CONSIDERATIONS:

Costs associated with implementation of an ordinance would be covered by project applicants.

EQUAL OPPORTUNITY CONTRACTIVE INFORMATION (if applicable):

N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:

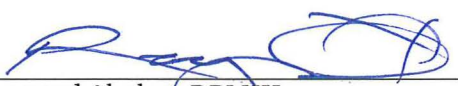
See Executive Summary of Item Background above.

COMMUNITY PARTICIPATION AND OUTREACH EFFORTS:

Efforts included presentations to and recommendations from the Code Monitoring Team, the Technical Advisory Committee and the Community Planners Committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include neighborhood and community planning groups, residents, visitors, transients, owners and operators of visitor accommodations.



Raynard Abalos, DPMNI
Planning Department

JEFF MURPHY, Director
Planning Department

- Attachment(s):
1. Coastal Commission Letter
 2. Councilmember Memos & IBA Report
 3. Planning Commission Report
 4. Options Sheet

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



(Sent Individually via US Mail)

December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our

website at:

https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals.pdf). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

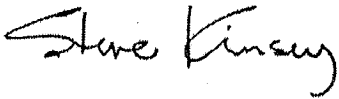
- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we

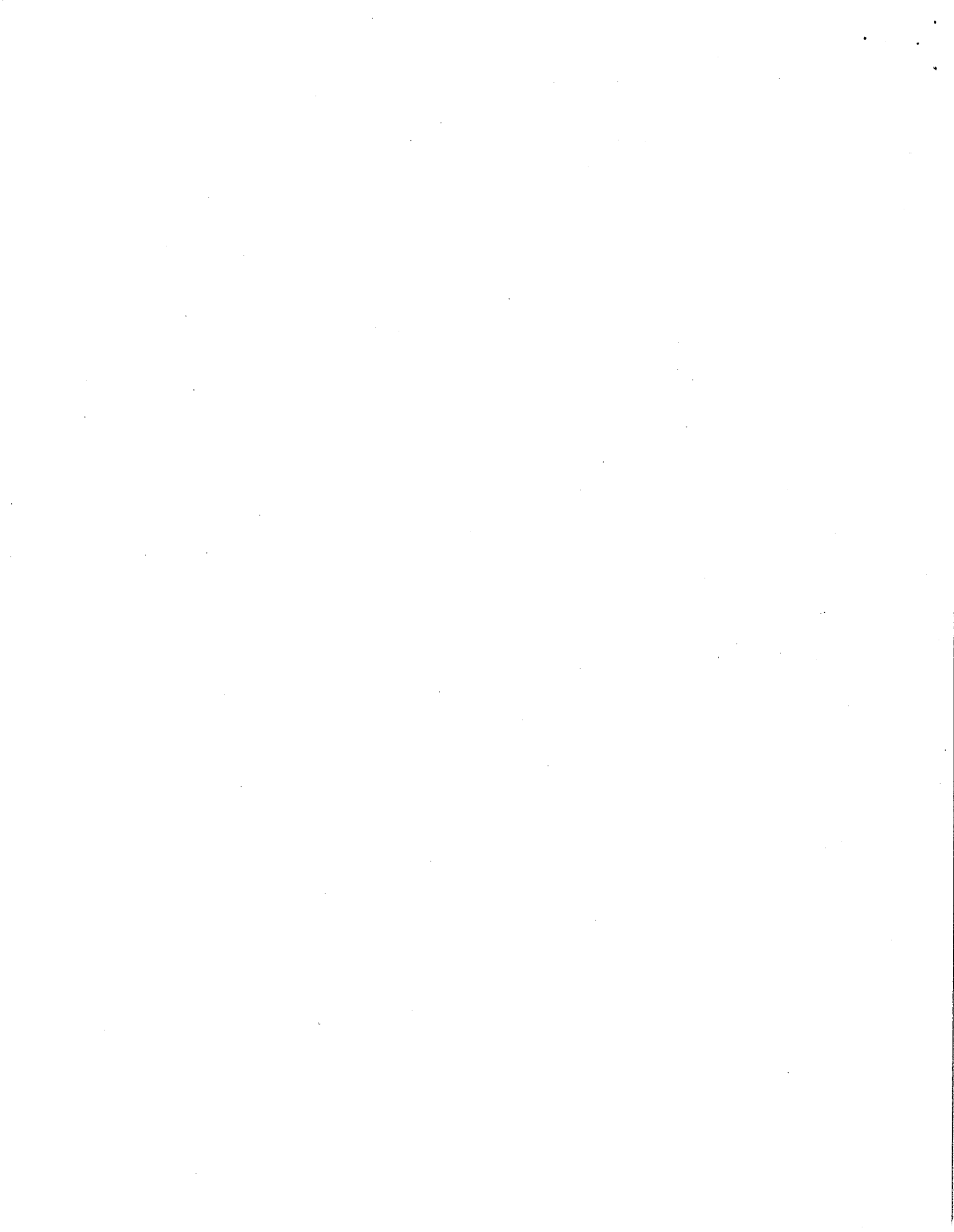
also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,

A handwritten signature in black ink that reads "Steve Kinsey". The signature is written in a cursive, slightly slanted style.

STEVE KINSEY, Chair
California Coastal Commission



OFFICE OF COUNCILMEMBER TODD GLORIA
COUNCIL DISTRICT THREE
M E M O R A N D U M

DATE: November 3, 2016

TO: Honorable City Councilmembers

FROM: Councilmember Todd Gloria



SUBJECT: Short Term Rentals

In response to the motion at Council on November 1, 2016 asking staff to develop a comprehensive ordinance to regulate short term rentals, it is my view that the following elements should be included in any forthcoming policy proposal.

- A distinction should be included in the Municipal Code between home sharing with the owner on site, whole house rentals, limited whole house rentals, and house swapping where an owner trades places with a homeowner in another location.
- Home sharing with the property owner present on site should be allowed subject to the following conditions:
 - 2 adult visitors allowed concurrently by right in all zones with no minimum stay requirement.
 - Ability to rent to more than 2 adults per night can be permitted via a Process 3 Conditional Use Permit.
 - Appropriate Transient Occupancy Taxes should be remitted to the City.
- Whole house rentals in Residential Neighborhoods should be subject to the following conditions:
 - Process 4 Conditional Use Permit.
 - An occupancy limit of 2 persons per legal bedroom.
 - Adherence to fire, health and safety regulations similar to those required of other visitor-serving establishments should be required.
 - An annual fee sufficient to fund all code enforcement activities related to short term rentals should be applied to all permits for whole house rentals.
 - Graduated fine levels should be implemented when there are successive code violations.
 - CUPs should contain language enabling it to be revoked for repeat violations.
 - Private citizens who are directly impacted by whole house rentals should be allowed to sue the owner of the nuisance property in Small Claims Court to force compliance and be entitled to recovery of attorney's fees from a successful suit.
 - Appropriate Transient Occupancy Taxes should be remitted to the City.

