Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard website at www.oxnard.org.

CITY OF OXNARD CALIFORNIA

AGENDA
OXNARD CITY COUNCIL
Special Meeting: March 25, 2019 – 6:00 PM
Oxnard Performing Arts & Convention Center
800 Hobson Way, Oxnard (Oxnard Room)

A. ROLL CALL / POSTING OF AGENDA

B. OPENING CEREMONIES

Pledge of allegiance to the flag of the United States.

C. PUBLIC COMMENTS

At a special meeting, a person may address the legislative body only on matters appearing on the agenda. The presiding officer shall limit public comments to three minutes. Unless otherwise approved by the City Council, persons wishing to speak on items on the agenda should do so during public comments.

D. STUDY SESSION

Community Development Department

1. SUBJECT: Short-Term Vacation Rental (STR) Report and Recommended Best Practice Regulations. (20/25/60)

   RECOMMENDATION: Receive a Short Term Rentals (STRs) report including: regulatory framework establishing restrictions on STRs and recommended best practices; provide guidance on these recommended provisions; and direct staff to prepare a Short Term Rentals Ordinance for consideration and recommendation by the Planning Commission.

   The City Council Housing and Economic Development Committee considered policy questions pertaining to STRs at its February 26, 2019 meeting and provided the following comments: (1) consider allowing STRs only in designated geographic areas; (2) consider the California Coastal Commission's position on STRs; and (3) staff should prepare recommendations based on best practices for the City Council to consider.

   Legislative Body: CC Contact: Jeffrey Lambert Phone: (805) 385-7882

E. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Staff Presentation / Council Discussion / Public Comment)

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CITY OF OXNARD CALIFORNIA	CITY COUNCIL AGENDA REPORT	TYPE OF ITEM: Report AGENDA ITEM NO.: 1

DATE: March 25, 2019

TO: City Council

FROM: Jeffrey Lambert
Community Development Director

SUBJECT: Short-Term Vacation Rental (STR) Report and Recommended Best Practice Regulations (20/25/60).

CONTACT: Jeffrey Lambert, Community Development Director
Jeffrey.Lambert@oxnard.org, (805) 385-7882

RECOMMENDATION:

Receive a Short Term Rentals (STRs) report including: regulatory framework establishing restrictions on STRs and recommended best practices; provide guidance on these recommended provisions; and direct staff to prepare a Short Term Rentals Ordinance for consideration and recommendation by the Planning Commission.

The City Council Housing and Economic Development Committee considered policy questions pertaining to STRs at its February 26, 2019 meeting and provided the following comments: (1) consider allowing STRs only in designated geographic areas; (2) consider the California Coastal Commission's position on STRs; and (3) staff should prepare recommendations based on best practices for the City Council to consider.

BACKGROUND

Summary:

The City has been discussing the potential to permit and regulate "Short Term Rentals" (STRs) for more than three years. With most of these rentals occurring in our coastal zone, how we can regulate is limited by what the California Coastal Commission (CCC) will allow. Given the stated position by the California Coastal Commission, the City cannot prohibit STRs within the

coastal zone. However, the City may adopt regulations to manage STRs and reduce their impact on surrounding properties and neighborhoods. This is further discussed in the section titled, "California Coastal Commission (CCC) Requirements, Legal Case Law and 1989 Oxnard Shores Settlement Agreement" within this report.

Over the past few years, Staff has been discussing this topic with the community with multiple rounds of community engagement, meetings, and data solicitation. Based on community input, research of best practices, review of CCC regulations, and recommendations and review of the legal landscape regarding this topic in California, staff has prepared a recommended framework for the future preparation of STR regulations in the City. These recommendations are contained in Attachment A. In summary, these regulations seek to allow STRs but ensure their impacts to surrounding neighbors are limited in several ways: limit their occupancy, activities, parking and operations; require permits and annual renewals with fees based on the cost of managing STR regulations and the expected enforcement needs; and incorporate penalties to ensure good neighbor operations.

The proposed framework (Attachment A) is similar to many of the ordinances that other jurisdictions have passed, including the County of Ventura. The recommended framework goes beyond the County ordinance by restricting the number of days per calendar year that a property may be used as an STR and includes a minimum number of nights that the property may be rented per rental agreement. These restrictions have been included in ordinances implemented in other jurisdictions and have received the approval of the California Coastal Commission.

