



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/02/2018

ITEM NO: 8

DATE: SEPTEMBER 27, 2018
TO: MAYOR AND TOWN COUNCIL
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: DISCUSS AND PROVIDE DIRECTION REGARDING POTENTIAL REGULATIONS FOR SHORT-TERM RENTALS.

RECOMMENDATION:

Discuss and provide direction regarding potential regulations for short-term rentals (STRs).

BACKGROUND:

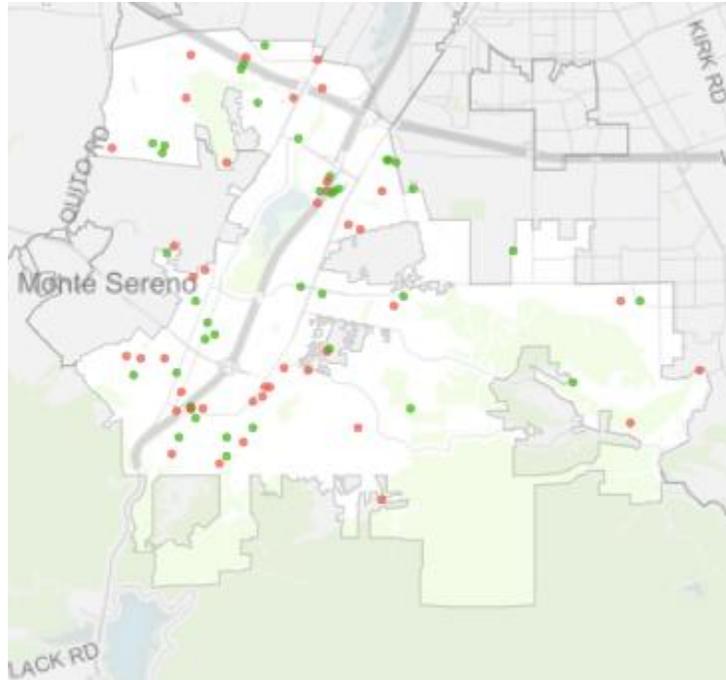
Short-term rental (STR) is the practice of renting a portion of or an entire home to a person or group of people for periods of less than 30 nights. In recent years, there has been exponential growth of STRs offered through “sharing economy” websites, such as Airbnb (by far the leader of the group), VRBO, Flipkey, and Homeaway. To illustrate the growth in STR platforms, seven million guests used Airbnb to rent out rooms or homes in California in 2017, according to Matt Middlebrook, Airbnb’s Public Policy Lead for California. The growing popularity of STRs is forcing municipalities across the country and the world to develop strategies in response.

A review of Airbnb’s website shows between 50 and 100 STR properties currently in Los Gatos. The majority (about 45 percent) are guesthouses/cottages, followed by about 30 percent room rentals and approximately 20 percent entire houses for rent. There were also a couple local hotel rooms listed and even a camper/recreational vehicle (RV). Currently, STR listings do not include the address of the rental, making them difficult to locate based on public listing information; however, based on information from one popular STR information aggregator, the picture below illustrates the units currently available in Los Gatos. Another STR information aggregator places the STR inventory at approximately 104 units in the 95030 and 95032 zip codes.

PREPARED BY: ARN ANDREWS, Assistant Town Manager
HOLLY ZAPPALA, Management Analyst

Reviewed by: Town Manager, Assistant Town Manager, Finance Director, and Town Attorney

BACKGROUND (Cont'd):



Source: Inside Airbnb (red entire homes/apartments, green private/shared room)

Given the wide adoption of STR platforms and the subsequent proliferation of STRs within Los Gatos, it is timely for the Town Council to discuss the Town's current STR approach, review policy options, and provide direction on potential STR regulations.

