

Short-Term Vacation Rental Subcommittee

City of Santa Cruz

Date: March 30, 2017

From: Planning and Community Development, Scott Harriman and Ron Powers

To: STVR Subcommittee

Subject: Regulatory Framework for STR's - Fitting the Pieces Together

Background: The purpose of this report is to outline topics for discussion for the next two STVR Subcommittee meetings, which will hopefully result in recommendations that can be forwarded to the Planning Commission and City Council. Most Subcommittee members expressed interest in having more open conversations when discussing the STR topics, so the next two meetings will include more opportunities for open dialogue.

Since the last meeting, staff has prepared an outline of a Regulatory Framework, included as Attachment A, to address how the various topics fit together in the context of City regulations. The framework includes all topics typically included in STVR ordinances. It would be appropriate for the Subcommittee to review the framework before discussing regulatory details.

Staff has also prepared three location maps, included as Attachment B, identifying existing TOT-registered units, hosted and non-hosted by zoning district throughout the City. For the purposes of this mapping, the hosted properties were identified as properties where the owner's address matched the property address. These maps can be used as reference for Subcommittee discussions.

This report also identifies relevant discussion topics, which are planned to take approximately six hours of meeting time, and will include time during each topic for open Subcommittee discussions and summary. The Subcommittee may choose to spend more or less time considering any particular area, recognizing that we will attempt to address as many of the key topics as possible within the additional time dedicated by the Subcommittee. Staff has highlighted language (yellow) in this report as key points for discussion.

Short Term Rental Regulatory Framework (5 minute staff summary)

This item is for informational purposes only and does not need discussion by the Subcommittee. The framework is a compilation of regulations, standards and procedures from various short term rental ordinances and is intended to illustrate how the pieces comprehensively fit together.

Most short-term rental ordinances include: Policy Objectives, Regulations, Operation requirements, Registration and Reporting, and Enforcement. Each of the topics is shown on separate sheets included as an attachment to this report. The framework shows how the various short-term rental components fit together and interact as the basis from which an ordinance can be formulated. Components can be modified or customized by the Subcommittee to address issues and concerns specific to Santa Cruz.

Most of these components have been considered in the various Survey Monkey questions and discussed by the Subcommittee, however it is hoped that the framework shows the various ordinance components comprehensively.

Policy Objectives-Describes why we are regulating (i.e. housing availability, quality of life, economic development and tourism, equity with traditional lodging, safety. The City Council has pre-determined the policy objective as preservation of housing availability and neighborhood preservation.)

Regulations-Provides the policy direction and definitions adopted by the jurisdiction. Of the three primary regulatory options (no change, prohibit all, allow with limits/conditions), the Subcommittee has agreed that definitions and some form of regulatory process are necessary. Regulatory topics and definitions may include hosted vs. non-hosted, grandparenting, geographic limitations, numerical cap, house swapping, and use (or non-use) of affordable units and ADU's.

Operations-Establishes requirements and standards that may address occupancy limits, mitigates neighborhood impacts of noise, parking, garbage.

Registering/Reporting-Specifies the processes and requirements to register a short-term rental including any permit processes and term limits, level of review (staff level, public hearing), and TOT reporting. It is important to note that the mechanism for managing TOT collection occurs through a different ordinance administered by the Finance Department. The first stage of regulation is to get the Planning and Zoning rules in place and then coordinate with Finance on the TOT component.

Enforcement-Components include complaint process, code compliance, permit revocation, fines, etc. This is also a combined effort between Planning and Finance departments.

1. Key Subcommittee Decisions to Regulation (60 minute discussion followed by 10 minute summary)

- Decide that any regulation should strive to be enforceable. Can we agree that in the interest of simplicity and ease of review and enforcement, that there are certain items that should NOT be considered with any new ordinance; such as: a) attempting to regulate the number of days or months for a STR, b) attempting to regulate owners staying on-site during the STR visit, and/or c) limiting the number of STR by street block due to the broad diversity of street pattern and lengths in the City.
- Decide whether or not to treat Hosted differently than Non-hosted (define)
- Decide whether or not to institute a cap to STR's. If the City is at a critical point for the number of STR's, as evidenced by the City Council direction to impose the moratorium, how does the Subcommittee want to approach limitations? A CAP (either percentage or a fixed number) on all or certain types of STRs? Does the Subcommittee want to have a direct relationship between the number of STR's and the overall number of housing units?
- Decide whether or not to regulate STR's by geographic area or zone district.