Overview:

California Coastal Commission (CCC) Requirements, Legal Case Law and 1989 Oxnard Shores Settlement Agreement:

The CCC has provided guidance on the STR matter. In a letter dated December 6, 2016, the CCC recognized vacation rentals as an important source of visitor accommodations while understanding legitimate community concerns associated with the use. The letter explains that the CCC has not historically supported blanket vacation rental bans and has found such programs in the past to be inconsistent with the Coastal Act (see Attachment B).

The letter also highlights certain regulations that have been historically supported by the Commission and provide guidance and direction on developing vacation rental regulations in the coastal zone. A number of cities within the Coastal Zone are currently considering new regulations or outright bans on STRs. However, the CCC has taken the position that - given that STRs have occurred in the Coastal Zone for a number of years - cities cannot ban STRs without an amendment to the Local Coastal Plan (LCP) which addresses state policy concerning coastal access. Given the CCC's position to date, it is highly unlikely that the CCC would authorize an outright ban on STRs within the Coastal Zone. CCC staff have, however, expressed willingness for cities to adopt so-called "good neighbor" regulations on STRs.

In letters written to the City of Laguna Beach and the City of Hermosa Beach, the CCC interpreted STRs as "a form of residential use, permitted by right, in any residentially zoned area unless such uses are specifically prohibited or otherwise restricted." In CCC review of prohibitions in the cities of Pismo Beach, Encinitas and Imperial Beach, the CCC cited STRs as a "high priority visitor-serving use" and an "affordable option of overnight accommodations…"

Currently, the CCC and the City of Del Mar are in litigation over amendments to Del Mar's Local Coastal Plan (LCP) policies which severely limit STRs in residential zones. Del Mar proposed a 7-day minimum and 90 days maximum of rental per year. Instead, the CCC recommended that the policies in the LCP be modified to allow short-term rentals with a 3-day minimum and 180 days maximum per year. The CCC points out that Del Mar has only 355 hotel rooms and limiting STRs "could have a significant adverse impact on promoting public access [to the beach] and visitor-serving opportunities." This case is still pending at the trial court (Superior Court) level, with no decision at this time.

In other lawsuits involving challenges to coastal cities' ban or strict regulation of STRs in which the CCC was *not* a party to the litigation, there has been a split in decisions on the legality of banning or severely restricting STRs within the Coastal Zone. Last month, a trial court ruled that Santa Barbara's ban on STRs in residential zones was improper. (The Santa Barbara City Attorney indicated that the decision will be appealed.) However, when Hermosa Beach's ban on STRs in residential zones was challenged, the City prevailed in the litigation at both the trial court level and the appellate level. However, because the appellate decision was unpublished, it cannot be used as precedent in any other litigation involving STRs.

There are two recent published appellate decisions regarding STRs in California -- one at the federal level and one at the state level. Most recently, on March 13, 2019, the federal Ninth Circuit Court of Appeal upheld the dismissal of litigation brought by HomeAway.com and Airbnb against the City of Santa Monica's STR regulations (*HomeAway.com v. City of Santa Monica*). Santa Monica allows "home-sharing" (rentals where residents remain on-site with guests) but prohibits all other forms of short-term rentals of 30 consecutive days or less. The Ninth Circuit rejected claims by HomeAway.com and Airbnb that these regulations violated the federal Communications Decency Act of 1996 - legislation that provides internet companies with immunity from certain claims in order to promote the continued development of the Internet and other interactive computer services. The Ninth Circuit also rejected the claims that the STR regulations violated the First Amendment, finding that the STR ordinance regulated conduct (the banning of booking of rentals from unlicensed properties), not speech. Because the Ninth Circuit upheld the dismissal of the underlying lawsuit, the court specifically refused to consider claims brought by HomeAway.com and Airbnb alleging violation of the California Coastal Act. The California Coastal Commission was not a party to this litigation.

