

Agenda Report

October 2, 2017

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: ZONING CODE AMENDMENT TO ADD REGULATIONS FOR SHORT-TERM RENTALS

RECOMMENDATION:

It is recommended that the City Council:

1. Acknowledge that the proposed Zoning Code Amendment is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378; and is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) (general rule) and 15301 "Existing Facilities" (Class 1);
2. Adopt the Findings of Consistency with the General Plan in Attachment A;
3. Approve the proposed Zoning Code Amendment as contained in this report; and
4. Direct the City Attorney to prepare an ordinance within 60 days amending Title 17 of the Pasadena Municipal Code (Zoning Code) as presented in this report.

EXECUTIVE SUMMARY:

The recent increase in the number of short-term rental units ("STR") in Pasadena and their potential effects on residential neighborhoods and the City's housing supply has led to discussion on whether or not the use should be regulated. Short-term rentals consist of (1) home-sharing, where a unit is "shared," in whole or part, and (2) vacation rentals, where the unit is used *exclusively* for guests as a way of generating income. With policy guidance from the Economic Development and Technology Committee (Ed Tech), Planning staff began the task of preparing regulations for STRs in September 2016.

Additionally, at its meeting of April 12, 2017, and again on June 14, 2017, the Planning Commission considered new and revised regulations for short-term rentals in the City of Pasadena and approved draft regulations for City Council consideration.

The proposed regulations establish a process for allowing certain types of short-term rental activity while responding to potential negative impacts to residential neighborhoods. Specifically, the proposed regulations would:

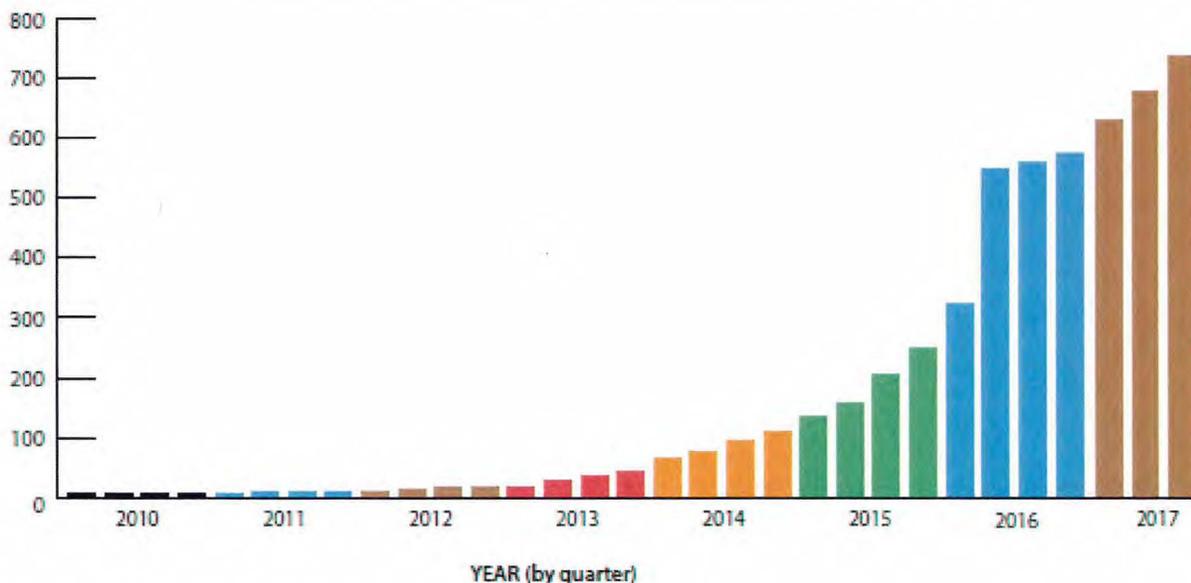
- Establish a regulatory framework to allow home-sharing in one's own primary residence (defined as the home where one resides at least 9 months of the year)
- Establish various tools and administrative fines to enforce unpermitted STRs
- Prohibit any person from advertising home-sharing that is not registered with the City
- Require hosts to register with the City and remit Transient Occupancy Tax (TOT)

BACKGROUND:

While some level of home-sharing and vacation rental has likely always occurred in tourist-friendly cities, short-term rentals have increased in accessibility and popularity with the arrival of websites such as Vacation Rentals by Owner (VRBO), HomeAway, and Airbnb. More recently, mainstream tourist websites like Expedia have also begun advertising short-term rentals, increasing the reach of STR listings beyond a once niche audience. As a result, the global number of homes listed for short-term rental has grown to about 4 million, representing a 13-fold increase over just the last five years.