- Limited whole house rentals, where the house is the property owner's primary place of residence but the house is rented out short term for less than 30 days per year, should not be subject to permit requirements but should be subject to appropriate Transient Occupancy Taxes.
- House swapping, where a homeowner trades houses with a homeowner in another location for a finite time period, should not be restricted by the Municipal Code.
- An Enterprise Fund should be established through permit and penalty fees to fund Code Enforcement activities and ensure that staffing levels dedicated to these efforts are not reduced due to annual fluctuations in the City Budget.

These recommendations are meant to provide a framework to allow property owners to use their property without unnecessary government interference, except in cases where it infringes upon the rights of other owners to peacefully enjoy their property. Thank you for allowing me to add my comments to this discussion. If you have any questions or comments about these items, please let me know or contact Stephen Hill of my staff at 619-236-6137 or shill@sanidiego.gov.

cc: Honorable Mayor Kevin Faulconer
Honorable City Attorney Jan Goldsmith
Independent Budget Analyst Andrea Tevlin



**COUNCILMEMBER LORIE ZAPF
COUNCIL DISTRICT TWO**

M E M O R A N D U M

DATE: December 17, 2015
TO: Honorable City Council
FROM: Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee
SUBJECT: Revisions to Short Term Vacation Rental and Home Sharing Draft Ordinance

I propose the following revision to my September 17, 2015 memorandum:

For “Short Term Vacation Rental of a Dwelling Unit” Section 141.0315 b) limited use regulations (emphasis on the revision):

- 1) Limited use regulations: A maximum of 2 occupants per bedroom plus 2 occupants may stay in a dwelling unit in Single Family Residential (RS) zones
- 2) A minimum stay of no fewer than 21 nights in Single Family Residential (RS) *and detached single dwelling units in Residential--Multiple Unit (RM) zones.*

I also propose two additions to the Draft Ordinance:

Requirement of a cost-recoverable and revocable ministerial (Process 1) annual permit for Short Term Vacation Rentals (i.e. \$200) and Home Sharing (i.e. \$100) to cover expenses related to Code Enforcement and Police Service Investigative Officers (PISOs) investigating and enforcing Short Term Vacation Rental violations. General fund money should not be utilized to curb code violations and nuisances related to Short Term Vacation Rentals and Home Sharing.

- Obtaining a permit for Short Term Vacation Rentals and Home Sharing should be required as part of the TOT (Transient Occupancy Tax) registration process.

Private Actions to Enforce. Any person who has suffered, or alleges to have suffered, damage to person or property because of a violation of the San Diego Municipal Code pertaining to impacts of Short Term Vacation Rentals may bring an action for money damages and any other appropriate relief in a court of competent jurisdiction against the party alleged to have violated the San Diego Municipal Code.

- This shall not be construed to create any right of action against the City. The sole purpose and intent is to create a right of action between private parties, entities and interests, which are or may be impacted or affected by various aspects of Short Term Vacation Rentals within the City.

cc: Mayor Kevin Faulconer
City Attorney Jan Goldsmith
Andrea Tevlin, IBA



**COUNCILMEMBER LORIE ZAPF
COUNCIL DISTRICT TWO**

M E M O R A N D U M

DATE: September 17, 2015
TO: Honorable City Council
FROM: Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee
SUBJECT: Short Term Vacation Rental and Home Sharing Draft Ordinance

In August, City Staff released a draft code framework to regulate “Short Term Vacation Rentals” (whole home rentals) and Home Sharing (owner occupied rentals). The framework calls for clarity on a few items, including frequency, occupancy and eligible housing types. Prior to my staff’s presentation of the draft ordinance to various groups, the sections in the draft ordinance which require further direction must be addressed in Sections 141.0315, 141.0301 and 141.0302. I propose the following:

For “Short Term Vacation Rental of a Dwelling Unit” Section 141.0315 b) limited use regulations:

- 1) Limited use regulations: A maximum of 2 occupants per bedroom plus 2 occupants may stay in a dwelling unit in Single Family Residential (RS) zones
- 2) A minimum stay of no fewer than 21 nights in Single Family Residential (RS) zones

For “Boarder Lodger and Home Sharing Accommodations” Section 141.0301

- e) No minimum night stay requirement in all residential zones: RE, RS, RX, RT, RM

For “Companion Units” Section 141.030

- p) The property owner or a designated resident host shall remain present at the primary residence on the property during any visitor stay less than 30 consecutive days to actively discourage and prevent any nuisance activity from occurring
- q) No minimum night stay requirement in all residential zones: RE, RS, RX, RT, RM

I also propose the new use category “Short Term Vacation Rentals” be changed to “Short Term Rentals” to clarify that the regulations apply to all short term stays of any purpose.

I look forward to receiving input on these issues from the communities and stakeholders at the upcoming public forums.

cc: Mayor Kevin Faulconer
City Attorney Jan Goldsmith
Andrea Tevlin, IBA




**COUNCILMEMBER CHRIS CATE
CITY OF SAN DIEGO
SIXTH DISTRICT**

M E M O R A N D U M

DATE: September 3, 2015

TO: Council President Sherri Lightner

FROM: Councilmember Chris Cate 

SUBJECT: Amendments to Short-Term Vacation Rental/Home Sharing Proposal

On August 12, the Development Services Director released draft regulations for Short-Term Vacation Rental/Home Sharing properties. The proposed regulations made modifications to a number of Municipal Code sections, and left void sections potentially pertaining to occupancy limits, frequency limits, and limitations on companion units.

Any proposal that is adopted requires strong enforcement. After meeting with several stakeholders and researching various mechanisms for enforcement, I offer the following as a potential proposal to increase enforcement and maintain the quality of life in San Diego neighborhoods:

- An adjustment during the mid-year budget review process to hire three (3) Police Investigative Service Officers (PISOs) at a cost of approximately \$255,000, who would be dedicated to responding to Short-Term Vacation Rental/Home Sharing property nuisance issues.
- Assuming any nuisance is unable to be resolved by a neighbor-to-neighbor interaction via the posted 24 hour contact, the impacted neighbor should contact the PISO to lodge the complaint. The PISO would phone the local contact person for the problem property and give a warning that an ongoing disturbance would result in the response of a police officer.
- After giving the appropriate amount of time for the local contact to address the problem the PISO would then contact the originating complainant to determine that there has been resolution.
- If the complaint has not been resolved, the PISO would add this complaint to dispatch for a police officer to respond based on the highest priority available.
- Under the City's Administrative Citation Program, the officer would have the ability to immediately assess fines and penalties to tenants and the property owner upon verifying the validity of the complaint.

I request that the adoption of a policy include the funding for a one-year pilot program that includes the above-detailed process of working with residents, property owners, the San Diego Police

Department, and Development Services Department. I am committed to working with the San Diego Police Department to determine the true cost and how this process can be most effective.

