



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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**MEETING DATE:** November 12, 2019

**AGENDA TITLE:** Community Development Department Short Term Rental Enforcement Quarterly Report: July - September 2019

**LEAD DEPARTMENT:** Community Development

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### RECOMMENDATION

For information only, no action required

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### SUMMARY

This report updates the City Council and the community on the enforcement of Sausalito's short-term rental regulations and outlines the successes and challenges staff has encountered from July through September 2019. Staff has observed a steady decline in advertised rentals since the Council took its action regarding STR enforcement in January 2019. During this reporting period, Host Compliance reported that identified advertised short-term rentals had leveled off at 14, as compared to 52 at the end of June, which seems to indicate that property owners are either removing their listings or moving their short-term rentals to long-term rentals. As the enforcement effort continues staff expects that the compliance rate will continue to decline, trending toward single digits. The final quarterly report is expected in January 2020 to cover the months of October through December 2019.

### BACKGROUND

A short-term rental is defined as the rental of a dwelling unit, accessory unit, a room, or rooms of a dwelling unit for a period of less than 30 days. Airbnb, VRBO, and HomeAway are among the most popular short-term rental services. Sausalito Municipal Code, Section 10.22.030 lists the allowable land uses in all of the Residential Zoning Districts. Transient Occupancy, which is defined in chapter 10.88 as occupancy of residential structures, hotel rooms, or dwelling units on a temporary period of less than thirty (30) days, is not listed as an allowed use; therefore, short-term rentals are not allowed. Renting is allowed for long-term occupancy, which is 30 days or greater.

On November 27, 2018, the City Council unanimously approved a resolution to allocate \$137,280 to bolster enforcement of the Sausalito Municipal Code. Prior to December 2018, the City employed a code enforcement officer on a contract basis for one day per week. With the additional funds, the schedule of the code enforcement officer was

increased to three days per week, beginning on December 13, 2018. At the same meeting, the Council also authorized the City to enter into contract with Host Compliance, a leading provider of short-term rental compliance monitoring and enforcement solutions for local governments. On January 8, 2019 the Council provided the following direction with respect to short-term rentals:

- The City will continue its prohibition on short-term rentals of less than 30 days;
- City staff will prioritize code enforcement with respect to short-term rentals;
- The Council will delay for a year any consideration of a pilot program allowing short-term rentals under limited conditions;
- Mayor Joe Burns will appoint a stakeholder group that, among other responsibilities, will help the Council establish indicators to gauge the City's success in enforcing the current ban on short-term rentals;
- City staff will generate and present quarterly reports on the effectiveness of the ban on short-term rentals; and
- City staff will conduct a new community survey on short-term rentals.

## DISCUSSION

The contract with Host Compliance was signed on January 30, 2019. Since then, Host Compliance has worked to identify the physical addresses of short-term rentals listings on over 50 hosting websites in Sausalito. During that same period of time, Staff drafted template letters for Host Compliance to use in the notification process and conducting research as to which properties in the past had been identified as short-term rentals by the City in order to create different levels of notification as described below.

- **Category 1:** These properties are identified by Host Compliance as currently operating a short-term rental and had never been identified by Sausalito in the past. These properties receive a **courtesy notice** letting them know of the Sausalito regulations regarding short-term rentals and a call to action to comply with the notice within 10 days.
- **Category 2:** These properties are identified by Host Compliance as currently operating a short-term rental and have been identified as a short-term rental by Sausalito in the past via a **courtesy notice** (but not sent orders/fines/or have an agreement on file with the City to not rent short-term). These properties receive a courtesy notice letting them know of the Sausalito regulations regarding short-term rentals and a call to action to comply with the notice immediately.

- **Category 3:** These properties are identified by Host Compliance as currently operating a short-term rental and have been identified as a short-term rental by Sausalito in the past and have been sent orders/fines/or have an agreement on file with the City to not rent short-term. These properties receive a **compliance order** letting them know of the Sausalito regulations regarding short-term rentals and a call to action to comply with the notice immediately or fines would be issued.
- **Category 4:** These properties are identified by Host Compliance as currently operating a short-term rental and have received a compliance order as a part of this recent code enforcement effort and have not complied with the order. These properties receive a **citation** in the amount of \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses, per Sausalito Municipal Code section 1.10.110.B. Fines are cumulative and citations may be issued each day the violation exists.

