



DATE: March 20, 2018

CATEGORY: New Business

DEPT.: City Manager's Office

TITLE: **Short-Term Rental Regulations**

RECOMMENDATION

Discuss options on key policy issues and provide direction to staff regarding short-term rental regulations.

BACKGROUND

Short-term rentals (STRs) are residential dwellings that have either a portion or entire dwelling unit rented for a short period of time (typically 30 days or less). STRs are not a new occurrence, but this use has grown tremendously since websites such as Airbnb and VRBO have been developed and popularized. Using these online platforms, residential property owners, managers, and lessees can rent all or a portion of their properties to travelers seeking such accommodations.

STRs provide more diverse lodging accommodations for travelers and others needing a short-term stay and can provide supplemental income for local residents. STRs may also have negative impacts. Housing scarcity and high housing costs are challenges facing Mountain View and surrounding communities which may be exacerbated by STRs. Investors may purchase or lease properties, intending to use them exclusively to generate revenue by providing STRs. This would reduce the housing supply and likely increase housing costs. With a rotating series of guests, STRs may impact neighborhood character if they lead to increased noise, traffic, parking demand, and safety concerns.

As STRs have become more prevalent, local governments in the Bay Area and across the nation have begun adopting regulations for them. The specific regulations vary considerably based on the needs and community character of the jurisdictions they are within.

Current Regulations in Mountain View

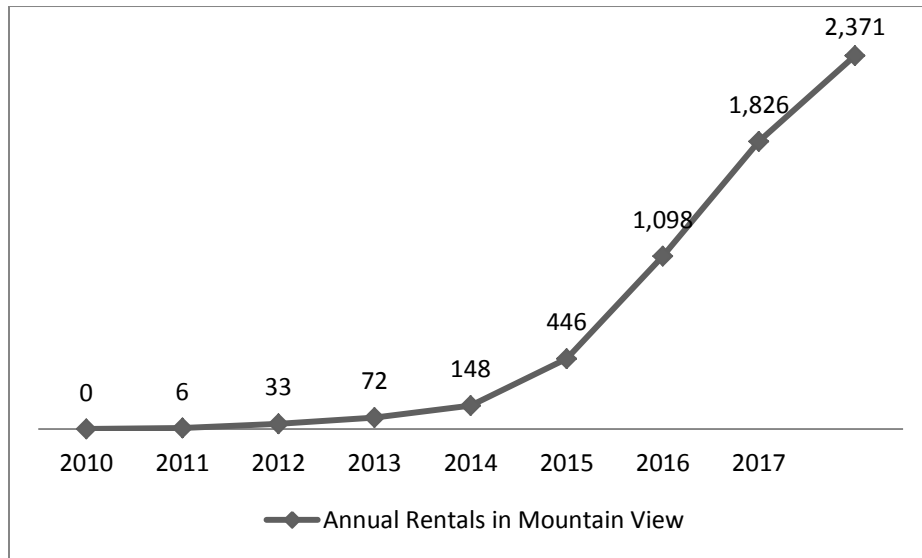
While STRs fit within the definition of “hotel” in both the Zoning Code and the current Transient Occupancy Tax (“TOT”) provisions, the Code was not drafted to regulate this use. Furthermore, STRs are typically located in residential zones where hotels and motels are not permitted to operate. STRs are not currently permitted under the City Code, and staff’s ability to address complaints regarding STRs has been limited to Zoning Code provisions related to boarding houses. The Zoning Code would need to be updated if the City wishes to authorize and regulate STRs.

Existing STRs in Mountain View

Various websites such as Homeaway, VRBO, and Airbnb include STR listings in Mountain View. This report discusses STR data from Airbnb made available through an analytics website called AirDNA. Aggregate data for other online STR platforms was not readily available. Some or all of the STR listings on Airbnb may be duplicative of those on other online STR platforms.

