



DATE: October 9, 2018

CATEGORY: Public Hearing

DEPT.: City Manager's Office

TITLE: **Short-Term Rental Ordinance**

RECOMMENDATION

1. Introduce an Ordinance Adding Chapter 44 to the Mountain View City Code Related to Short-Term Rental of Residential Property, to be read in title only, further reading waived, and set second reading for October 23, 2018 (Attachment 1 to the Council report).
2. Adopt a Resolution Amending the City of Mountain View Master Fee Schedule to Add a Short-Term Rental Registration Fee, to be read in title only, further reading waived (Attachment 2 to the Council report).
3. Appropriate \$80,000 in the City Manager's Office for a third-party compliance vendor to assist with the implementation and monitoring of short-term rentals (Five votes required).
4. Authorize the addition of 0.5 FTE Account Clerk I/II position and appropriate \$66,000 in the Finance and Administrative Services Department for the administration and collection of short-term rental fees and other related items (Five votes required).

BACKGROUND

On March 20, 2018, the City Council held a Study Session to discuss short-term rental (STR) regulations. Staff's report and presentation outlined the number of Mountain View properties being used as STRs at the time; discussed the existing and potential impacts of STRs on Mountain View's neighborhood character, housing affordability, and Transient Occupancy Tax (TOT) revenue; and highlighted potential regulations the City could adopt and implement to manage STRs.

Council directed staff to draft an ordinance that would allow STRs and establish regulations to mitigate potential negative impacts of STRs on housing affordability and neighborhood character. Council specified the ordinance should include the following components:

- Clarification that STRs are subject to TOT and Business License Tax.
- A requirement for STR operators to register properties used as STRs with the City and pay a registration fee.
- An annual limit on the number of days (to be determined) that properties can be used as STRs where the host is not present (unhosted rentals).
- A requirement that STR operators provide a local contact person to adjacent properties for complaints and concerns.
- Certification that the STR operator has appropriate insurance.

Council also directed staff to explore opportunities to contract with vendors who provide short-term rental registration and regulation compliance services, and to examine Voluntary Collection Agreements (VCAs) with STR hosting platforms such as Airbnb. VCAs enable hosting platforms to collect TOT directly from STR transient users during the booking process and to remit collected TOT to the City.

ANALYSIS

Staff further examined STR regulations and options to manage STRs in drafting the proposed ordinance. Implementation of, and compliance with, the proposed ordinance may be assisted by contracting with a compliance vendor. Staff is exploring the details of entering into Voluntary Collection Agreements with hosting platforms to assist with the collection of the Transient Occupancy Tax and expects to enter into such an agreement with Airbnb.

Summary of the Proposed Ordinance

The ordinance reflects most Council-directed components; however, it does not require STR operators to submit proof of appropriate insurance coverage during the STR registration process. Staff's recommendation and explanation for each component of the ordinance is detailed below.

Registration Requirement

The STR regulations the City adopts must be reasonably capable of enforcement, which is a challenge for many jurisdictions. A registration requirement is a straightforward, enforceable regulation. STR operators are either registered with the City or they are not, and may not rent or advertise short-term rentals before registration. A registration requirement also provides the City with a method to monitor STR usage and ensure compliance with other STR regulations.

STR Properties Must Be Registered with the City: STR operators must register the properties they use or intend to use as STRs with the City each calendar year. All properties that are advertised as STRs on any hosting platform must be registered.

Annual Registration Fee: STR operators must pay a registration fee annually. The fee is structured to recover STR application processing and regulation compliance costs that the City incurs, including agreements with vendors for monitoring STR advertisements and bookings. The proposed initial short-term rental registration fee is \$165 annually. Registration fees for three other Bay Area cities are \$103, \$220, and \$250.

Revocation of Registration: The City may revoke registrations for failure to comply with STR regulations, false statements in the application, or for violations of other provisions of the Mountain View City Code or any State or Federal law.

Neighborhood Character and Housing Stock Regulations

Frequent use of properties in residential neighborhoods as STRs has the potential to change the character of neighborhoods. Varying tenants rotating through an STR may raise noise, traffic, parking, trash, and safety concerns in residential neighborhoods. The ordinance aims to limit impacts that STRs have on neighborhood character by limiting the number of days properties may be used as STRs without a host present (unhosted) at the property throughout the rental. The ordinance also includes a requirement that STR operators provide a contact number to properties adjacent to the STR, in order to address complaints or concerns during the rental period when the STR is unhosted.

