



Legislation Text

File #: 19-451, **Version:** 1

Report regarding a Zoning Text Amendment to establish regulations related to short-term vacation rental uses, in accordance with Title 20 of the South San Francisco Municipal Code (*Tony Rozzi, Principal Planner*).

RECOMMENDATION

Staff recommends that the City Council follow the recommendations of the Planning Commission and introduce an Ordinance amending the Zoning Code to establish regulations related to short-term vacation rental uses.

BACKGROUND

Overview

Short-term vacation rentals allow hosts to make a spare room or an entire dwelling unit available to potential renters. These transactions are usually made through residential hosting platform websites such as AirBnB, VRBO, Homeaway, or others, generally for 30 days or less.

This type of lodging has gained popularity in recent years, providing more transient lodging options for travelers, as opposed to traditional hotels and bed-and-breakfasts. Staff research has identified that the City has 47 units listed on short term vacation rental platforms - 12 are the entire units and 39 are private or shared rooms. Overall, the County of San Mateo has approximately 330 short term rental units available (April, 2019). Many travelers use short-term vacation rentals while on business trips, for vacation, or while their home is under construction. This increase in popularity has occurred along with the rise of the “sharing economy” in which people rent cars, homes, beds, or other goods directly from other individuals, generally through internet hosting sites.

Short-term vacation rentals include both hosted rentals, in which the resident, or host, is present and rents out a bedroom or a portion of the dwelling unit; and non-hosted rentals, where the renters occupy the full dwelling unit and the resident does not remain on-site. Short-term vacation rentals can also include properties that are not traditional homes. For example, AirBnB.com includes listings for houseboats and recreational vehicles that are semi-permanently attached to a set location for the duration of a reservation.

The City’s current Municipal Code does not specifically address this type of use. As a result, current local regulations do not adequately address some of the unique issues facing this relatively new use. Issues related to short-term vacation rentals include the compatibility of a commercial use in a residential area, including concerns from neighbors about noise, parking, and public safety due to the frequent turnover of visitors. Another potential concern is that short-term vacation rentals could remove housing stock that could otherwise be available for long-term rental or for sale, exacerbating the existing housing shortage in the Bay Area. Defining the short term vacation rental use and simultaneously establishing regulations for short-term vacation

rentals would ensure that there are specific performance standards in place to provide clear direction to potential hosts and renters would ensure that these uses are compatible with the neighborhoods where they are located. Although the City has a small number of short term vacation rental units, there have been a few code enforcement cases or repeat offenders given the City does not currently permit short term vacation rentals. Code Enforcement and Planning staff have provided guidance on a case by case basis to promote compliance with City regulations.

In addition, specifically regulating these uses would establish a mechanism to require the payment of applicable taxes. Consistent with other lodging uses, taxes on short-term vacation rentals would include the Transient Occupancy Tax (TOT) of 12 percent of the gross rent paid by hotel guests. Pursuant to Measure LL, the TOT will increase to 13 percent in January 2020 and 14 percent in 2021, and the Conference Center Tax (CCT) is \$2.50 per occupied room per night. If short-term vacation rentals are specifically defined and regulated as a permitted use, these lodging uses would also be subject to the TOT and Conference Center Tax.

State Law

Senate Bill (SB) 761 (2015) and SB 1092 (2016) establish some regulations for short term vacation rentals. The California Business and Professions Code requires a hosting platform to provide a specific notice to an occupant listing a residence for short-term rental on the site that states if the occupant is a tenant, listing the room, home, mobilehome, condominium, or apartment may violate the lease or contract and could result in legal action by the landlord, including possible eviction. (Bus. & Prof. Code § 22592(a).) The statement must also advise the occupant to review any restrictions on coverage under their homeowners' or renters' insurance policy related to short-term rental activities. (Bus. & Prof. Code § 22592(b).) Of note, until January 1, 2022, state agencies are required to permit state employees traveling on official state business to use and be reimbursed for lodging in a short-term rental. (AB 2777 (2018); Gov. Code § 19822.4).

Planning Commission

On September 3, 2015, the Planning Commission held a public hearing to consider amending the Zoning Code to establish regulations related to short-term vacation rental uses. At that meeting, the Planning Commission voted 4 to 1 in favor of recommending establishing regulations for short-term vacation rental uses in order to give the City the ability to review and regulate these uses. Several comments and concerns that the Planning Commission raised include the following:

- Ensure that the host provides local health and safety information for renters;
- Concern that the permitting process is overly restrictive; and
- Ensure that the process and regulations are well-publicized to the public.

City Council

The item was brought to City Council for discussion on September 23, 2015, with the Council ultimately directing staff to take no action on this issue and come back to Council at a later date. A study session was held on August 22, 2018, and City Council provided feedback and a recommendation to form an ad-hoc subcommittee. Staff met with the ad-hoc subcommittee in October 2018 and provided the following guidance:

- Require applicable hotel and occupancy taxes;

- Review and compare proposed ordinance with other San Mateo County regulations; and
- Consider a \$1,000 deposit to cover any City staff review or code enforcement if there are issues with a permitted short term vacation rental and refund the deposit after one year if there are no complaints.