2. Definitions (30 minute discussion followed by 5 minute summary)

STR-Short-Term Rental: A residential unit in which overnight accommodations are offered for hire, or in which living accommodations for periods of less than thirty days are customarily offered for hire, or otherwise used in a manner or purpose that would require the owner to comply with the requirements of Chapter 3.28, Transient Occupancy Tax (SC Def. 24.22.699).

LTR-Long-Term Rental – No definition exists in the Zoning Code and none is proposed.

Hosted STR- (No definition currently exists in the Zoning Code) A STR property where the owner meets the definitions as the principal residence of the property owner. **The resident owner may or may not be present during the STR visit.**

Non-Hosted STR: (No definition currently exists in the Zoning Code) A STR property where the owner does not use the property as their principal residence.

Principal Residence: The dwelling a person physically occupies and lives in on a day-to-day basis. A person may have only one principal residence at a time. **If a person alternates between two or more properties, the principal residence will be the one lived in the majority of days during the year. (Is this something that can't be tracked/regulated and might not be applicable as a STR definition?)**

Whether a property qualifies as a principal residence depends on the facts and circumstances in each case, including the good faith of the homeowner. In addition to a homeowner's use of the property, the following factors are relevant when determining principal residence: the address listed on the homeowner's federal and state tax returns, bank account, car registration, driver's license, voter registration and employment records; the mailing address for bills and correspondence; and whether the homeowner has been granted a homeowner's exemption pursuant to California Revenue and Taxation Code Section 218 which is on file in the County Assessor's Office (24.22.618.1).

B & B: A building containing not more than eight guest rooms, which may be occupied by not more than sixteen persons, which provides guest rooms and breakfast for guests and which is managed and occupied by the owner of the property (SC Def. 24.22.117)

Hotel: Any building intended or designed to be used, or which is used, rented or hired out to be occupied or which is occupied for sleeping purposes by guests, and with access to units primarily from interior lobbies, courts or halls (SC Zoning Code Def. 24.22.450)

Hotel: Shall mean any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, bed-and-breakfast, motel, studio hotel, bachelor hotel, lodging house, rooming house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof, wherein overnight accommodations are offered for hire, or wherein living accommodations for periods of less than thirty days are customarily offered for hire. (SC Revenue and Finance Def 3.28.020(2))

Lodging House: Any building, or portion thereof, containing not more than five guest room, which are used by a total of not more than five guests, where rent is paid in money, goods, labor, or otherwise. (SC Zoning Code Def. 24.22.490)

Motel: A building or a group of buildings designed to provide individual sleeping or living units for transient guests, not more than one-half containing cooking or other kitchen facilities, and with access to the units primarily from exterior courts, malls, balconies, parking areas or grounds (SC Def. 24.22.550)

Group Dwelling: A group of two or more detached buildings, each of which contains one or more dwelling units, located on a parcel of land in one ownership. (SC Zoning Code Def. 24.22.302)

3. Zoning Districts and STR compatibility (50 minute discussion/10 minute summary)

The City of Santa Cruz, as reflected in the City's Zoning Code, contains many zoning districts, which establish permitted and conditionally permit land uses, regulations and standards to ensure the public, safety and general welfare. The Zoning Code identifies 27 primary zoning districts and overlay zones located throughout the city including: residential, tourist residential, and several non-residential districts.

Does the Subcommittee want to regulate location of either Hosted or Non-hosted by Zone District?

Commercial Districts (P=Permitted, U=Use Permit)

C-C, Community Commercial: 1 or 2 units above commercial (no additional parking req'd) (P), Multi-Fam (U), Lodging House (U)

C-T, Thoroughfare Commercial: Hotels, Motels, B&B inns (P), SFD/Dup (U), Multi-Fam (U)

C-N, Neighborhood Commercial: 1 or 2 units above commercial (no additional parking req'd) (P), Multi-Fam (U)

C-B, Beach Commercial: Lodging House (P), Mixed Use/Multi-Fam (U)

CBD, Central Business District: (Revision of Downtown Recovery Plan in progress)

CBD Subdistrict E, Lower Pacific Ave: Mixed Use/Multi-fam (P), Lodging House (P)

Tourist Residential (P=Permitted, U=Use Permit)

The purpose of the Tourist Residential District is to establish a zoning district to accommodate a mix of residential, motel and commercial land uses and to preserve historical buildings and trees within the district. The R-T district is divided into five subdistricts.