Unlimited Hosted Rentals: Rentals where the host is present on-site throughout the rental are considered hosted rentals. Such rentals are likely to have fewer impacts on neighborhood character because the host is present to facilitate the short-term renter's integration into the home and neighborhood, and will also be present at the property during the rental period if neighbors have complaints or concerns. Thus, based on Council direction, the ordinance allows unlimited hosted rentals.

Maximum of 90 Days of Unhosted Rentals Annually: Unhosted rentals, when the host is not present at the property during the rental period, may have a greater impact on neighborhood character. Unlimited unhosted rentals could also be an incentive to take a housing unit out of the supply for long-term renters and purchasers. Therefore, to address these issues, the ordinance is drafted to limit unhosted rentals to 90 days annually. At the March Study Session, Council indicated that an annual limit was desired, but there was not consensus on the number of days. If desired, Council could set a limit higher or lower than 90 days.

While staff does not anticipate ongoing monitoring of the days each property is booked as an unhosted STR, compliance tools do allow the City to determine the number of days that properties are booked as STRs. However, the City would have to dedicate significant resources to work with compliance vendors to conduct a formal audit of the number of days each specifically identified property has been booked as an STR. Such an audit will be reserved for occasions when the City receives significant credible complaints about a particular STR.

Local Contact Person: STR operators must provide neighbors in properties adjacent to the short-term rental with contact information for a local person who will field and respond to complaints during unhosted rentals. The contact person must be able to respond to events at the STR site within 60 minutes.

No Special Events: Weddings, parties, corporate gatherings, and other similar events which have the potential to cause traffic, parking, noise, refuse, or other impacts in the neighborhood are prohibited at the short-term rental property during a short-term rental.

No Insurance Verification to Register

At the March 20, 2018 Study Session, Council discussed an insurance requirement for STRs. Conventional homeowner insurance policies do not cover STRs. Airbnb provides \$1 million in free coverage to STR operators who opt-in through their platform; however, many other hosting platforms do not provide coverage. Staff determined that proper insurance coverage is the responsibility of the STR operator. Consistent with the City's practice for business licenses, the ordinance does not require STR operators to provide evidence of insurance to the City in order to register.

Transient Occupancy Tax on Short-term Rentals

Ten Percent (10%) TOT: STRs are subject to the same TOT as hotels and motels, 10 percent of the booking amount for stays up to 30 days. The ordinance does not include new TOT requirements, but restates the existing requirement that STRs are subject to TOT and must comply with Chapter 33 of the City Code.

Voluntary Collection Agreement with STR Hosting Platforms

Various cities have Voluntary Collection Agreements (VCAs) with Airbnb. VCAs enable Airbnb to collect TOT on behalf of STR operators during the booking process and to remit the TOT directly to the cities. Staff has not identified other hosting platforms that have VCAs with local governments but will work with Airbnb to negotiate a Voluntary Collection Agreement. Host Compliance, an STR regulation compliance vendor, assessed the STR listings in Mountain View in July 2018 and determined that more than 60 percent of current Mountain View STR listings are listed on Airbnb.

A VCA with Airbnb will allow short-term renters using Airbnb to pay TOT when they book a short-term rental, and Airbnb will remit that TOT to the City. This removes the TOT remittance responsibility from STR operators using Airbnb, while still requiring STR operators to keep records of their rentals and the TOT amount owed for a period of three years. It also requires STR operators using hosting platforms without a City VCA to collect and remit TOT directly to the City with the same record keeping requirements.

Agreement with Vendor for STR Monitoring

Staff proposes to contract with a compliance vendor to assist the City with implementation of the regulations included in the ordinance. Compliance vendors offer services, including monitoring various sites for STR listings, tracking STR bookings, reaching out to STR operators who are noncompliant, and providing an online platform for registration and payments. The City may use some or all of the available vendor services to regulate STRs in Mountain View. An estimated cost for a compliance vendor is \$70,000 to \$90,000 annually.

Implementation

Staff anticipates a six- to nine-month period is necessary to contract with a compliance vendor and put the proper processes in place to register and regulate STRs. A VCA with Airbnb will also be negotiated during this period. While the ordinance will be

effective 30 days after its adoption, registration of STRs is due on or before July 1, 2019 to allow for implementation of registration process. TOT will be required for all short-term rentals as of January 1, 2019.