DISCUSSION:

Existing Town STR Approach

The current Town of Los Gatos Zoning Ordinance is silent on the subject of short-term rentals as a permitted use in any of the Town's zones, which by default prohibits them from occurring within the Town's jurisdiction. Town Code Sec. 25.30.010 defines a hotel as any structure occupied by transients for dwelling, lodging, or sleeping purpose. Town Code Sec. 29.10.020 further defines a hotel/motel as a building where lodging, with or without meals, is provided for compensation and where occupancy is generally limited to no more than thirty (30) days. A hotel is not a permitted use in the residential zones, therefore prohibiting homeowners from renting out a house for 30 days or less. A transient is defined as any person who exercises occupancy for a period of thirty (30) consecutive calendar days or less. In addition, Code Sec. 29.10.320 (b) (14) also specifically prohibits rentals for durations of less than thirty (30) days, including short-term rentals, in accessory dwelling units. The Town enforces these Code

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DISCUSSION (Cont'd):

sections and the prohibition on a complaint-driven basis. The Town received two STR complaints in 2015, one in 2016, three in 2017, and three in 2018 so far.

The current Transient Occupancy Tax (TOT) rate in Los Gatos is 12% and it applies to rentals that do not exceed 30 consecutive days. These rentals have historically been hotel stays, until the recent popularity of the sharing economy rentals. The Town currently collects this tax from hotels. The tax is paid by the hotel guest and collected and remitted by the hotel owners. No TOT is collected for STRs currently.

Alternative STR Policy Approaches

There are many STR policy approaches being adopted by regional and national peer municipalities. In Santa Clara County, jurisdictions have taken a variety of approaches to the topic of STRs. The City of Saratoga has banned them while the Cities of San Jose and Sunnyvale have regulated them. The Cities of Santa Clara and Morgan Hill have no ordinances or regulations in place but have agreements with Airbnb to collect Transient Occupancy Tax through its reservation platform. Other municipalities, including the Town of Los Gatos, do not have an ordinance regulating STRs.

Regulates STRs	STRs not allowed	No Regulations	Regulations under consideration
San Jose	Campbell	Gilroy	Mountain View
Sunnyvale	Milpitas	Santa Clara	Cupertino
Los Altos Hills	Saratoga	Morgan Hill	
San Francisco	Palo Alto		

While the policy approaches may vary in adoption, the variables addressed during policy formation are fairly consistent. In municipalities that have chosen to regulate STRs, there are a variety of best practices emerging as a way to manage them, including establishing a geographic zone specifically for STRs, requiring the STR host to be present, limiting the number of rental days per year (difficult to enforce), and limiting the number of guests at one time (difficult to enforce).

Following are the primary policy considerations if the Council would like to consider regulating and allowing STRs.

DISCUSSION (Cont'd):

- **Type:** There are two primary types of residency options in practice to consider:
 1. **Hosted Rentals:** In a hosted rental, a permanent resident must live at the home while it is being rented. Hosted STRs could present fewer compliance issues since the host would reside on the premises to oversee the rental. Having a resident host living at the house could also increase the comfort of neighbors who may otherwise be unsure about the guests.
 2. **Un-Hosted Rentals:** Un-hosted rentals are normally for the entire house/property as opposed to a room or accessory dwelling unit. Un-hosted rentals could have more neighborhood compatibility and enforcement issues, such as noise complaints. Un-hosted rentals may also have a greater impact on the affordability of the rental housing market, as owners may seek to rent multiple properties concurrently.
- **Geographic Zone(s):** STRs could be confined to certain zones within the Town. The number of STRs within those zones within the Town could also be limited. A minimum distance could also be established between properties that have been permitted for STRs.
- **Limiting the number of days allowed per year:** Many jurisdictions have regulated the number of days per year an STR can be rented. Jurisdictions further codify a distinct number of days per year for hosted units versus un-hosted units, with un-hosted rental days per year being significantly less than the number allowed for hosted rentals.
- **Maximum number of guests at one time—Hosted:** In order to control the number of people using an STR and the effects on neighbors (parking and noise), a limitation on the number of STR guests allowed in a 24-hour period can be included in the regulations. Children under a certain age can be excluded from the count. The number of guests can be calculated based on the number of rooms in the house. However, having one standard regardless of the number of bedrooms makes enforcement easier (e.g. four guests per property).
- **Maximum number of guests at one time—Un-Hosted:** If the entire home is available for use, some jurisdictions increase the maximum number of guests beyond the limit imposed upon hosted rentals.
- **Parking:** Vehicle parking for STRs could be required to remain on-site, or the number of vehicles per STR could be limited.