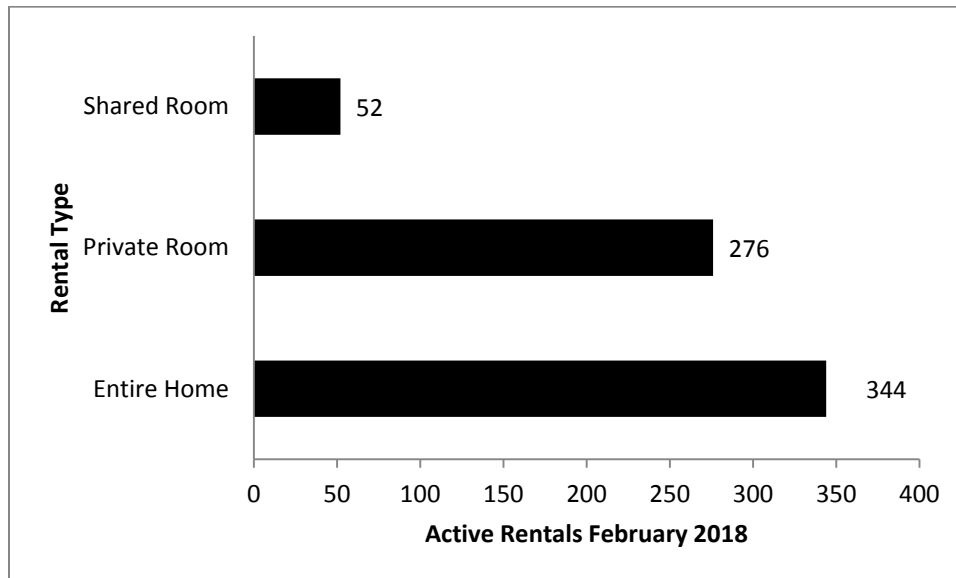
According to AirDNA, the number of short-term rental bookings in Mountain View facilitated through the Airbnb platform grew from six (6) rental bookings in 2010 to 2,371 bookings in 2017 (see Chart A). This past February, 321 Airbnb operators (property owners/managers/ lessees) listed 672 short-term rental properties in Mountain View. As shown in Chart B, this included 344 listings where the entire home/unit was available to rent, 276 private rooms, and 52 shared rooms. Nearly 40 percent of the Airbnb listings for entire homes were for one-bedroom apartments (see Chart C).