HUMAN RIGHTS ANALYSIS

In April 2018, the City Council approved a recommendation to include the Short-Term Rental Regulations as part of a pilot human rights impact analysis. This issue was chosen as one of three pilot projects because the policy relates to all four of the human rights priority areas identified within the human rights analytical framework proposed by the Human Relations Commission. The priority areas include housing displacement, housing affordability, social equity, and economic prosperity. The framework uses a set of guiding policy questions based on the identified human rights priority areas for reviewing proposed policies, programs, and practices to determine if they are likely to improve, sustain, or diminish achievement of specific human rights priority areas in the City. The following guiding questions have been used to determine if the proposed policy or action will have a positive, neutral, or negative impact in one or more of the human rights priority areas.

1. *Who are the populations that this policy/program/practice will affect? Does the policy/program/practice have any impact on the displacement of children and seniors? Does it provide tenant relocation? Does it result in a net increase or net decrease in available housing units?*

The STR Ordinance will affect all property owners and could impact renters and neighbors as well. It could help seniors and families by creating a legal framework for renting and generating household income. The ordinance is unlikely to result in a net decrease in available housing units from what is happening now. There may be an increase in units because the 90-day limit is intended to minimize or eliminate housing units being taken off market for STRs that would otherwise be available for long-term renters or purchasers.

2. *Does the policy/program/practice have a positive, negative, or neutral impact on the current jobs-housing imbalance? Does the project or policy increase or decrease access to affordable units?*

The STR Ordinance has no known impact on the jobs-housing imbalance. The ordinance is not expected to impact overall affordability of units. As noted above, the ordinance is designed to limit the impact that STRs have on housing availability by decreasing the appeal of housing stock being taken off the rental market for short-term rentals (90-day annual limit for unhosted rentals). Allowing

STRs may help homeowners and lessees afford mortgages and rents by providing an income generation vehicle through the shared economy.

3. *Does the policy/program/practice have any disparate impacts on racial/ethnic or economic groups in Mountain View? For this policy/program/practice, how will different groups be affected?*

At this time, staff is unable to determine the impacts this ordinance could potentially have on racial/ethnic or economic groups in Mountain View. As mentioned above, the ordinance has been designed to restrict the number of days for unhosted rentals. This should prevent housing stock from being taken off market for STRs and limit the impact that STRs have on housing costs. Available data indicates that STRs are located throughout the City and are not concentrated in any particular neighborhood.

4. *Does this policy/program/practice have a fiscal impact on businesses or displace small business? Does it provide economic opportunity to small businesses or different racial/ethnic or economic groups in Mountain View?*

STRs may impact hotels and motels by providing transient users with additional options for short-term stays. People may choose to stay in an STR instead of a hotel or motel. STRs are already operated in Mountain View, so it is unlikely that this policy will cause additional impact to hotels and motels, whether owned by small businesses or racial/ethnic groups. The proposed ordinance clarifies that STRs are required to pay TOT, an equal requirement to that currently placed on hotels and motels.

FISCAL IMPACT

The proposed ordinance requires STR operators to comply with the Mountain View City Code's business license and TOT requirements. As of July 2018, approximately 1,000 unique rental units in Mountain View were listed as short-term rentals.

According to the Airbnb analytics website AirDNA, Airbnb bookings in Mountain View generated roughly \$10.4 million in revenue for hosts in 2016 and \$12.6 million in 2017. Through August 2018, hosts using Airbnb to book STRs in Mountain View generated nearly \$10.5 million. With a TOT rate of 10 percent, STRs booked through Airbnb would have yielded approximately \$1.04 million in TOT for the City in 2016 and \$1.26 million in 2017.

Implementation of these regulations will require staff time and a contract with an STR compliance vendor. Current vendor pricing models are based on the number of STRs in a jurisdiction advertised on various hosting platforms. With 1,000 STRs currently advertised in Mountain View, a vendor contract is estimated at between \$70,000 and \$90,000 annually. Additional staff will also be necessary to administer the STR Ordinance: for collection of the registration fee, additional TOT fees and business licenses, to oversee the compliance vendor, and to enforce regulations. Staff's initial assessment is that 0.5 FTE is necessary for work that cannot be absorbed by present staffing. The current cost for a 0.5 FTE Accounting Clerk is \$66,000. The recommended \$165 registration fee is set to recover the total cost of implementation.

PUBLIC NOTICING

Agenda posting and notice on web, social media, and interested parties list.

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MEG/2/CAM
612-10-09-18CR

Attachments: 1. Ordinance
2. Resolution