Pasadena has experienced similar growth in the short-term rental market. As of September 2, 2017, approximately 736 properties in the City were being actively advertised across various hosting platforms (see figure below). Comparing Short-Term Rental Market Overview reports (by Host Compliance) for March and September 2017, there was a 15% increase in short-term rentals in Pasadena.

Number of STR listings in Pasadena 2010 – 2017 (Q3)



Of the properties listed:

- Approximately two-thirds were entire dwelling units; the remaining one-third were rooms inside of homes

- Available dwelling units are located throughout the City; they are not concentrated in one specific location in Pasadena
- The size of units listed for short-term rental is generally split between one, two, and three or more bedroom units

Attachment B – City of Pasadena: Short-Term Rental Market Overview – illustrates the trends in the Pasadena short-term rental market described above.

As short-term rentals have experienced their rapid growth over the past few years, Pasadena, like most other cities, has had to react to the demand for the activity. Currently, the Zoning Code does not specifically reference short-term rentals and only defines the traditional transient occupancy uses – hotels, motels, and bed & breakfast establishments – none of which are relevant to use for short-term rentals. A bed & breakfast, for example, is only permitted in a structure designated as a landmark and is considered a commercial use subject to a Minor Conditional Use Permit and ADA requirements (Americans with Disabilities Act).

Staff researched how other cities were approaching the growth of short-term rentals and the emergence of the new “sharing economy.” In September 2016, the Economic Development and Technology Committee requested that staff initiate public outreach and begin the process of formulating regulations for STRs.

DISCUSSION:

After holding three community meetings where input was received and a possible regulatory framework for STRs was introduced, staff presented draft regulations to the Planning Commission on April 12, 2017 and June 14, 2017, and following comment and discussion, the Planning Commission approved the draft regulations. At its meeting of June 20, 2017, the Economic Development and Technology Committee considered the draft regulations and made the following comments and requests, which are addressed throughout this report:

- 1) Create a pilot program to allow vacation rentals with a citywide cap on the maximum number allowed, and assess the program after a period of time.
- 2) For properties with multiple units held by the same owner who resides on the property, including duplexes, triplexes, fourplexes, etc., allow the owner to short-term rent his/her primary residence plus any other unit on the property.
- 3) Review whether the threshold on TOT collection can be changed to include stays longer than 30 days.
- 4) Consider implementing a provision that would allow the City to automatically revoke an STR permit under egregious circumstances.

Proposed Short-Term Rental Regulations

In general, the proposed regulations would allow home-sharing as a legal accessory use to a primary residence. A host interested in home-sharing would need to obtain a short-term rental permit. Administrative guidelines would be established prior to the effective date of the ordinance that would define the application process, as well as the documents required to prove primary residency at the address where home-sharing would occur.

A framework for the short-term rental regulations is outlined below.

Definitions

“Short-term rental” (“STR”) is an overarching term that generally means the renting out of a furnished dwelling on a temporary basis (30 consecutive days or less) to guests as an alternative to a hotel or other traditional temporary accommodations. Short-term rentals typically come in two varieties, which are defined by the draft regulations as such:

- 1) **Home-Sharing** – The accessory use of a primary residence for the purposes of providing temporary lodging, for compensation, for periods of 30 consecutive days or less. (*Can be hosted or un-hosted as further defined below.*)
- 2) **Vacation Rental** – A dwelling unit that is not a primary residence and which is available for temporary lodging, for compensation.

Types of Short-Term Rentals

As described below, the proposed regulations would allow both hosted and un-hosted home-sharing.

- 1) **Hosted Stay** – A home-sharing activity whereby the host remains on-site throughout the guest’s stay (except during daytime and/or work hours). Required criteria for hosted stays include:
 - Dwelling must be the primary residence of the host
 - Permitted in single-family residences, condominiums, and townhomes, and multi-family rental units except covenant restricted (affordable) and Section 8 units
 - Allowed in accessory dwelling units legally permitted and constructed before January 1, 2017, which are considered subordinate to the main structure or primary residence on-site
 - Allowed in legally permitted accessory structures constructed before January 1, 2017, which are considered subordinate to the main structure or primary residence on-site (no new accessory structures would be permitted to be built for STR purposes)

- 2) **Un-Hosted Stay** – A home-sharing activity whereby the host remains off-site during the guest's stay. Required criteria for un-hosted stays include:
- Dwelling must be the primary residence of the host
 - Permitted in single-family residences, condominiums, and townhomes, and multi-family rental units except covenant restricted (affordable) and Section 8 units
 - Allowed in accessory dwelling units legally permitted and constructed before January 1, 2017, which are considered subordinate to the main structure or primary residence on-site
 - Allowed in legally permitted accessory structures constructed before January 1, 2017, which are considered subordinate to the main structure or primary residence on-site (no new accessory structures would be permitted to be built for STR purposes)
 - Limit bookings to a maximum of 90 days/year
 - Must retain a local contact person or property management company that is available 24 hours/day

Important to note is that under the proposed regulations, tenants, renters, or lessees of residential units would need the landlord's permission to sublease their units as short-term rentals. Such arrangements are made between lessee and lessor.