Chart A: Rental Growth on Airbnb Platform, 2010 through 2017



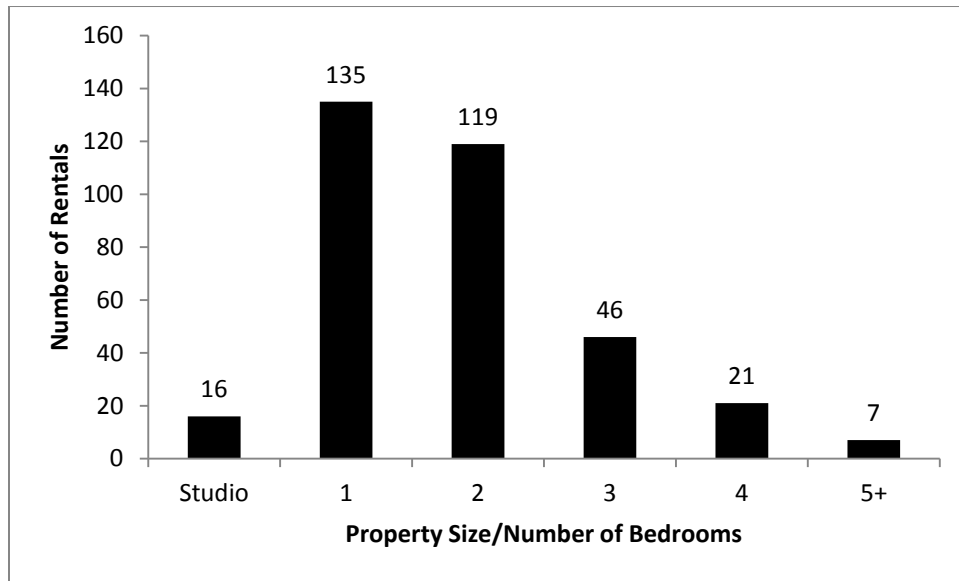
Source: AirDNA

Chart B: Active Airbnb Rentals in Mountain View, February 2018



Source: AirDNA

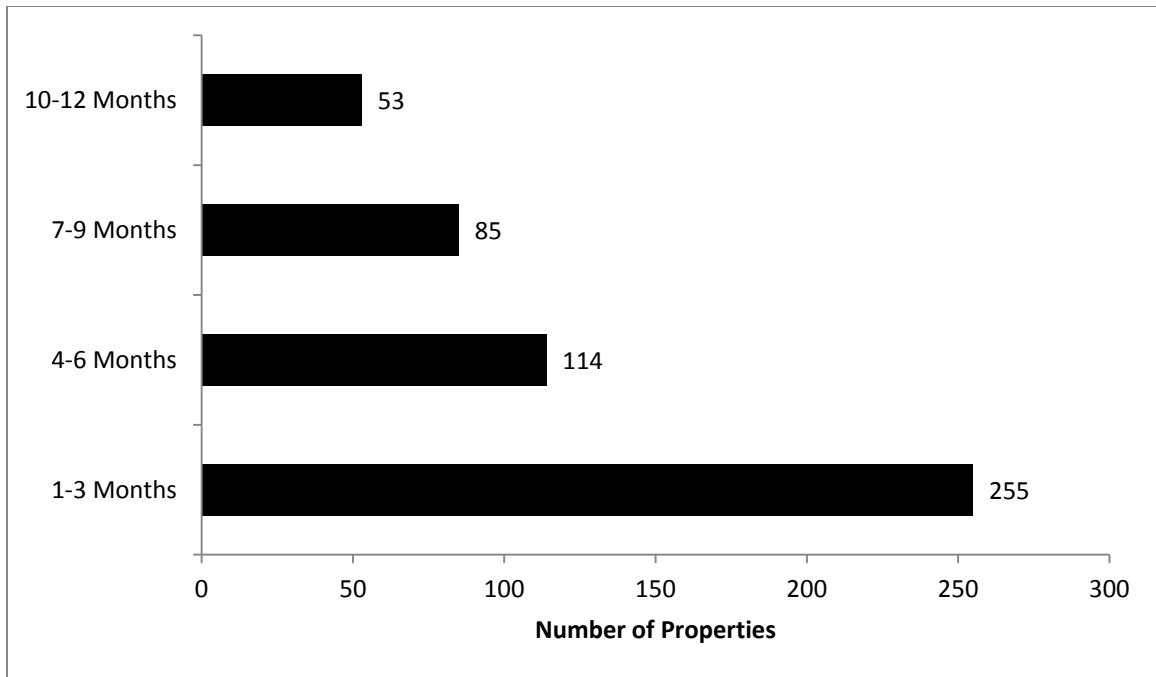
Chart C: Size of Airbnb Entire Home Rentals in Mountain View



Source: AirDNA

In 2017, there were 507 properties listed as STRs in Mountain View. Most of these properties were listed/available for three months or less. About 27 percent of the STR properties were listed for more than six months in 2017. Chart D below shows the duration that properties were listed/available for rental in 2017.

Chart D: 2017 STR Property Listing/Availability Duration



Source: AirDNA

ANALYSIS

The City of Mountain View has no explicit STR regulations and currently does not collect TOT from STRs. Not having explicit STR regulations limits the City’s ability to understand the impacts of STRs on Mountain View and weakens the City’s ability to address potential impacts. An overview of potential regulatory frameworks and the key policy questions for Council to consider are set forth in this report. Input from the Council will provide direction to staff in order to develop short-term rental regulations, should that be Council’s direction.

KEY QUESTION: The threshold question for the Council to consider is whether the City wishes to allow and regulate STRs. Cities in the Bay Area have taken varied stances on regulation of STRs. Some cities allow STRs with limitations based on whether the dwelling unit is the operator’s primary residence; others set limitations based on whether an operator/host is present throughout the duration of the transient’s stay; some cities prohibit STRs entirely; and a number of jurisdictions have not adopted any STR regulations to date. Table 1 below provides an overview of some local regulations.

