



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: October 8, 2015
AGENDA DATE: October 15, 2015
PROJECT: Potential Ordinance Amendment to Allow Short-Term Home Sharing Rentals
TO: Planning Commission
FROM: Planning Division, (805) 564-5470, extension 4569
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I. INTRODUCTION

Short-term home sharing rentals occur when a resident hosts visitors in their home for a fee for less than 30 consecutive days. Currently, all residential short-term rentals are in violation of the Zoning Ordinance.

On August 11, 2015, the City Council initiated an ordinance amendment to consider allowing short-term home sharing rentals in the City. Council also directed staff to meet with the Planning Commission to refine the definition and types of home sharing that may be acceptable. The purpose of this Planning Commission meeting is to hold a public hearing and discuss the opportunities, challenges and enforcement issues regarding short-term home sharing rentals.

II. BACKGROUND

On June 23, 2015, the City Council held a public hearing and discussed the growth of vacation rentals, another form of short-term rentals, in the City. At the conclusion of the public hearing, the Council was unanimous in their support for continued enforcement of the City's existing Zoning Ordinance regulations prohibiting all residential short-term rentals, unless properly permitted. Noting concerns regarding neighborhood compatibility and the loss of housing to a commercial enterprise, Council directed staff to develop a proactive enforcement program. Council also directed staff to develop a work program to define, regulate and permit short-term home sharing rentals anywhere residential uses are allowed.

On August 11, 2015, the Council allocated additional funding to the City Attorney's Office, Finance Department and the Planning Division's Zoning and Enforcement Section to conduct proactive enforcement of unlawful vacation rentals. The departments are working closely together and expect the effort to take two to three years to complete the initial work, with an ongoing need for enforcement resources beyond. Given the enforcement complexities and the long timeframe, City Council directed staff to return with an enforcement status report in six months.

The City Council also initiated a Zoning Ordinance Amendment to consider allowing short-term home sharing rentals. Again, due to the complexity of the issues involved in developing these new regulations, the Council directed staff to meet with the Planning Commission to refine the definition and types of short-term home sharing rentals that may be acceptable. Staff will then return to Council to confirm the parameters prior to drafting an ordinance and completing the review process.

Existing Zoning Ordinance Definitions

The City's Zoning Ordinance contains distinct definitions for residential units and hotels, which have existed for decades. The length of stay, less than 30 days, determines the transient nature of home/room rentals.

The sharing economy and use of the Internet to book commercial transactions (transportation, rooms or homes) did not exist when the City's zoning definitions and regulations were adopted. Applying existing regulations to this new and rapidly expanding phenomenon has proven challenging.

The City Attorney has determined that renting out homes/rooms for a fee for less than 30 days is currently a Municipal Code violation based on the definition of hotel in the Zoning Ordinance.

SBMC §28.04.395 Hotel:

“A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to, establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses.”

Accordingly, a Zoning Ordinance amendment will be required to implement a short-term home sharing rental program. Adding relevant, modern definitions and clarifying regulations will be beneficial to both the public and staff.

As described below, many cities do not define short-term home sharing rentals in their Zoning Ordinance. Permits and performance standards are implemented through the business license section of the Municipal Code while the Zoning Ordinance is silent. In these cases, short-term home sharing rentals are considered a type of temporary use or home occupation and not a commercial land use activity.

In June, the City Council was presented with options regarding regulating short-term vacation rentals and home sharing rentals. Council directed staff to enforce existing regulations for unlawful short-term vacation rentals and to consider amending the Zoning Ordinance to allow short-term home sharing rentals. The option of permitting and regulating short-term home sharing rentals through other sections of the Municipal Code (keeping zoning silent) was not selected.

III. DISCUSSION

Definition of Home Sharing

To date, Staff has provided the following definitions in Council Agenda Reports for the purpose of discussion. These are not terms or definitions currently found in the City's Municipal Code.

"Home Sharing Rental" – A resident(s) hosts visitors in their home for short periods of time (less than 30 days) while at least one of the primary residents lives on-site throughout the stay. Guests pay a nightly fee and enjoy non-exclusive shared use of the unit with the person(s) who lives there. Typically, the primary resident actively hosts the guests during the visit.

"Vacation Rental" – The rental of any un-hosted dwelling unit to any person for exclusive transient use of less than 30 days. Guests pay a nightly fee and enjoy the exclusive private use of the unit.

During public hearings and through public comment, the City Council frequently heard requests for more flexibility in the definitions of home sharing, such as:

- Part-time Santa Barbara residents who want to rent their home during the parts of the year they are not here.
- Full-time Santa Barbara residents who want to rent their home out while they vacation or travel.
- Residents who want the ability to rent out separate units such as guest houses on larger properties.
- Residents who are willing to stay with friends and family while they rent out their home short-term.

Feasibility of Home Sharing

Regulatory Approaches in Other Communities

Staff has researched how other jurisdictions allow and regulate, or prohibit and enforce, short-term vacation rentals and short-term home sharing rentals. In many jurisdictions, all short-term rentals in residential neighborhoods are prohibited. Short-term rentals are usually viewed as a commercial activity and considered no different than a hotel.