Short-Term Rental Regulations

Key provisions of the short-term rental regulations include:

- Occupancy limit based on size of home: 2 guests per bedroom plus 2 additional guests
- Cannot be used for any commercial parties or events (*Note: This would not prevent a guest from using the short-term rental to entertain during their stay, but is only intended to prevent an STR from becoming a "party house".*)
- Parking for all guests to be provided on-site
- No signs can be posted on the exterior of the home advertising the short-term rental use
- Must adhere to all City Ordinances, including but not limited to the City's Noise Ordinance (P.M.C. 9.36) and Litter Ordinance (P.M.C. 8.64)

Short-Term Rental Permit Requirements

Key requirements for approval of a short-term rental permit would include:

- A short-term rental permit must be obtained and renewed annually
- A City business license would be required
- Self-certification that the immediately abutting neighbors to the property will be notified of the short-term rental activity
- A person may have only one short-term rental unit in the City (i.e. their primary residence).
- A person must reside at the residence for 9 months out of the year.
- Required to remit Transient Occupancy Tax (TOT) to the City
- A local responsible contact person or property management company must be available 24 hours/day
- Self-certification or third-party inspection for fire and life safety items (e.g., smoke and carbon monoxide detectors installed) will be required prior to issuance of the short-term rental permit to confirm that the space is safe.
 - The host must demonstrate that accessory structures are legal and habitable based on permit history. An inspection may be required.
- The City's short-term rental permit number must be included in any listing or advertising of the property as a short-term rental

Host Requirements

Key requirements for short-term rental hosts include:

- Must keep records necessary to determine the amount of TOT liable for payment to the City

Enforcement

The intent of the regulations is to create a streamlined application and registration process to encourage compliance and assist with enforcement. As proposed, key enforcement provisions include:

- Code Compliance will respond to complaints related to short-term rentals
- Three (3) violations against the same property being used for short-term rental will result in the revocation of the short-term rental permit (*Note: This is the same due process that applies for the handling of all other code violations.*)
- Listing without a permit will be considered a violation

- As with other uses, after-hours complaints related to noise, etc. will be handled by the Police Department. Code Compliance will use documented incidents as infractions.

Key Areas of Discussion

Vacation Rentals

From the outset of preparing regulations for STRs, vacation rentals have been differentiated from home-sharing. Home-sharing implicitly provides a greater degree of oversight by the owner as the dwelling unit is the primary residence of the owner. Furthermore, there is a concern about the impacts of short-term rentals on the City's long-term rental housing stock, which may be exacerbated by market interest in purchasing homes in the City as income generating properties to be used exclusively as short-term rentals. This, along with the general philosophy that participating in the sharing economy should primarily mean sharing the home you actually reside in, led to the development of short-term rental regulations that only allowed home-sharing and prohibited vacation rentals.

However, at the Ed Tech meeting of June 20, 2017, the Economic Development and Technology Committee recommended creating a pilot program in conjunction with the short-term rental regulations that would allow vacation rentals as STRs for a trial period. If the City Council wishes to create a pilot program for vacation rentals then staff recommends that it be structured as follows:

- **Vacation Rental** – A dwelling unit that is not a primary residence and which is available for temporary lodging, for compensation.
- Pilot program be reviewed by the City within one year of the adoption of the short-term rental regulations
- Vacation rentals be permitted to a maximum of 0.1% of the total housing stock in the City
- Permitted in single-family residences, condominiums, and townhomes
- Allowed in accessory dwelling units legally permitted and constructed before January 1, 2017, which are considered subordinate to the main structure or primary residence on-site
- Allowed in legally permitted accessory structures constructed before January 1, 2017, which are considered subordinate to the main structure or primary residence on-site (no new accessory structures would be permitted to be built for STR purposes)
- Must retain a local contact person or property management company that is available 24 hours/day

- Vacation rentals would represent a property in addition to a primary residence and it must be understood that the vacation rental might only be permitted for the trial period.