In reviewing the proposed regulations, I request the following amendments be included in order to provide additional clarifications in specific sections. In particular, my proposal:

- Replaces the term “visitor” with “transient,” as it is already defined within the Municipal Code
- Adds language pertaining to the payment of necessary taxes and fees
- Requires the local contact to forward all responses to complaints to the City
- Replaces proposed occupancy limit language with State of California best practices of 2+1
- Eliminates sections pertaining to frequency limits
- Eliminates sections pertaining to limits on companion units
- Requires the operator or property owner to place the TOT Registration Certificate number within all online advertisements and postings
- Amends the Boarder, Lodger, and Home Sharing Accommodations section to require the dwelling unit to be the primary residence of the property owner
- Limits total number of parking spaces able to be provided to visitor tenants and transients during each stay to three (3)
- Maintains the current definition of a Bed and Breakfast Establishment
- Adds language anybody found in violation of these requirements and/or documented nuisances may be subjected to the City’s Administrative Citation Program

I request these amendments be brought forward for consideration by the City Council when this subject matter is deliberated, following the public input process headed by Councilmember Lorie Zapf as Chair of the Smart Growth and Land Use Committee.

I believe this proposal is the best way to balance the quality of life in our neighborhoods while also promoting the evolving innovative economy within the City of San Diego.

cc: Honorable Mayor Kevin L. Faulconer
Honorable Members of the City Council
Robert Vacchi, Director, Development Services Department



**COUNCILMEMBER LORIE ZAPF
COUNCIL DISTRICT TWO**

M E M O R A N D U M

DATE: August 27, 2015
TO: Honorable City Council
FROM: Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee
SUBJECT: Vacation Rental Policy Framework

Last week, city staff released a draft code framework for regulating home sharing and Short Term Vacation Rentals as requested by the Smart Growth and Land Use (SGLU) Committee. I would like to thank them for their hard work drafting this starting point, which seeks to provide much needed clarity for San Diegans.

One important update proposed by city staff included making a distinction in the Municipal Code between home sharing (owner-occupied rentals) and creating a new use category for whole home rentals: "Short-Term Vacation Rentals." The framework calls for clarity on a few items, including frequency, occupancy and eligible housing types.

I will continue to advocate for a requirement of a 21 day minimum stay in single family residential zones for Short Term Vacation Rentals (whole home rentals). The purpose of the Municipal Code governing Single Family Residential zones is "to promote neighborhood quality, character, and livability" (131.0403). Any additions to that code must respect and give priority to our year-round residents, whose quality of life and property values will be most affected by new regulations.

As for next steps, my staff will be presenting the draft code framework provided by DSD to the various groups as outlined in the motion approved at the May 29th SGLU meeting. This includes the Community Planners Committee and the Planning Commission. Dates for these meetings have not yet been finalized. I am committed to seeing this ordinance move through the process as expeditiously as possible.

cc: Mayor Kevin Faulconer
City Attorney Jan Goldsmith
Andrea Tevlin, IBA




Andrea
cc: Jeff
Chris
um 4/16/15

MEMORANDUM

DATE: April 14, 2015

TO: Honorable Councilmember Lorie Zapf, Chair, Smart Growth & Land Use Committee

FROM: Councilmember Scott Sherman 

SUBJECT: Short-Term Vacation Rentals

Thank you for the opportunity to provide input prior to the April 22, Smart Growth and Land Use Committee discussion regarding vacation rentals.

The sharing economy is an innovative and growing industry in San Diego. It has already been integrated into the daily lives of San Diegans through ride-sharing and sharing living spaces. The ambiguities of San Diego's regulations surrounding short-term vacation rentals have become increasingly apparent. As the City adopts a new ordinance that protects our residents' ability to rent on a short-term basis unnecessary permits and onerous regulations should be avoided.

1. Provide regulatory relief for "short-term rentals"

Define "short-term rentals" as, "The incidental transient occupancy of a dwelling unit for any time period of less than 30 consecutive calendar days." Add the definition of "short-term rentals" where applicable in the Municipal Code.

2. Move quickly to resolve fee and tax collection issues

Short-term rentals should be subject to Transient Occupancy Tax (TOT) and Tourism Marketing District (TMD) assessment. While these taxes and assessments are the responsibility of the host the current practice of host mailing small checks to the City Treasurer on a monthly basis is a cumbersome and onerous process. Hosting platforms, such as AirBB, seem eager to collect the relevant assessments as part of their hosting platform. The City should allow (but not required) a hosting platform to collect and remit on behalf of the host these taxes and assessments through an agreement with the City.

3. If necessary, increased Code Enforcement and Policing Action

As the sharing economy grows in popularity, it may become necessary to increase Code Enforcement and police staff to help address quality of life issues. Increased publicity of the City's existing policing and code enforcement authority might be necessary to

empower neighbors dealing with quality of life issues. Any staffing increase in code enforcement or the police department's Community Assisted Party Program should be based on data proving problems exist and not the perception of problems.

As the innovation and sharing economy continues to grow and thrive, it's important that the City promoting an environment that fosters innovation and economic growth, while balancing the quality of life we all enjoy in San Diego.

CC: Councilmember David Alvarez
Councilmember Todd Gloria
Mayor Kevin Faulconer



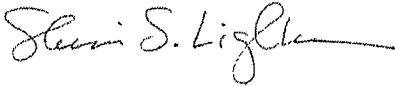
Andrea
cc: Jeff
Chris Ojeda
Um 4/14/15

CITY OF SAN DIEGO
COUNCIL PRESIDENT SHERRI S. LIGHTNER
DISTRICT ONE

MEMORANDUM

DATE: April 13, 2015

TO: Honorable Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee

FROM: Council President Sherri S. Lightner 

SUBJECT: Vacation Rentals

Thank you for the opportunity to provide input prior to the April 22, Smart Growth and Land Use Committee discussion regarding vacation rentals.

Vacation rentals are a growing niche in my district and have led to considerable community discussion within the coastal communities. These discussions have ultimately led the La Jolla Community Planning Association to request a permit mechanism for vacation rentals, as well as additional Code Enforcement and Police personnel to handle enforcement at problem rentals.

I am interested in seeing a modification to the use Table 131-04B in the single family zone (Ch. 13, Art. 1, Div. 4) to allow for vacation rentals as a permitted use with a footnote subject to the following conditions:

- 1) Property owner is only allowed to rent the property once per calendar month
- 2) The minimum number of days for any given rental is 2 nights
- 3) Property owner/manager must place an informational placard on the rental property, with 24 hour contact information, including a phone number of the property owner/manager who can be contacted to attain the information below:
 - a. Information about the length of stay of the current renter
 - b. Total number of adults currently residing within the rental property
 - c. Total number of vehicles being used by individuals residing in rental property

If a vacation rental owner is interested in renting their property more frequently than the conditions outlined above, the vacation rental property owner/manager would be required to obtain a Neighborhood Use Permit (NUP) Process 2. A NUP would require the property owner to notify nearby property owners of the intent to frequently rent the property for short term periods as a vacation rental. I believe this interaction and discussion with the adjacent property owners will lead to greater accountability of the property owner/manager going forward.