R-T(A), Med-Density Residential: Duplex (P), SFD (U), Multi-Fam (U), B&B Inn (U),

R-T(B), Motel Residential: Multi-Fam, (U), SFD/Duplex (U), Motel, Hotel, B&B Inn (U)

R-T(C), Beach Commercial: Motel, Hotel, B&B (P), 1 or 2 units above commercial (no additional parking req'd) (P), Mixed Res/Com (U), Multi-fam (U), SFD, if lot doesn't allow multi-fam (U)

R-T(D), Beach Residential: SFD/ Duplex (P), B&B Inn (U), Multi-Fam (U)

R-T(E), Beach Med/High Density Residential: Duplex (P), Multi-Fam (U)

4. Site Requirements and Performance Standards (30 minute discussion with 5 minute summary)

Unit types that may be STR (Condo, Apt, ADU, SFD, Duplex, Multi-family)

How many STR's per parcel?

On-site parking requirement options:

- Match existing residential requirements: 1BR = 1sp, 2-3BR=2sp, 4BR=3sp, etc.
- Require more parking than a typical residence: B&B's fit this category, 2 spaces + 1/BR
- Require a unique formula for STR's: To be determined, 1 per BR?

Noise, Group Gatherings Options:

- Meet current noise standards. (Staff recommends not reinventing a unique threshold for STR's.)
- Group gatherings: (Staff recommends establishing a maximum number of guests to include as an operational requirement, knowing that this is extremely challenging to enforce.)

5. Permit Processing (30 minute discussion with 5 minute summary)

Application Requirements: To be determined by Planning administration. Subcommittee suggestions?

Intake: Require a site plan to show parking. Require a floor plan to show bedrooms.

Application Review options:

- Notice to neighbors required. No public hearing.
- Permit/License/Clearance Issuance
- Standard Conditions of Approval
- Project Specific Conditions
- Public Hearing

6. Enforcement (40 minute discussion/10 minute summary)

Code Enforcement Procedures: See attached Enforcement framework sheet

Penalties

Revocation

7. Other Relevant Topics and Information (40 minute discussion with 10 minute summary)

Rotating Permit/License with others

Amnesty: The act of an authority (such as a government) by which pardon is granted to a large group of individuals. Should the City allow a certain period of time to open-up registration to any existing advertised STR? Is this a fair approach or would it lead to a rush of STR's?

Non-conforming STR's: These are properties that would not meet newly adopted regulations. There are options for allowing these to continue indefinitely, to allow them to be transferred to new owners under specific circumstances, or phase out of existence over a period of time.

- Transferability of non-conforming STR's:
- Phase-out Plan: Options for establishing a period of time for eliminating STR's that do not comply with the new regulations. Grandfather Clause: An exception to a restriction that allows all those already doing something to continue doing it even if they would be stopped by the new restriction. Thus, "grandfathering" is allowing an existing operation or conduct to continue legally when a new operation or conduct would be illegal. The City could grant amnesty to existing unregistered STR's, allowing them to remain under certain conditions. These STR's would become non-conforming to the Zoning Ordinance regulations.

8. Regulatory Framework to Prohibit STR's (5 minute summary)

The Subcommittee is not recommending this approach, but if the Planning Commission and City Council choose to pursue this path, the following items would need to be addressed as part of an ordinance.

Define that STR's are not allowed except in motels, hotels and B&B's.

Include penalties for non-compliance

Criteria for STR's that will become non-conforming with an ordinance that prohibits them:

Grandparenting for property owner until sale (change of ownership to trigger a reassessment?)

Phase-out plan for 2, 3, or 5 years? With a fine structure

Prohibition or regulations on advertising.

9. Summary/Recommendations (TBD following discussion exercises – Should leave 10 minutes for wrap-up at the end of each meeting)

Attachments:

A - Short Term Rental Framework

B - Maps of Hosted and Non-Hosted STR's

C – Correspondence (on City's STVR Web Page)