Table 1: Overview of Responses to STRs in Santa Clara County

City	Regulations	TOT
Los Altos Hills	Considering regulations. Proposed regulations include: <ul style="list-style-type: none"> – Require a permit from the City – Prohibit STRs in nonprimary residences – Permit unlimited STRs at primary residence properties – Require a business license – Require agreement to Short-Term Rental Policy and Application – Limit one short-term rental unit per residential property 	TBD
Saratoga	<ul style="list-style-type: none"> – Prohibits STRs – Enforcement of prohibition is complaint-driven – Fines range from \$100 to \$500, depending on number of offenses 	10%
Sunnyvale	<ul style="list-style-type: none"> – Requires a permit from the City – Requires a business license – Permits unlimited hosted (operator present) STRs – Prohibits unhosted STRs – Limits number of transient users to four adults (additional minors permitted) 	10.5%
Palo Alto	<ul style="list-style-type: none"> – No regulations – Executed a Voluntary Collection Agreement with Airbnb to collect TOT 	14%
Santa Clara	<ul style="list-style-type: none"> – No regulations – Executed a Voluntary Collection Agreement with Airbnb to collect TOT 	9.5%
Cupertino	– No regulations	12%
Gilroy	– No regulations	9%
Morgan Hill	– No regulations	10%
Los Altos	– No regulations	11%
Monte Sereno	– No regulations	N/A
Milpitas	– No regulations	10%
Campbell	– No regulations	12%
Los Gatos	– No regulations	12%

City	Regulations	TOT
San Jose	<ul style="list-style-type: none"> – Has no registration or permit requirement – Allows unlimited hosted (operator present) STRs – Allows unhosted STRs for a maximum of 180 days annually – Limits number of transient users based on dwelling unit size – Requires operators to provide a written notice of a local contact person to all transient users and occupants of adjacent properties – Requires Business Registration and Tax – Executed a Voluntary Collection Agreement with Airbnb to collect TOT, and expects operators to self-report earnings and remit taxes not collected from a hosting platform. – Requires operators to retain records documenting compliance with regulations for a period of three years after each rental, and to provide those records at the request of the City. 	10%
Redwood City (San Mateo County)	<ul style="list-style-type: none"> – Prohibits STRs in nonprimary residences – Permits STRs at primary residence properties 120 days annually – Permits unlimited hosted (operator present) STRs – Requires local contact person to be available to respond to complaints during an unhosted stay – Prohibits special events at STRs – Enforcement will not begin until 2019; however, the City plans for the registration and permitting to be comanaged by the Planning Division and Finance Department, and plans to contract with a third party to ensure compliance. 	12%
City/County of San Francisco	<ul style="list-style-type: none"> – Prohibits STRs in nonprimary residences – Permits STRs at primary residence properties 90 days annually – Permits unlimited hosted (operator present) STRs – Requires a Business Registration Certificate – Has a registration/certification process administered by the Office of Short-Term Rentals – Limits individual reservations within a single dwelling unit to five 	14%

If the City Council wishes to allow and regulate STRs, the Zoning Code should be amended to include specific enforceable regulations for short-term rentals. As will be further discussed below, potential regulations could include registration requirements, taxation requirements, regulations limiting the operational scope of short-term rentals, and enforcement mechanisms. With Council direction, staff will conduct additional research and public outreach prior to drafting zoning amendments to be taken to the Environmental Planning Commission for a recommendation and to the City Council for final consideration.

POLICY CONSIDERATIONS

STRs may have various impacts on the City. Potential impacts include impacts to neighborhood character and safety, housing availability and affordability impacts, revenue generation, and more. Council may desire to adopt policies to manage certain impacts; however, it is important to also consider the challenges and resource implications associated with enforcing any adopted policies.

Housing Availability and Affordability

According to AirDNA, 321 operators (property owners/managers/lessees) listed 672 properties as STRs in Mountain View via Airbnb in February 2018. More than one-half of the Airbnb listings in Mountain View were for entire units (344 listings), as opposed to a portion of a home. There are roughly 35,000 housing units in Mountain View, so the number of those being used as STRs is relatively small. Furthermore, most of the Mountain View properties listed as STRs on Airbnb in 2017 were listed for three months of the year or less. Accordingly, the current usage of Mountain View dwelling units as STRs likely has a limited impact on housing availability and affordability.