Additionally, I am interested in adding Code Enforcement and Police staff to help address the issues that involve vacation rentals. I would also encourage the use of the Police Department's Community Assisted Party Program (CAPP) to add extra oversight and enforcement for problem vacation rentals. If problems at a vacation rental persist to the point that a house has received a CAPP designation, the property owner/manager would lose their NUP and be limited to the conditions established above until the one year CAPP on the address expires. At that point, the property owner/manager would be able to apply for a new NUP.

Lastly, vacation rentals should be subject to the Transient Occupancy Tax (TOT) and Tourism Marketing District (TMD) assessment.

Thank you for providing the opportunity to provide input on this important issue.

SL: jg


cc: Honorable Councilmembers
Independent Budget Analyst Andrea Tevlin



MEMORANDUM

DATE: March 30, 2015

TO: Honorable Mayor Kevin Faulconer and City Councilmembers

FROM: Councilmember Lorie Zapf 

SUBJECT: Short-term Vacation Rentals

Background

The San Diego Municipal Code needs to be updated to directly address short-term vacation rentals in single family zones. To date, the San Diego Municipal Code does not specifically address vacation rentals.

While San Diego has been home to a large number of vacation rentals for decades, short-term vacation rentals have proliferated in recent years due in large part to new internet platforms. I believe that updating the Municipal Code to address short-term vacation rentals is long overdue. Per the 2007 City Attorney memo regarding "Regulation of Short-Term Vacation rentals in Residential Single nit RS ones"

- 1. There are currently neither regulations nor prohibitions on short-term vacation rentals in single-family residential zones.*
- 2. The Land Development Code may be amended to regulate the use of single-family dwellings in single-family residential zones and/or amended to prohibit the use of single-family dwellings in single-family residential zones. However, the California Coastal Commission must certify any amendments to the Land Development Code before they can be effective in the Coastal Overlay Zone*

The Sharing Economy

The sharing economy is important to San Diego. It has already been integrated into the daily lives of San Diegans through ride-sharing and sharing living spaces. In the case of short-term vacation rentals, the City also has to address neighborhood quality of life issues. The Municipal Code currently neither defines short-term vacation rentals nor stipulates the responsibilities of a

short-term vacation rental owner or host. Updating and clarifying the Municipal Code will provide certainty and accountability for short-term vacation rentals and neighborhood residents.

Quality of Life

In the last four months, constituents have reached out to my office through emails, phone calls and in-person meetings requesting action on this issue. Community members have expressed their concern about quality of life in their neighborhoods and degradation of community character. Many share the same stories about the proliferation of homes being turned into vacation rentals that are having impacts on noise, occupancy and parking within their neighborhoods. I have also heard from compliant short-term vacation rental hosts and management companies expressing their willingness to reach out to other local short-term rental owners to help communicate best practices for the industry.

Recommendations

My office has studied comparable cities such as Encinitas, Portland and San Luis Obispo that currently have regulations on short-term vacation rentals. Through our research, we found that each city managed short-term vacation rentals in a variety of different ways but with some commonalities. All cities required some type of permit. My staff has worked closely with community stakeholders representing both homeowners and vacation rental hosts to identify a solution that protects the community fabric in single-family residential zones and supports small businesses that are currently in compliance. As a result, I requested City Staff to revise language in our current municipal code to meet the following goals but not limited to:

- Define the term “Short-term Vacation Rental” in the Municipal Code
- Require a renewable permit for the operation of any short-term vacation rental city-wide
- Determine permit fees that are cost recoverable and will be used towards the management and enforcement of the permit
- Require a posted 24/7 contact with a name and phone number on the property as part of the permit
- Enforcement process that includes fines and revocation of permit for repeat violators
- Identify additional funding for the Community-Assisted Party Program (CAPP) to respond to citizen complaints
- Require TOT collection and payment from short-term vacation rental hosts per Municipal Code

Office of Independent Budget Analyst Research Request

I request that the Office of Independent Budget Analyst research the following:

- How other coastal California cities and conference/destination cities (such as Austin and Nashville) address short-term vacation rentals in their respective municipal codes:
 - Do they require permits to operate short-term vacation rentals?
 - How much does a short-term vacation rental permit cost?
 - How is the cost for permit fees determined?
 - What is the short-term vacation rental permit fee expended on?
- How are short-term vacation rental hosts/owners in California coastal cities and conference/destination cities held accountable for neighborhood quality of life issues, especially noise abatement?

Conclusion

Due to the lack of clarity in the Municipal Code, my coastal district is greatly affected by issues related to vacation rentals. I am confident that my proposed recommendations and those of my fellow Councilmembers can be vetted and crafted into a workable code. It is important that we protect San Diego's neighborhoods while also keeping our city a top visitor destination. I look forward to further discussion at the upcoming Smart Growth and Land Use Committee Meeting on April 22, 2015. If you have any questions or comments, please contact my Smart Growth & Land Use Committee Consultant Ryan Purdy at (619) 533-3982 or rpurdy@sanidiego.gov.



**OFFICE OF COUNCILMEMBER TODD GLORIA
COUNCIL DISTRICT THREE**

M E M O R A N D U M

DATE: March 5, 2015

TO: Honorable Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee

FROM: Councilmember Todd Gloria *Todd Gloria*

SUBJECT: Vacation Rentals

Thank you for your commitment to bringing the issue of vacation rentals to the Smart Growth and Land Use Committee on April 22. I appreciate the opportunity to comment on how the city's policies on this issue might be revised to accommodate this growing trend while maintaining the quality of life in our residential neighborhoods.

The "sharing economy," which includes vacation rentals, is a relatively new development within the mainstream way of life. As such, clear rules should be published by the city, both on the website and in the form of an official Information Bulletin to ensure that rules and restrictions for vacation rentals are clear.

In my District the most common vacation rental scenario involves a homeowner renting out rooms on a short term basis through an online rental site such as Airbnb or VRBO. As I understand them, current city codes allow for homeowners in single family zones to rent to two boarders at a time with no minimum restriction on the length of stay. In multifamily zones it is my understanding that a seven day minimum length of stay is required. An operator who wishes to exceed the two-boarder limit is required to obtain a Neighborhood Use Permit or Conditional Use Permit. I am generally comfortable with these rules, but feel they should be the same in both single family and multifamily zones.

It is appropriate to collect city Transient Occupancy Taxes (TOT) at vacation rentals. However, since the rules have been unclear in the past, and some online rental sites do not account for tourism taxes, many well-meaning operators of short term rentals have not been collecting the tax from their tenants. Recently I have been told of operators receiving statements from the city for years of back taxes, including a 25% late penalty. This seems excessive, and I hope the City Treasurer can use discretion and exercise appropriate leniency in these cases. The city should also work with online rental sites to ensure that there is a method to collect appropriate tourism taxes.

Vacation Rentals

Further, I am interested in obtaining a City Attorney opinion on whether it is appropriate to collect Tourism Marketing District (TMD) fees as part of the TOT assessment on vacation rentals. I am especially interested to know if the TMD assessment would meet the Proposition 26 direct benefit requirements. I would also like to know if vacation rental operators who pay into the TMD would be considered voting members of the organization with the ability to run for election to the Board of Directors.