DISCUSSION (Cont'd):

- **Commercial Uses:** Assembly or commercial uses, such as weddings or other special events, could be prohibited at STRs. This would reduce noise, vehicles, and the overall impacts to a neighborhood.

Additional STR Policy Considerations

Potential Impact on Housing

While research regarding the potential impact of the STR market on housing availability is still in its infancy, early research indicates that it could have a negative impact in certain markets. Given the current relatively small number of STRs in Los Gatos, they likely have a minimal impact on current housing availability; however, if more homeowners begin renting their entire homes for longer durations, this could become a more prominent issue.

To discourage the conversion of units from long-term housing to STRs, municipalities have taken approaches such as: requiring STRs be only at the owner's primary residence, allowing only one unit per parcel to be used as an STR, requiring the host to be present during rental periods, and prohibiting STRs in Below Market Rate and senior units.

Neighborhood Character and Impacts

Transient tenants associated with STRs may impact parking, noise, and neighborhood character. There are a number of regulations that can be used to mitigate most of these concerns including: limiting the number of guests at one time, requiring parking to be on-site, limiting the number of vehicles, prohibiting assembly/commercial uses (such as weddings), requiring hosts to provide guests with local rules regarding noise, etc., and requiring the host to live at and be present at the property during any rentals.

Enforcement

In order to assist in effective enforcement either a continued ban on STRs or some form of a regulated model, violation penalties for both should be made clear and significant enough to encourage compliance. Some jurisdictions have created high penalties for failing to register an STR within 90 days of operation. This encourages STRs to register, making enforcement of any other violations much easier. In addition, many cities also include the ability to revoke the operator's STR-related business license or registration after two or three violations.

Staff will need to evaluate if additional Code Enforcement staff would be needed to assist in STR regulation. Given the history of very few STR-related complaints each year and the

DISCUSSION (Cont'd):

relatively low number of STRs currently in Town, additional staff may not be required right away.

Revenue Collection

Most municipalities that allow STRs require hosts to maintain a current business license and all hosts must report/remit TOT to the municipality. If the Town were to move forward with a regulatory program for STRs, a process for TOT collections from STRs would need to be established.

Airbnb has recently started entering into agreements with municipalities to collect and remit TOT on behalf of hosts/property owners. This allows municipalities to interact with one organization, rather than collecting funds from hundreds of individual property owners. Locally, San Jose, Santa Clara, Palo Alto, San Francisco, and Oakland have established agreements with Airbnb to collect and remit TOT on behalf of short-term rental hosts. Hosts using platforms other than Airbnb must self-report and remit TOT.

The other option is to refrain from contracting with Airbnb and use the honor system where owners remit taxes directly to the Town for all platforms. This approach has been less effective in other municipalities.

CONCLUSION AND NEXT STEPS:

Council should determine if the status quo approach to short-term rentals in Los Gatos should be maintained or if regulations should be drafted to allow STRs.

Among the options for Council consideration:

- Make no changes to the current Town ordinances and create enforcement tools to encourage compliance;
- Create an ordinance regulating STRs in the Town of Los Gatos and rely on owners/hosts to report and remit TOT directly to the Town;
- Create an ordinance regulating STRs in the Town of Los Gatos and enter into an agreement with Airbnb (and similar platforms) wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town; and
- Enter into an agreement with Airbnb wherein Airbnb collects the TOT on behalf of the Town and remits directly to the Town, while not changing the current Town ordinances.

Staff looks forward to the direction of the Town Council.

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COORDINATION:

This report was coordinated with the Town Attorney, Director of Community Development, and Director of Finance.

FISCAL IMPACT:

No fiscal impact at this time.