However, some dwelling units in Mountain View may currently be more profitable as an STR than as a rental with a longer-term lease. The February 2018 average rate for all STRs (entire unit, private room, and shared room rentals) in Mountain View was \$186 per day. The average occupancy rate for STRs via Airbnb in Mountain View is 70 percent. Given the average daily rent and occupancy rate, Mountain View STRs have a potential average monthly rent of \$3,906. The average monthly rent for apartments in Mountain View is \$2,074 for studios, \$2,468 for one-bedroom units, \$3,086 for two-bedroom units, and \$4,130 for three-bedroom units.

Opportunities for increased revenues from STRs may incentivize property owners to use properties for STRs instead of providing longer-term leases. Hosting trends on Airbnb suggest many existing STR operators use Airbnb as a means to rent out units that are not their primary residence. Nearly one-third of Airbnb operators in Mountain View (95 of 321) listed multiple properties in the City. Listings from these 95 hosts comprised roughly two-thirds (446 of 672) of all Mountain View properties listed as STRs on Airbnb.

Operators who list multiple STRs may have a greater impact on housing availability as posting multiple listings suggests that the operator is not solely renting their primary home as a means of supplemental income, but may be listing multiple properties as a business venture and using units as STRs that may otherwise provide longer-term

housing. The current number of units used as STRs in Mountain View suggests that STRs have had limited impact on housing availability and affordability; however, if rental growth on Airbnb and other platforms continues to rise, housing availability and affordability may be impacted.

Neighborhood Character and Health and Safety

Varying tenants rotating through an STR may raise noise, traffic, and parking and safety concerns in residential neighborhoods. The City Council and staff have received correspondence from residents concerned about their neighbors providing STRs. These have ranged from a neighbor of a STR property being concerned that neither their own, nor the STR property's homeowners insurance policy would cover potential damage caused by a STR tenant, to residents opposing STRs in their neighborhood because they believed the use is inappropriate in residential neighborhoods.

Ways to Address Housing Availability/Affordability and Neighborhood Character

If Council desires to permit STRs in Mountain View, a possible tool to address housing affordability and availability as well as neighborhood character impacts is to limit the number of days a property may be used as a short-term rental per year. As Table 1 shows, some cities also limit the number of days properties may be used as STRs based on whether the operator/host is present at the property during the rental period (hosted rentals). However, preliminary research indicates practical challenges with enforcing provisions like these and staff would want to explore them further if Council is interested in the concepts.

Some cities also prohibit STRs in non-primary residences in an effort to prevent STRs from impacting housing availability because STRs at an operator's primary residence are less likely to contribute to housing stock being taken off-market specifically to serve as STRs. This prohibition requires a robust registration process in which operators are required to provide evidence such as a driver's license, income tax statement, or property tax statement with a homeowner's exemption to prove residency and receive a permit. Again, enforceability and resource implications are a concern and need to be considered.

Other cities attempt to reduce the impact STRs have on housing availability by prohibiting unhosted STRs (operator not present). Operators being present during rentals may also decrease neighborhood impacts. This prohibition is very difficult to enforce as the presence of an operator would need to be verified.

Other actions Council could take to address potential neighborhood character and health and safety concerns are to:

- Require STR operators to certify that they have attained proper insurance.
- Require STR operators to provide a local contact person to adjacent properties for complaints and other concerns.

Revenues related to Short-Term Rentals

Business License Tax

If allowed, STRs would be required to pay a Business License Tax to the City. The current Business License Tax would be \$34 for each property used as a STR. The current 672 active STR properties in Mountain View would generate \$22,848 in Business License revenue.

Transient Occupancy Tax (TOT)

According to AirDNA, Airbnb bookings in Mountain View in 2016 generated roughly \$5.1 million in revenue for hosts. With a TOT rate of 10 percent, STRs booked through Airbnb would have yielded approximately \$510,000 in tax revenue for the City.