DISCUSSION

Current Regulations

Short-term vacation rental uses are currently not addressed by the current Zoning Code. Staff has reviewed the existing land use classifications and has determined that the most similar type of use to a short-term vacation rental is a “bed and breakfast” use, which is a sub-classification of “Lodging,” a commercial use classification defined as a residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided (SSFMC § 20.620.004).

While similar, a “bed and breakfast” is differentiated from a short-term vacation rental because it is a residential structure of which a portion (i.e. a bedroom that is available for rent) is a dedicated commercial use. In contrast, a short-term vacation rental use reverts to a traditional residential use when the dwelling unit, or a portion of it, is not occupied by transient renters.

Proposed Revisions

Staff has examined the City’s current zoning regulations for substantially similar uses and reviewed other jurisdictions’ regulations pertaining to short-term vacation rentals in order to recommend appropriate zoning revisions to regulate this emerging type of use. The proposed zoning amendment would create a new definition for a “short-term vacation rental” as a lodging use, limit the operation of a short term vacation rental to single unit dwellings, create performance standards for this new use in order to ensure compatibility with surrounding neighborhoods, and revise the zoning districts where short-term vacation rental uses will be permitted, subject to the approval of a short-term vacation rental permit. This approach is consistent with recent regulations adopted by the cities of Millbrae, Pacifica and Redwood City.

As a summary, those cities have the following requirements:

- Each city limits the number of days a unit or a room within a unit can be rented on a short term basis;
- All cities provide an application process requiring a yearly license, which must be renewed on a yearly basis;
- As a condition of approval, short term vacation rentals must pay Transient Occupancy Taxes; and
- None of the cities require additional parking as part of the permit.

These suggestions are incorporated or addressed in the following section.

Short-Term Vacation Rental Permit Process

The proposed review and permitting process for a short-term vacation rental is intended to balance the need to have regulatory oversight for this type of use, while also providing a simple and relatively streamlined review process to encourage members of the public to apply for a permit prior to advertising their home as a short-term

vacation rental. Staff will be able to review applications in an expedited manner, rather than requiring a Minor Use Permit process, which would take approximately four to six weeks. The Chief Planner will provide approval for short-term vacation rental permits as long as they meet the performance standards.

Staff is recommending a \$150 fee for a short-term vacation rental permit. The recommended fee is intended to ensure maximum participation from short-term rental hosts in the City. As opposed to other planning permits, the approval for a short-term vacation rental will be issued to a specific person at a specific address; it will not be attached to the property. The short-term vacation rental permit would be valid for a one year term from the date of issuance, and would need to be renewed yearly for a renewal fee of \$50 if the host wishes to continue operating a short-term vacation rental use. Staff does not recommend a \$1,000 deposit to operate a short-term vacation rental given this would be unique to San Mateo County, the number of units offered in the City is very low, and performance standards should provide operation clarity and minimize staff review. For instance, if a property is found to have an un-permitted short-term vacation rental, Code Enforcement can provide the required permitting process and refer the property owner or tenant to the Planning Division. The low permit fee should facilitate compliance, and a large deposit would be counterproductive.

If the short-term vacation rental regulations are adopted, staff will create a new application form specific to this permit type and update the planning permit fee schedule. A sample short-term vacation rental permit application is attached for reference. Many municipalities have developed user-friendly guides to publicize and clarify the requirements for operating a short-term vacation rental. Staff recommends developing a similar guide as part of the permit application packet. Staff recommends publicizing the short-term vacation rental permit program via the City's website and social media, and also working with hosting websites (such as Airbnb) to publicize the program and requirements. Staff will also attempt to work with hosting websites to collect the applicable taxes of any permitted host in the City.

Parking Requirement

A parking standard for this use has also been introduced in the ordinance and would require at least one off-street parking space required for the short-term vacation rental transient occupants. The required parking for the existing residential use or driveway parking may be used to provide this parking space. Given the ordinance limit on occupancy, staff does not expect parking to significantly impact neighboring properties.

Performance Standards

The following is a list of performance standards that staff recommends, based on a review of existing municipal regulations and local issues in the City:

- A. Type of Residence. Short-term vacation rentals shall be located and operated in a single-unit dwelling in order to avoid impacts that could occur in multi-family residential dwelling units.
- B. Number of Uses. Short-term vacation rental uses shall be permitted in no more than one single-unit dwelling per lot.