Properties with Two or More Units

The initial discussion on short-term rentals and home-sharing centered on the use of one's primary residence for the home-sharing activity; however, during the discussion at the June 20th Ed Tech meeting, the matter of duplexes, triplexes, etc. owned by a single individual came up with the question being, should a host be allowed to short-term rent more than just their primary residence if they own and reside on a property developed as a duplex, triplex, etc.? There was some interest from the committee that under such circumstances a host should be permitted to short-term rent their primary residence plus additional units. The Planning Commission concluded that "home-sharing" as a way of short-term renting should explicitly mean sharing one's primary residence, which may include an accessory structure subordinate to the primary residence, but does not include another dwelling unit in a duplex, triplex, etc. Should the City Council elect to allow the short-term rental of additional units, staff recommends that the threshold not exceed the primary residence plus one additional unit in order to protect the City's long-term rental housing stock. Staff also recommends that such short-term rentals be considered "hosted" stays.

Many communities that are experiencing a rise in short-term rental activity are seeing a corresponding erosion of long-term rental housing units. As Goal HE-2 of the Housing Element seeks to maintain "an adequate supply and diversity of quality rental and ownership housing opportunities suited to residents of varying lifestyle needs and income levels," the City should strive to allow STRs in balance with other housing needs.

Taxation

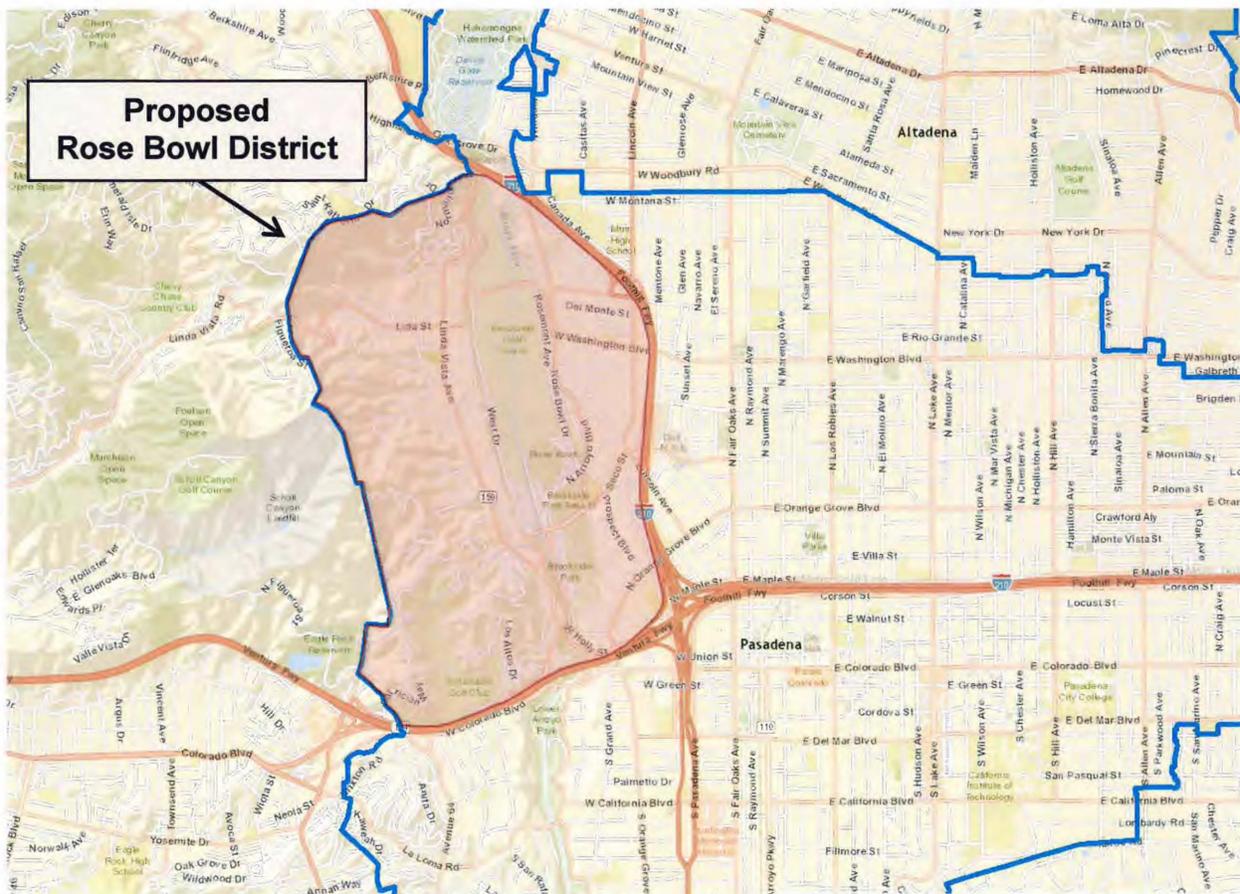
Transient Occupancy Tax (TOT) is a tax paid by visitors staying at hotels, motels, bed & breakfast inns, etc. The tax is applied to transient stays of 30 consecutive calendar days or less. The tax is a general revenue, however, under an agreement the majority is transferred to the Pasadena Center Operations Company. Short Term Rental stays of 30 days or less would be subject to TOT.