Ways to Address Revenues related to Short-Term Rentals

In the absence of a regulatory scheme, the City does not currently track STRs or collect payment from STRs. Some cities have entered into Voluntary Collection Agreements (VCAs) with Airbnb. In Santa Clara County, Palo Alto, Santa Clara, and San Jose have negotiated VCAs with Airbnb which set terms for Airbnb to collect and remit TOT on behalf of individual hosts. VCAs with hosting platforms ease the TOT collection and accountability requirements of STR operators, which may lead to increased compliance with TOT requirements. The willingness of other platforms to enter in VCAs with local jurisdictions is unknown, but could be pursued if Council desires.

Short-Term Rental Regulation Compliance

If the City Council decides to allow and regulate STRs in Mountain View, this report has presented policy options for the Council to:

- Limit the number of days that a property may be used as a STR in a year.
- Require STR operators to certify that they have attained proper insurance.
- Require STR operators to provide a local contact person to adjacent properties for complaints and other concerns.
- Require that STR operators pay Business License Tax and TOT.

A registration or permitting process is an effective way for the City to facilitate review of insurance documents, explain any STR operator requirements such as providing contact person information to neighbors, and verify that Business License Taxes are paid. Staff could develop a registration and permitting process to administer internally.

Enforcement of the registration requirement, ensuring that properties are not used as STRs for more days than the annual limit, and compliance with TOT requirements will require more resources. As shown on Table 1 above, local cities have various approaches toward enforcing their STR regulations. The City/County of San Francisco has a dedicated Office of Short-Term Rentals with a budget of nearly \$1 million annually. STRs are much more common in San Francisco, which has had as many as 8,000 properties used as STRs in some years. The City of San Jose takes a different enforcement stance on its STR regulation compliance as it has no registration or permit requirement and does not actively monitor STRs. San Jose has a VCA with Airbnb and requires STR operators to keep records of bookings for three years, which the City may audit.

If compliance efforts are conducted by City staff, dedicated personnel would be necessary to monitor STR listings and resolve noncompliant listings. Another method of improving compliance with STR regulations is to contract with a third party. Vendors such as Host Compliance, HDL, and STR Helper offer services to assist cities with management of STRs. These services include monitoring various sites for STR listings, tracking STR bookings, reaching out to STR operators who are noncompliant, and providing an online platform for payments. Host Compliance provides a price menu on their website, but staff would need to meet with other vendors to determine their pricing structures. For a city with approximately 600 STRs, the costs of Host

Compliance's services range from \$13,500 to \$34,650 per year, depending on the services desired.

The City could require STR operators to pay a registration fee which could be used to recover costs associated with accepting, processing, and administering the program. As an example, an annual registration fee of \$50 per STR would generate \$30,000 from 600 STRs.

FISCAL IMPACT

There is no fiscal impact to this report. Should the City regulate STRs and collect TOT, it is estimated to be over \$500,000. However, there will be enforcement costs that need to be implemented and considered. A full fiscal analysis will be included with the final report.

CONCLUSION

If the City Council is interested in authorizing and regulating STRs in Mountain View, the Zoning Code should be amended to include specific enforceable regulations for short-term rentals. There are many policy considerations that should be accounted for in regulations. These include:

- Housing Availability and Affordability
- Neighborhood Character and Health and Safety
- Revenues related to Short-Term Rentals
- Short-Term Rental Regulation Compliance

Staff recommends that Council provide direction on whether the Council wishes to:

1. Allow and regulate STRs in Mountain View.
2. Further explore enforcement issues related to limiting the number of days that a property may be used as a STR in a year, and/or distinguishing between hosted and/or unhosted rentals.
3. Require STR operators to certify that they have attained proper insurance.

4. Require STR operators to provide a local contact person to adjacent properties for complaints and other concerns.
5. Explore negotiating Voluntary Collection Agreements with STR hosting platforms.
6. Develop a STR permit and registration process with a cost recovery fee.
7. Further explore opportunities to contract with vendors who provide STR registration and regulation compliance services.

Based on Council direction, staff will return to Council in the fall with additional information along with Zoning Code amendments and regulations for final consideration, after review by the EPC.

PUBLIC NOTICING

Agenda posting and notice on web and social media.

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