Thank you for allowing me to add my comments in anticipation of the April 22 meeting of the Smart Growth and Land Use Committee. If you have any questions or comments about these items, please let me know or contact Stephen Hill of my staff at 619-236-6137 or shill@sandiego.gov.

cc: Honorable Councilmembers
Independent Budget Analyst Andrea Tevlin




**COUNCILMEMBER CHRIS CATE
CITY OF SAN DIEGO
SIXTH DISTRICT**

M E M O R A N D U M

DATE: March 2, 2015

TO: Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee

FROM: Councilmember Chris Cate 

SUBJECT: Short-Term Vacation Rentals

Please accept this memo as input from Council District 6 per your February 6, 2015 request for feedback on comprehensive policy changes.

The ambiguity of San Diego's regulations surrounding short-term vacation rentals have become increasingly apparent in light of today's sharing economy.

In the first week of my term as Councilmember, I was contacted by a constituent concerned about this lack of clarity and immediately began to research the regulations and ordinances proposed by other municipalities within and outside the State of California.

My office has engaged community stakeholders, hosting platform companies, and City Departments who will be affected by an ordinance change to develop a balanced proposal.

Attached please find an outline of my proposal as well as a Frequently Asked Questions fact sheet. We look forward to working with you, our council colleagues, and our communities to adopt an ordinance change that protects San Diego residents' ability to rent on a short-term basis, while protecting the integrity of our neighborhoods.

CC:jc

cc: The Honorable Kevin Faulconer, Mayor
Honorable Smart Growth and Land Use Committee Members
The Honorable Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst
Ryan Purdy, Committee Consultant, Smart Growth and Land Use Committee

**Short-Term Rentals
Proposed Municipal Code Changes**

<p>TOT/Land Use Ordinance Amendment: Short-term Rental (STR)</p>	<p>Define "short-term rentals" as, "The incidental transient occupancy of a dwelling unit for any time period of less than 30 consecutive calendar days."</p> <p>Add the definition of "short-term rentals" where applicable in Municipal Code to ensure permission in all zones except pure commercial.</p>
<p>TOT Ordinance Amendment: Payment of Transient Occupancy Tax</p>	<p>Transient Occupancy Taxes are collected and paid to the City pursuant to Muni Code §35.0109. TOT are the responsibility of the host, but may be paid by a Hosting Platform on behalf of the host if the Incidental Transient Occupancy is created through a hosting platform that has an agreement with the City for collection and payment of such TOT.</p>
<p>Performance Criteria</p>	<p>The number of transients, including permanent resident(s) when applicable, shall not exceed reasonable occupancy standards of two per bedroom plus two.</p> <p>The host shall display notice within plain view of the general public and/or common areas, the local contact person for the property to take complaints regarding its operation. Local contact person means a person designated by the host who shall be available twenty-four hours per day, 7 days per week during the term of any transient occupancy.</p> <p>Hosts of short term rentals are responsible for any nuisance behavior of the occupants including, but not limited to unreasonable noise, disorderly conduct, and overcrowding.</p> <p>Upon notification that a transient occupant(s) has created a disturbance, the host shall respond within 60 minutes. Failure to respond to two or more complaints regarding transient violations is grounds for penalty.</p> <p>If a host is advertising online, via hosting platform or other, the host must list their TOT certificate number within the advertisement.</p>

Fines and Penalties

Violation documentation by law enforcement or code enforcement shall include, but not be limited to, copies of citations, written warnings, reports or other filed documentation by law enforcement.

Records of the documented violation shall be forwarded to the issuing office Director.

Whenever a Director determines that a violation of one or more provisions of the Municipal Code or applicable state code has occurred or continues to exist, a written civil penalties Notice and Order may be issued to the Responsible Person.

The Notice and Order shall refer to all code sections violated and describe how each section is or has been violated.

The Notice and Order shall refer to the dates and locations of the violations.

The Notice and Order shall describe all remedial action required to permanently correct outstanding violations and establish time frames for completion.

The Notice and Order shall establish a daily amount of civil penalties. The Director shall determine the daily amount of civil penalties pursuant to the criteria in Section 12.0805 of this Division (see Determination of Penalties).

The Notice and Order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the Notice and Order until the violations are corrected.

If a Director determines that the violations are continuing, the Notice and Order shall demand that the Responsible Person cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City Departments.

The Notice and Order shall enumerate any other consequences, including permit revocation, should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice and Order.

	<p>The Notice and Order shall identify appropriate hearing procedures.</p> <p>The Notice and Order shall be served upon the Responsible Person by any one of the methods of service listed in Section 11.0301 of this Chapter.</p> <p>The Notice and Order shall identify the factors used by a Director in determining the duration and the daily amount of civil penalties.</p> <p>More than one Notice and Order may be issued against the same Responsible Person if it encompasses either different dates or different violations.</p>
<p>Determination of Penalties</p>	<p>In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.</p> <p>The assessment of civil penalties shall end when all action required by the Notice and Order has been completed.</p> <p>In determining the amount of the civil penalty to be assessed on a daily rate, a Director may consider some or all of the following factors:</p> <ol style="list-style-type: none"> (1) The duration of the violation. (2) The frequency or recurrence of the violation. (3) The nature and seriousness of the violation. (4) The history of the violation. (6) The willfulness of Responsible Person's misconduct. (7) The Responsible Person's conduct after issuance of the Notice and Order. (8) The good faith effort by the Responsible Person to comply. (9) The economic impact of the penalty on the Responsible Person. (10) The impact of the violation upon the community. (11) Any other factors that justice may require.
<p>Civil Penalties Hearing</p>	<p>All violations will go before a hearing officer before the penalties are assessed.</p> <p>Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the Responsible Person.</p> <p>Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do</p>

not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Department.

The City bears the burden of proof at an administrative enforcement hearing to establish the existence of a violation of the Municipal Code or applicable state code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.

The standard of proof to be used by the Enforcement Hearing Officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

The decision of the Enforcement Hearing Officer shall be entitled "Administrative Enforcement Order" and shall be issued in accordance with the rules and procedures promulgated by the City Manager.

The Administrative Enforcement Order shall become final on the date of service of the order.

The Administrative Enforcement Order shall be served on all parties by any one of the methods listed in Section 11.0301 of the Municipal Code.



**COUNCILMEMBER CHRIS CATE
CITY OF SAN DIEGO
SIXTH DISTRICT**

Use	Current	Proposed
Rentals allowed?	Short-term Rentals allowed, but not specifically defined allowing for confusion and open interpretation of the activity.	Clearly define short-term rentals (STR) as the transient occupancy of a dwelling for any period of less than 30 consecutive days.
Defined "short-term rental" (STR)	Not currently defined.	Define STRs in both the land use and tax code sections of the Municipal Code.
Required TOT/TMD/RUBT	The collection and remittance of Transient Occupancy Tax (TOT), Tourism Marketing District assessment (TMD) and payment of the Rental Unit Business Tax (RUBT) are currently required.	The proposed ordinance will not change current TOT/TMD/RUBT requirements, but will allow for the collection and payment of TOT/TMD on behalf of the host by a hosting platform if the hosting platform has an agreement with the City.
Fines/Penalties/Enforcement/Appeals	Current neighborhood nuisance issues are enforced through the Development Services Department (DSD) through code compliance.	The proposed ordinance will not change current enforcement or appeal procedures, with the exception of revocation of ability to rent on a short-term basis by repeat offenders.