Curbing Overconcentration

Preserving the residential character of single-family neighborhoods remains a priority. While analysis shows that there is not an overconcentration of STRs in any one single-family neighborhood, certain areas or districts within the City are anticipated to experience greater short-term rental demand pressure. In particular, the area around the Rose Bowl is anticipated to draw a great deal of short-term rental activity due to the sporting events, concerts and music festivals, etc. that routinely occur at the Rose Bowl. Therefore, setting a cap on the number of short-term rental units within a defined area

around the Rose Bowl is proposed as a method of curbing overconcentration. This could be done as a fixed number or as a percentage of the total number of housing units within the area.

Based on the number of short-term rentals occurring today and the potential for growth given the number of future events at the Rose Bowl, a 5% cap on short-term rentals in the Rose Bowl boundary is included as part of the proposed regulations. Of the 2,526 dwelling units in the proposed Rose Bowl District a 5% cap would allow 126 STRs in the area. In defining the boundaries for the Rose Bowl District, staff utilized the existing City border and existing physical dividers (210 Freeway & 134 Freeway) as shown in the figure below. After the Ed Tech meeting of June 20th, staff reevaluated the metrics for the proposed Rose Bowl District based on updated short-term rental data in Pasadena and found that the 5% cap is still relevant.



Total Number of Bookings for Un-Hosted Stays

As with the other short-term rental provisions, the intent of setting limits on un-hosted stays is about finding the right balance between the benefits and impacts of STRs. There is no limitation proposed for hosted stays where the host remains on-site during the guest's visit, but to avoid nuisance issues and long-term impacts on the housing stock, a limit on un-hosted stays was recommended. The Planning Commission concluded that a 90 day/year limit on un-hosted stays should be included in the regulations, which dovetails with the requirement that for a house to be considered a primary residence the host must reside there for 9 months out of the year. However, the Planning Commission also expressed a desire to review this requirement in one year to analyze if the proposed limit is the best number for Pasadena.

ENVIRONMENTAL REVIEW:

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed Zoning Code Amendment involves general policy and procedure making that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Furthermore, the proposed action is exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. No new development is proposed and the regulations for short-term rentals would only allow the accessory use of existing dwellings for the purposes of providing temporary lodging, which would not result in a significant impact on the environment. The proposed Zoning Code Amendment is also exempt from CEQA pursuant to State CEQA Guidelines Section 15301 "Existing Facilities" (Class 1). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed project consists of a Zoning Code Amendment to restrict and govern the short-term rentals of existing residential properties in the City.

CONCLUSION:

With the emergence of hosting platforms such as Airbnb and the rise of the new sharing economy, the once niche market of short-term rentals has now exponentially increased in Pasadena and the Greater Los Angeles Area. Short-term rentals can benefit those who operate them, their visitors, and also the cities that allow them by way of taxes and economic spinoffs. However, left unregulated, the short-term rental market could have negative impacts on the neighborhoods where STRs are located and restrict the City's limited housing supply for long-term tenants. The proposed regulations have been carefully prepared with the intention of achieving the fine balance between allowing the

new home-sharing phenomenon and maintaining the character of Pasadena's residential neighborhoods and ensuring its long-term housing supply.

FISCAL IMPACT:

There is not a direct fiscal impact associated with the adoption of the proposed Zoning Code Amendment. It is unclear at this time what the actual fiscal impact of permitting Short-Term Rentals will be. While the City is expected to receive TOT revenue, there will also be costs to manage and enforce the proposed regulations.

Respectfully submitted,



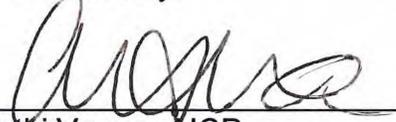
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Attachments: (2)

Attachment A - Findings of Consistency

Attachment B - City of Pasadena: Short-Term Rental Market Overview (report by Host Compliance)