- C. Residency Requirements. Only permanent residents (owner or tenant) of the dwelling unit shall be eligible to operate a short-term vacation rental use.
- D. Occupancy Limits. The number of renters shall be limited to two person or fewer if the host is onsite (hosted rental) and limited to two persons per vacant bedroom, plus two additional persons if the host is off-site (non-hosted rental).
- E. Limit on Duration. The aggregate number of days for transient occupancy of a non-hosted short-term vacation rental shall be capped at 90 calendar days per year. There is no recommended annual cap for hosted short-term vacation rentals. Both non-hosted and hosted rentals are limited to rental periods of less than 30 days.
- F. Local Contact Information. If a permit process is required, the permit holder shall be required to keep on file with the City the name, telephone number, and email address of a local contact person who shall be responsible for responding to questions or concerns regarding the operation of a short-term vacation rental. This information shall be posted in a conspicuous location within the rental dwelling. The local contact person must be available 24 hours a day to accept telephone calls and respond physically to the short-term vacation rental within one hour when the unit is occupied.
- G. Noise. The short-term vacation rental use must comply with the adopted noise standards for the district in accordance with Section 8.32.030 of the Municipal Code.
- H. Conduct. The short-term vacation rental host must ensure that transient occupants of the short-term vacation rental do not engage in disorderly conduct or violate provisions of the Municipal Code or state law.
- I. Safety. All short-term vacation rentals must comply with all applicable building laws, including providing functional smoke detectors, carbon monoxide detectors, heating, and otherwise satisfy all applicable requirements of the California Building Standards Code (California Code of Regulations, Title 24). An inspection shall not be required for a short-term vacation rental use, but the host shall be responsible for compliance, and complaints will be handled pursuant to the applicable provisions of the Municipal Code.
- J. Health and Safety Information. Hosts shall provide local health and safety information to renters, including locations of local hospitals and clinics, as well as non-emergency police contact information.
- K. Commercial Activities. Any commercial use beyond a permitted short-term vacation rental is prohibited. No Special Event as defined by Section 6.48.010 (“Notification of Event Required”) of the Municipal Code can be conducted as part of a short-term vacation rental.
- L. Advertising. If the City establishes a permit process for short-term vacation rental uses, all advertising

(print or digital) for a short-term vacation rental shall include the number of the permit granted for the use.

M. Business License. The short-term vacation rental host shall obtain a City business license in accordance with Chapter 6.12 (“Licensing Procedures”) of the Municipal Code.

N. Applicable Taxes. The short-term vacation rental host shall collect and remit all applicable City taxes, including but not limited to Transient Occupancy taxes and Conference Center taxes in accordance with Chapter 4.20 (“Transient Occupancy Tax”) of the Municipal Code, as required.

O. Consistency with Other Agreements. A short-term vacation rental use must be permitted by applicable Homeowners Association (HOA) bylaws; Covenants, Conditions, and Restrictions (CC&Rs); and rental agreements.

Enforcement

Short-term vacation rentals may present enforcement challenges. Enforcement could be addressed through an inspection process or could occur on a complaint basis. Staff will work to publicize the requirements and/or permitting process for this type of use. Staff will also attempt to coordinate with online platforms to publicize the City’s requirements in order to gain compliance.

Benefits to the Proposed Zoning Amendments

Adding a definition of “short-term vacation rentals” and including performance standards for this type of use offers the City the ability to review and regulate these uses under the Zoning Ordinance, which currently does not address these uses. In order to minimize impacts to residential neighborhoods and preserve neighborhood character, robust performance standards would limit these uses to single-family residential dwelling units, require on-site parking, limit the number of days that a dwelling unit may be used as a short-term vacation rental, limit the number of guests at one time, and require local property management. Additionally, regulations for short-term vacation rentals will require payment of taxes, consistent with other lodging uses within the City.

Finally, regulation of these types of uses will help to ensure that potential for-sale or long-term rental units are not being removed from the market to be offered as short-term vacation rentals, and thus not contribute to the Bay Area’s housing shortage.

GENERAL PLAN CONSISTENCY

Any change to the Zoning Ordinance must be consistent with the General Plan and any applicable specific plans. In this case, the proposed Zoning Amendment is consistent with the adopted General Plan because the Zoning Amendment will reinforce the General Plan policies, is consistent with the relevant specific plans, and is consistent with the City’s overall vision for community development, economic vitality, and preservation of residential neighborhood character. None of the new or revised use definitions, performance standards, and modifications to allowable land uses will conflict with or impede achievement of any of the goals, policies, or land use designations established in the General Plan.

ENVIRONMENTAL DETERMINATION

The revisions and corrections set forth in this Zoning Amendment, as they relate to “Short-Term Vacation Rental” uses Citywide, are minor in nature, the adoption of which would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the Initial Study / Negative Declaration (IS/ND) prepared and circulated for the 2010 Zoning Ordinance adoption, nor do the refinements, clarifications, and/or corrections constitute a change in the project or change in circumstances that would require additional environmental review. Accordingly, no further California Environmental Quality Act (CEQA) review is required to approve the amendments.

RECOMMENDATION

Staff recommends that the City Council follow the recommendations of the Planning Commission and introduce an Ordinance amending the Zoning Code to establish regulations related to short-term vacation rental uses.

Attachments

1. September 3, 2015 Planning Commission Minutes
2. September 23, 2015 City Council Minutes
3. August 22, 2018 City Council Study Session Minutes
4. PC Resolution 2777-2015 from September 3, 2015
5. Sample Short Term Vacation Rental Application