Short-Term Rental Proposal Frequently Asked Questions

Why do we need a Short-Term Rental Ordinance?

Current laws regarding short-term rentals are ambiguous and unclear. This creates a situation of open interpretation of the activity potentially resulting in fines, penalties or the requirement of obtaining a Conditional Use Permit or business license at a cost of \$5,000 to \$10,000.

How will this proposal help hosts and the community?

Clarity will allow for hosts to rent all or a portion of their home on a short-term basis, defined as under 30 days, as long as they adhere to performance criteria to preserve the integrity of their neighborhoods.

How will this be enforced?

Enforcement of nuisance behaviors will stay under the jurisdiction of the DSD through code enforcement, with the assistance of the San Diego Police Department. Once there has been a verified offense (violations documented by law or code enforcement, i.e. citations, written warnings, reports, or other filed documentation) fines and penalties will be assessed. Continued offenses could result in fines and penalties of up to \$250,000 and/or the revocation of the ability to rent on a short-term basis.

Is there a limit on how many transient occupants I can rent to at once?

You may rent to two transient occupants per bedroom, plus an additional two occupants per residence.

Is there a limit to how many days per year I may rent to transient occupants on a short-term basis?

No.

I've received a letter from the City Treasurer; does this ordinance address back taxes or fines and penalties resulting from prior non-compliance?

The proposed ordinance does not address back taxes, fines, or penalties related to prior non-compliance.

Are the TOT/TMD/RUBT new tax requirements?

No. All residents who rent all or a portion of their homes for any period of time are required to pay the Rental Unit Business Tax. All residents who rent all or a portion of their home on a short-term basis are currently required to collect and remit both the Transient Occupancy Tax and the Tourism Marketing District assessment.

Will this proposal increase the TOT/TMD/RUBT?

No.

How much are the TOT/TMD and RUBT?

The Transient Occupancy Tax is 10.5% and Tourism Marketing District assessment is 0.55% for any lodging under 30 units and 1.45% for 30 or more units. The Rental Unit Business Tax is \$50 per property plus five dollars (\$5.00) per unit annually.

What are the steps I need to take to rent my home or space in my home under this proposal?

1. Complete and submit the [Application for Transient Occupancy Registration Certificate \(PDF\)](#) to the Office of the City Treasurer:

Office of the City Treasurer
TOT/TMD Administration
P.O. Box 122289
San Diego, CA 92101

Once your application is processed, you will receive a certificate number from the Office of the City Treasurer. This number is the account number associated with the lodging business and should be referenced on all remittances and/or correspondence submitted to our office.

2. Comply with all performance criteria:

- Payment of TOT/TMD/RUBT assessments.
- Occupancy shall not exceed two per bedroom, plus two in the residence.
- Display a notice in plain view with name and contact information for a 24/7 local contact for the property to take and address complaints.
- Respond to disturbance notifications within 60 minutes.
- List TOT certification number on all on-line rental advertisements.

3. Pay your TOT, TMD, and RUBT assessments. TOT and TMD must be remitted monthly and are due no later than the last day of the following month. For example: the TOT and TMD assessment collected in the month of April must be remitted by May 31st. A penalty is due on all late payments; the penalty is 1% of the TOT and TMD assessment due for the 1st delinquent day, plus 1/3 of 1% for each additional day, not to exceed 25%. To assist with the calculation of the penalty percentage, see the Penalty Table. The TOT and TMD assessment may be remitted online, by mail, or in person.

The RUBT is typically due by March 1 of each calendar year. It is the owner's responsibility to keep their mailing address current. If the Rental Unit Business Tax bill is not received by February 1st of a given year, individuals should contact the Treasurer's Office at (619) 615-1545 or at rtax@sandiego.gov.



COUNCILMEMBER LORIE ZAPF
COUNCIL DISTRICT TWO

MEMORANDUM

DATE: February 6, 2015
TO: Honorable City Council
FROM: Councilmember Lorie Zapf, Chair, Smart Growth and Land Use Committee
SUBJECT: Vacation Rentals

Vacation rentals have become a high priority for my communities and my office has been meeting with rental management companies as well as community groups for input on how to improve quality of life issues related to vacation and short-term rentals.

With the advancement of online rental websites (Airbnb, VRBO, Home Away, etc.), I believe it is time to revisit and refine our current regulations regarding vacation rentals. I plan on bringing the item for discussion to our April 22nd Smart Growth and Land Use Committee meeting to discuss changes and improvements for a more defined city-wide policy.

I am asking for any input you may have regarding positive changes we can make towards a comprehensive policy. Please submit ideas and suggestions you have on this topic to my Smart Growth and Land Use Committee Consultant, Ryan Purdy at rpurdy@sandiego.gov, no later than March 2, 2015.

I look forward to your feedback.

cc: Mayor Kevin Faulconer
City Attorney Jan Goldsmith
Andrea Tevlin, IBA



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: April 17, 2015

IBA Report Number: 15-15

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

Comparison Cities
Local
City of Solana Beach
City of Encinitas
National
City of San Jose, CA
City of San Francisco, CA
City of Austin, TX
City of Portland, OR

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 apf’s March , and demolist 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/multi-family) by a transient guest (not part of the family unit) for a stay of less than thirty 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 listings¹: 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 Operator² 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).

¹ 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.

² 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 Certificate³. 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 fee⁴ 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)⁵.

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-5-12⁶]) 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.

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

⁴ Fee schedule for RUBT includes additional classifications not shown.

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

⁶ 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” or the Code, the maximum floor area allowance per occupant for residential buildings is 200 square feet per occupant⁷.

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 remittance 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)⁸ to a high of \$235 (Austin)⁹.

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

⁷ Occupancy limits defined in Section 1004 of the 2013 California Building Code.

⁸ City of San Jose does not require a permit.

⁹ 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)¹⁰ 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-

¹⁰ 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.

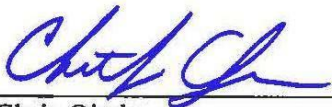
term rentals. While all of the reviewed regulations varied, the one consistent component of the regulations was a defined term for short-term rentals. This action would provide guidance for City staff and the public as to the classification of specific dwellings and the appropriate regulations to be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

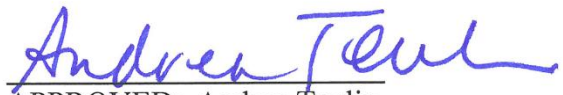
Additionally, the City will need to consider the desired level of enforcement for any new STR regulations. The reviewed cities have absorbed the responsibilities of enforcing the additional regulations into their existing code enforcement programs (normally investigate complaints on a reactive basis). 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	
									Moscone Expansion District Assessment not charged to STR hosts	Controllerto 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-owneroccupied rental units to three (3) percent of dwelling units within each census tract	
								Venue Project Tax - 2.0%	\$50 for notifying adjacent property owners of filing of STR application	City to provide owner with information packet of city regulations related to STR	City's Code Department developed database to monitor number of STRs per census track
										Owner to provide all guest with copy of information packet from City 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 D welling	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)	
			\$100 - Multi-family D welling					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 STR¹ 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.