A recent trend is to make a distinction between short-term vacation rentals and short-term home sharing rentals and regulate them separately. San Francisco, Santa Monica and the City of San Luis Obispo have recently moved to prohibit short-term vacation rentals but allow short-term home-sharing rentals, if the owners meet specified requirements and also remit Transit Occupancy Tax (TOT) to the City.

Communities that allow and regulate short-term home sharing rentals use some or all of the following techniques to manage their impacts in residential neighborhoods:

- Permit(s) and license(s) required, with grounds for denial
- Transit Occupancy Tax payment

- Annual Verification of primary residence through the homeowner's property tax exemption or other documentation
- Performance Standards such as:
 - Minimum length of stay, maximum number of stays per dwelling unit (annual, consecutive)
 - Limits on occupancy (# guests per bedroom or house or total guests allowed)
 - Advance notification (neighbors, landlord, city)
 - Owner occupancy requirement; non-owners prohibited from renting
 - Inspection requirements for Building, Safety and Fire Code compliance
 - Minimum separation between vacation rentals
 - Minimum insurance requirements
 - Trash/recycling collection and receptacle location requirements
 - Noise Ordinance compliance
 - Site Plan showing at least one off-street parking in addition to the required residential parking
 - Sign Ordinance compliance
 - Preparation of Nuisance Response Plans
 - Designated emergency contact within 30 miles, available 24 hours/day for complaints
 - Posting of permit and conditions in unit
 - Require that a City-issued registration number be disclosed when listing online
 - Annual limits on number of permits issued
 - Surety Bond (an alternate form of deposit the City could access to collect administrative fines not paid)
 - Violations, noticing, permit modification or revocation procedures
 - Enforcement and Citation Provisions

Many cities include these regulations in the business, revenue and taxation sections of their Municipal Codes, rather than the Zoning Ordinance. Failure to comply with home sharing regulations, or failure to pay the required TOT, is typically grounds for business license revocation and short-term home sharing rental operation closure.

Enforcement Challenges

The primary challenge with developing and enforcing an ordinance allowing short-term rentals is that they operate within private residences. In most cases, a physical inspection of the property will not inform enforcement staff about a potential violation. Enforcement efforts must then focus on monitoring and documenting activities, potentially over very long periods, to confirm an alleged violation. Without some mechanism to track the type (primary resident, or not) and number of occupants, length of stay, and general conduct throughout the stay, it will be impossible to enforce many of the standards described above. Without the cooperation of hosting platforms, it is also very difficult to prove that a financial transaction has taken place. In some enforcement cases, the property owner has told City staff that they were hosting "friends" and that money was not exchanged. Other cities have reported that short-term renters are advised to respond to enforcement staff in this manner if queried.

Another issue is that the City's current citations are negligible in relation to the revenue generated by short-term vacation rentals or a short-term home sharing rental. Increasing the

citation amount could incentivize compliance with the Municipal Code and provide a proper deterrent to unlawful short-term rentals. This issue will be addressed through the vacation rental enforcement program.

Also of concern is that strict regulations may force short-term home sharing rentals underground. In that case, operators would be less likely to comply with performance standards, and would not obtain a business license or pay required TOT taxes.

Potential Impacts to Housing Supply

The General Plan places a high priority on housing development and preservation of existing rental units. The Average Unit-Size Density (AUD) Incentive Program provides significant incentives for the development of rental housing. Allowing short-term home sharing rentals could place additional stress on the City housing market supply, resulting in increased rents and home prices. However, the General Plan also contains policies to encourage residential property owners to improve the conditions of their property. Many public speakers at the Council hearings stated that renting out portions of their home on a short-term basis provided much needed income to support their housing costs, including maintenance.

Based on the short-term rentals that have been paying TOT (without land use or other approvals), many are located in the East Beach, West Beach, and West Downtown neighborhoods. Enforcement efforts to gain compliance with existing regulations that prohibit vacation rentals will be complex and require at least two to three years to implement, with ongoing resources necessary to manage compliance. In response to these enforcement efforts, it is unclear how many vacation rentals will continue to operate in some form with or without any proposed short-term home sharing rental ordinance. Therefore, the effect that the proposed short-term home sharing rental ordinance will have on the City's housing supply cannot be quantified at this time.

IV. RECOMMENDATION

Staff recommends that the Planning Commission:

- Hold a public hearing,
- Discuss the opportunities, challenges and enforcement issues regarding short-term home sharing rentals, and
- Provide input to City Council about the feasibility and scope of a short-term home sharing rental ordinance.

In particular, staff recommends the Planning Commission discuss and provide input regarding the following:

- Hosting requirements
 - Should the “host” be present in the home during the stay?
 - If a host is required, must it be a homeowner, or is a primary resident acceptable? Could a host delegate that responsibility to another person?
- Regulatory Standards
 - Permitting mechanism (zoning approval and/or business license)?
 - Quantitative limitations (e.g., length of stay, occupancy limit, maximum number of stays per dwelling per calendar year), if any.

- Location restrictions (e.g., zoning, neighborhoods, distance between rentals), if any.
- Physical improvements required/verified (e.g., parking, trash/recycling receptacles, building and fire code compliance), if any.
- Enforcement Mechanism(s)
 - Complaint-basis only?
 - Annual review/renewal of permit or license, with grounds for denial?

V. **NEXT STEPS**

Prior to undertaking the detailed work of drafting an ordinance amendment, staff will to return to the Council with the Planning Commission input and seek further direction from Council.