### ***July/October Enforcement Efforts***

Since January 2019, 67 letters have been sent to properties that were identified as non-compliant, of which 57 had been determined to be compliant by the end of September. Most recently, five properties were identified by Host Compliance as renting short-term, to which Compliance Orders were sent in November; all of these properties were sent Courtesy Notices by mail in July and August 2019.

### ***Community Notification***

Staff has been updating the community on the short-term rental issue through the *Sausalito Currents*. Following Council action on January 8, 2019, a *Currents* article was released on January 11 apprising the community of the Council's action<sup>1</sup>. On January 25 and March 22 additional *Currents* articles provided the community with an update on the next steps in enforcement action and encouraging short-term rental providers to cease activity<sup>2</sup>. Both the *Currents* articles in addition to letters mailed as a part of the code enforcement activity noted that resources exist in Marin County to help homeowners share their home for 30 days or longer. Home Match, a service offered by a regional nonprofit organization, helps senior homeowners with extra rooms connect with home seekers who need an affordable place to live. Home Match screens all applicants through interviews and background checks and provides assistance with rental agreements for both parties.

### ***Hotline/Portal***

Host Compliance offers two ways to report addresses that are potentially in violation:

- A short term rental telephone hotline at (415) 942-8181
- An online form to submit a complaint<sup>3</sup>

Both reporting options are available 24 hours a day/seven days a week for neighbors to report non-emergency problems related to short-term rental properties. Once reported, Host Compliance transmits the report to the City of Sausalito Code Enforcement Officer to investigate. Reports may also be made directly to the City of Sausalito by printing, signing, and submitting a Code Complaint Form<sup>4</sup>.

Since the hotline/online portal went live, there have been 12 submissions: seven from the online complaint form and five from phone calls. All reports have been investigated.

### ***Transient Occupancy Tax***

The Courtesy Notices and Compliance Orders sent to property owners indicated that the City is collecting transient occupancy tax (TOT) for any unpermitted short-term rental activity occurring on or after January 8, 2019. Host Compliance provides a portal for the submittal of gross receipts and short-term rental operators were directed to upload their gross receipts within a given amount of time. The gross receipts will be used to access the TOT owed to the City. A *very* conservative estimate of the TOT owed from unpermitted short-term rental activity occurring on or after January 8, 2019 is about \$148,940. Based on gross receipts submitted to date, a more realistic estimate of TOT owed is about 33% more than estimated, or about \$198,000. Staff will begin the process of invoicing property owners for their TOT in the coming months.

If short-term rental operators do not upload their gross receipts the City will provide them with an estimate of their gross receipts based on the number of days the unit was available for rent at their listed nightly rate, and invoice them the TOT they owe to the City. Additionally, property owners may face penalties and interest if they fail to pay the TOT pursuant to Sausalito Municipal Code Section 3.12.100.

### **NEXT STEPS**

Staff and Host Compliance will be working in tandem to continue to issue courtesy notices for new listings, compliance orders for properties that re-list and citations for properties that do not comply with compliance orders.

Staff will also be separately invoicing property owners for TOT owed as well as following up with property owners who have not submitted their gross receipts in order to be billed for TOT owed.

The next update on the short-term rental enforcement effort will be provided in January 2020 covering June-August.

### **STAFF RECOMMENDATIONS**

For information only, no action required

### **ATTACHMENTS**

None

PREPARED BY: Steve Flint, Acting Community Development Director  
REVIEWED BY: Yulia Carter, Assistant City Manager/Administrative Services Director  
REVIEWED BY: Mary Wagner, City Attorney  
SUBMITTED BY: Adam W. Politzer, City Manager

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- <sup>1</sup> <https://us10.campaign-archive.com/?u=ef48996d6f825fac32ec81b4b&id=41c6f983ad#str>
- <sup>2</sup> <https://us10.campaign-archive.com/?u=ef48996d6f825fac32ec81b4b&id=b75ec868c6#str> and <https://us10.campaign-archive.com/?u=ef48996d6f825fac32ec81b4b&id=d5582597ee#str>
- <sup>3</sup> <https://safe.hostcompliance.com/tips>
- <sup>4</sup> <https://www.sausalito.gov/home/showdocument?id=10003>