¹ 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 27th, 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 (usually 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 TOT². 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 Resident³ 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.

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

³ 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 Occupancy⁴ 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.

⁴ 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 than 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 licenses within the City's census tracts. 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” or 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 resident⁵ 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.

⁵ 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 consecutive days, with the intent to establish that dwelling as the host's primary **reside**.



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: November 23, 2015 **REPORT NO. PC-15-109**

ATTENTION: Planning Commission, Agenda of December 3, 2015

SUBJECT: SHORT TERM VACATION RENTAL AND HOME SHARING
ORDINANCE: LAND DEVELOPMENT CODE/LOCAL COASTAL
PROGRAM AMENDMENT (PROCESS 5)

SUMMARY

Issue: Should the Planning Commission recommend approval to the City Council of the Short Term Vacation Rental and Home Sharing ordinance that amends the City's Land Development Code (LDC) and Local Coastal Program?

Staff Recommendation: Recommend approval to the City Council of the proposed code amendments, including Chapter 13, Article 1; Chapter 14, Article 1; and Chapter 15, Article 13.

Environmental Review: The Development Services Department (DSD) has completed a California Environmental Quality Act (CEQA) Section 15162 – Subsequent EIRs and Negative Declaration consistency evaluation in compliance with Public Resources Code 21166 for the proposed amendments to the Land Development Code (LDC) pertaining to short term vacation rentals. A short term vacation rental is the rental of a dwelling unit for a term of less than one calendar month where the property owner does not live in the dwelling unit. Home sharing is an activity whereby the property owner or resident host provides lodging accommodations for boarders, lodgers, or visitors in their home in exchange for compensation.

The evaluation was performed to determine if conditions specified in CEQA Guidelines Section 15162 would require preparation of additional CEQA review. DSD has determined that the proposed amendments are consistent with the original LDC Environmental Impact Report (EIR) No. 96-0333/SCH No. 96081056, certified by City Council on November 18, 1997, Resolution No. 98-288; as well as the City of San Diego General Plan Program EIR No. 104495/SCH No. 20006091032, certified by City Council March 10, 2008, Resolution No. 2008-685; and would not result in new impacts.

Fiscal Impact Statement: Costs associated with implementation of the regulations in the future will be covered by project applicants.

Code Enforcement Impact: The proposed amendments would improve predictability and consistency in the regulation and enforcement of short term vacation rentals, home sharing accommodations, and bed and breakfast establishments, which will benefit property owners, neighborhoods, and tourists.

Housing Impact Statement: The proposed amendments include regulatory controls to help preserve long term housing by setting a maximum of 25 percent of dwelling units in a multiple dwelling unit structure which may be rented out on a short term basis for occupant stays less than 30 consecutive days to minimize impacts to housing. Allowing home sharing is an example that can accommodate long term housing needs while accommodating short term accommodations for paying visitors. Other controls, such as limiting short term rental of restricted affordable housing, could help minimize the effect effect of housing impacts that result from the whole house short term rental.

BACKGROUND

Community Planners Committee (CPC): On September 22, 2015, CPC passed the following motion on a 24-3-2 vote:

"The CPC supports hosted home sharing in concept. Whole house rentals for less than 30 days are Visitor Accommodations and the City should enforce the Municipal Code."

Code Monitoring Team (CMT): On September 9, 2015, CMT recommended that a subcommittee be established. Generally there was agreement that there is a difference in impact between hosted and non-hosted rentals; that companion units should not be rented short term; that STVR use should not be in Single Family zones; that the responsible party (owner and tenants that sublet) should be held accountable; and that code enforcement must be aggressive.

Technical Advisory Committee (TAC): On September 9, 2015, TAC passed the following motion on a 6-2-4 vote:

Form a subcommittee to 1) indentify impacts of Short Term Vacation Rentals 2) discuss potential penalties for STVR code violations 3) discuss whether STVRs are appropriate in Single Family or Multi Family zones.

Generally there was agreement that effective Code Enforcement was the key to accommodating STVRs in Single Family zones and that companion units should not be rented short term. A few committee members did not wish to restrict STVRs in Single Family zones. A few members expressed support of STVRs in Single Family zones if they were required to obtain Neighborhood Use Permits.

DISCUSSION

The proposed ordinance creates a separately regulated use category:

Short term vacation rental of a dwelling unit (whole home rental) for less than 30 consecutive calendar days that provides for exclusive transient use in Single Family Residential (RS) Zones. The proposed ordinance modifies the existing boarder/lodger regulations to *allow* home sharing (owner occupied rentals).

The proposed ordinance also requires that an operator shall designate a local contact who shall be responsible to actively discourage and prevent any nuisance activity at the short term vacation rental, including excessive noise, disorderly conduct, overcrowding, and excessive accumulation of refuse.

To address the issues of frequency and occupancy Councilmember Zapf has proposed the following for “Short Term Vacation Rental of a Dwelling Unit” Section 141.0315 b) limited use regulations:

- 1) Limited use regulations: A maximum of 2 occupants per bedroom plus 2 occupants may stay in a dwelling unit in Single Family Residential (RS) zones.
- 2) A minimum night stay of no fewer than 21 nights in Single Family Residential zones.
- 3) If an owner wishes to deviate from 21 night minimum stay in RS zones, then the owner must secure a Neighborhood Use Permit (NUP)
- 4) The new use category “Short Term Vacation Rentals” be changed to “Short Term Rentals” to clarify that the regulations apply to all short term stays of any purpose.

For Boarder, Lodger and Home Sharing Accommodations Section 141.0301:

- 1) No minimum night stay in all residential zones

The draft ordinance, with the additional clarification on frequency and occupancy of single dwelling units in RS zones, addresses the quality of life issues associated with Short Term Vacation Rentals in Single Family Residential zones. The purpose of the San Diego Municipal Code governing Single Family Residential zones is “to promote neighborhood quality, character, and livability” (131.0403). With guests turning over less frequently in Single Family zones and by limiting the number of guests allowed during a stay, there would be significantly less impact on the neighborhood. The impacts which would be reduced include: noise, parking, trash and occupancy. The proposed regulations would “allow reasonable use of property while minimizing adverse impacts to adjacent properties” (131.0403).

In addition to the input received from CPC, CMT and TAC, input was received via calls, mail and e-mail, as well as at April 22 and May 29 Smart Growth & Land Use Committee meetings.

Some members of the public believe that a permit should be required for all short term rentals as part of the TOT registration process. The concept is that part of the fee associated with the permit (i.e. \$150) could be utilized for Code Enforcement and/or additional PISOs.

Some members of the public have voiced support for the proposed RS zone regulations to be applied to single dwelling units in RM zones as well.

Some members of the public advise that Short Term Vacation Rentals are Visitor Accommodations and thus are not currently allowed in Single Family Residential zones. Furthermore, they do not want to see Short Term Vacation Rentals become codified in the Municipal Code, but rather they want the current Municipal Code to be enforced.

Councilmember Cate has advocated for three PISO officers to be dedicated to responding to Short Term Vacation Rental and Home Sharing nuisance issues.

In the case that either a minimum night stay is enforced, or a neighbor to neighbor interaction facilitated by a PISO is enacted, then effective enforcement will be required for either program's success.

Conclusion:

Recommend the City Council Adopt the Regulations for Short Term Vacation Rentals and Home Sharing and the direction provided in Councilmember Zapf's memo on Frequency, Occupancy, and Eligible Housing Types.

Respectfully submitted,



Ryan Purdy
Smart Growth & Land Use Committee Consultant
Council District 2

PURDY

Attachment: Draft code language



Planning Department

FACT SHEET

POSSIBLE ORDINANCE FRAMEWORK WHOLE HOME

REGULATION	OPTION 1	OPTION 2	OPTION 3
Zones	Allowed in certain zones that allow single/multiple dwelling units ¹	Allowed in certain zones that allow single/multiple dwelling units ²	Allowed in certain zones that allow single/multiple dwelling units ¹
Permit Process	<ul style="list-style-type: none"> • ≤5 bedrooms and ≤10 transients³ (limited use) • ≥6 bedrooms or ≥11 transients - NUP⁴ • Deviations - NUP⁴ 	<ul style="list-style-type: none"> • Limited use • Deviations - NUP⁴ 	<ul style="list-style-type: none"> • Limited use
Permit Term	<ul style="list-style-type: none"> • Ministerial - Annual • NUP⁴ - Established by permit 	Ministerial - Annual	Ministerial - Annual
Limited Use Regulations	<ul style="list-style-type: none"> • Occupancy Agreement⁵ • Local Contact⁶ • Occupancy of ≤30 consecutive days 	<ul style="list-style-type: none"> • Occupancy Agreement⁵ • Local Contact⁶ • Min occupancy of 21 consecutive days in RS zones and for detached units in RM zones; No min elsewhere 	<ul style="list-style-type: none"> • Occupancy Agreement⁵ • Local Contact⁶ • Occupancy of ≤30 consecutive days
Companion Unit	<ul style="list-style-type: none"> • ≤5 bedrooms and ≤10 transients combined⁷ • ≥6 bedrooms or ≥11 transients combined⁷ - NUP⁴ 	Allowed if owner resides in the primary residence	Permitted with no additional regulations
Parking	No additional required	No additional required	No additional required

¹ No limitations (no Ministerial Annual Permit) in RM-4, RM-5, CR-1, CV, CN, CO-1, CO-3, CC-1, -3, -4, -5 and Mission Beach PDO zones. Limited Use in RM-1, RM-2, RM-3, OR, AR, RE, RS, RX, RT and IP-3 zones

² Limited Use in OR, AR, RE, RS, RX, RT, RM, CN, CR-1, CO-1, CO-3, CV, CC-1, -3, -4, -5, IP-3 and Mission Beach PDO zones

³ Six or more bedrooms and 11 or more transients results in a change of occupancy under the State Building Code and subject to additional construction standards.

⁴ Process 2 Neighborhood Use Permit

⁵ Occupancy Agreement includes "good neighbor policy," rules for trash and recycling, safety info, noise limits and violations, and maximum # of bedrooms and occupants.

⁶ Local Contact must be available to respond in person to address, actively discourage and prevent any nuisance activity at the rental, including excessive noise, disorderly conduct, overcrowding and excessive accumulation of refuse. One Hour Response.

⁷ Threshold limits reflect a combination of the number of rooms/transients in the primary dwelling and companion unit.





HOME SHARING

REGULATION AREA	OPTION 1	OPTION 2	OPTION 3
Zones	Allowed in certain zones that allow single/multiple dwelling units. ¹	Allowed in certain zones that allow single/multiple dwelling units. ²	Allowed in certain zones that allow single/multiple dwelling units. ³
Permit Process	<ul style="list-style-type: none"> • 1-2 bedrooms (no permit) • 3-5 bedrooms (limited use) • ≥6 bedrooms (CUP⁴) • Deviations (CUP⁴) 	<ul style="list-style-type: none"> • Limited use • Deviations⁵ 	<ul style="list-style-type: none"> • Limited use • Deviations⁵
Permit Term	<ul style="list-style-type: none"> • Ministerial – Annual • CUP⁴ – Established by permit 	Ministerial – Annual	Ministerial – Annual
Limited Use Regulations	<ul style="list-style-type: none"> • Local Contact⁶ • Additional Parking • Annual Permit • Resident host must reside in unit 	<ul style="list-style-type: none"> • Local Contact⁶ • Occupancy Agreement⁷ • 2 guests max • Max 25% existing floor area • Additional Parking 	<ul style="list-style-type: none"> • Local Contact⁶ • Occupancy Agreement⁷
Companion Unit	<ul style="list-style-type: none"> • Follow ‘Permit Process’ allowances⁸ 	Allowed if owner resides in the primary residence	Permitted with no additional regulations
Parking	Required parking for the primary dwelling unit plus 0.5 additional space for each bedroom >2	Required parking for the primary dwelling unit plus 1 additional space	Required parking for the primary dwelling unit. No additional parking

¹ Permitted in OR, AR, RE, RS, RX, RT, RM, CN, CR-1, CO-1, CO-3, CV, CC-1, -3, -4, -5, IP-3 and Mission Beach PDO zones. May be subject to limited use regulations or may require Conditional Use Permit depending on number of guest rooms provided

² No limitations (no Ministerial Annual Permit) in RM-5-12, all commercial and Mission Beach PDO zones. Permitted as Limited Use in OR, AR, RE, RS, RX, RT, RM (except RM-5-12), and IP-3

³ No limitations (no Ministerial Annual Permit) in OR, AR, RE, RS, RX, RT, RM, CN, CR-1, CO-1, CO-3, CV, CC-1, -3, -4, -5, IP-3 and Mission Beach PDO zones for up to two bedrooms. Limited Use regulations apply for three or more bedrooms.

⁴ Process 3 Conditional Use Permit

⁵ Either Variance, Planned Development Permit or Site Development Permit

⁶ Resident Host is the Local Contact and must be available to respond in person to address, actively discourage and prevent any nuisance activity at the rental, including excessive noise, disorderly conduct, overcrowding and excessive accumulation of refuse.

⁷ Occupancy Agreement includes “good neighbor policy,” rules for trash and recycling, safety info, noise limits and violations, and maximum # of bedrooms and occupants.

⁸ Threshold limits reflect a combination of the number of rooms/transients in the primary dwelling and companion unit