At the state level, in *Greenfield v. Mandalay Shores Community Association* (2018) 21 Cal. App. 5th 896, the appeals court considered a ban on STRs by the Mandalay Shores Community Association in Oxnard. The owner of a home within Mandalay Shores sued the Association over a resolution adopted by the Association board that banned STRs. The City of Oxnard and the

CCC were not parties to the litigation. The appeals court ruled that the Association did not have the right to ban STRs within its community. The appeals court held "that it is not in the business of tailoring STR rules. That should be left for the City, which is in the process of considering amending its coastal zoning section to specifically deal with [STRs] and the Coastal Commission, which reviews any proposed amendment to the local coastal plan."

Some residents of the Oxnard Shores neighborhood have indicated that STRs should not be required within their neighborhood based upon a 1989 settlement agreement that provided for greater public recreational access within the Coastal Zone. The parties to the 1989 agreement included the California Coastal Commission, the State of California, the City of Oxnard, the Oxnard Shores Development Company, the Oxnard Shores Company, and the Oxnard Shores Oceanfront Lot Owners Association.

As background, the 1989 agreement resolved ten lawsuits, the first of which had been filed in 1981. Pursuant to Section 5 of the 1989 agreement, the disputes between the parties involved:

1. The location of the boundary between state-owned tidelands and submerged land and the privately held uplands;
2. Whether all or part of the Beach Property (the privately own beachfront lots) had been impliedly dedicated to the public;
3. Whether dwelling units could be constructed on the Beach Property to survive ocean storms;
4. The stability of the shoreline; and
5. The right of lot owners to construct residences on the Beach Property.

Under the terms of the 1989 agreement:

1. The 97 undeveloped beachfront lots were resubdivided to 73 lots and were only allowed to develop at single family density;
2. The size of the lots was reduced by 20%;
3. Two large public beaches were dedicated to the public;
4. Nine public access ways were provided for public access to the public beaches; and
5. The Oxnard Shores Development Company and the Oxnard Shores Company received the right to develop 70 multiple dwelling units on property located on Wooley Rood.

While the 1989 agreement provided for greater public recreational access within the Coastal Zone, this agreement was the vehicle in which to resolve the pending litigation between the parties and to allow the eventual development of 73 beachfront lots. The 1989 agreement did not restrict future statutory interpretations by the CCC on any matter, including what constitutes a "development" under the Coastal Act. (The December 6, 2016 CCC letter on STRs indicates that regulation of STRs represents a change of use and access to the shoreline, and thus constitutes a "development" under the Coastal Act.) As such, the 1989 agreement cannot be the legal basis for exempting the Oxnard Shores neighborhood from STRs.

Oxnard City staff is currently in the process of comprehensively updating the LCP. Pursuant to

CCC directive, the issue of STRs and amendments to the City's LCP will need to be addressed in the creation of future policies for inclusion in the City's LCP. The coastal zoning ordinance (Local Coastal Implementing Plan - LIP) will also need to be amended in the future should the City wish to implement LCP STR policies and develop regulations to address STRs.

Oxnard Public Outreach:

Since March 2016, the City has been actively engaging the public, the Planning Commission, and most recently the Housing and Economic Development Committee in order to devise a framework for an STR Ordinance. This engagement began with a survey of Oxnard residents, a community workshop (Aug. 2016), a Planning Commission Study Session (Nov. 2016), and a public hearing before the Planning Commission (June 2017). These activities are summarized in the Staff Report for the June 1, 2017 hearing (see Attachment C). Additionally, staff researched other jurisdictions ordinances in an effort to develop some best practice regulations. The results of this research are included in Attachment D.

February 26, 2019 Housing and Economic Development Committee Meeting:

The Committee, having heard the staff's presentation and public comments did not feel as though they were able to provide answers to the policy questions posed. Instead the Committee made the following suggestions:

1. Look at designating districts within the City where STRs will be allowed.

2. Propose recommendations that are acceptable to the Coastal Commission.

3. Staff should make recommendations based on best practices and our collective experience of STRs.

To address the suggestion of looking at districts to allow STRs, staff reviewed the municipal code for the City of Avalon on Catalina Island. Per §9-6.602(a) of Avalon's municipal code, "The renting or leasing of a room or rooms with or without table board in a dwelling for periods of fewer than thirty consecutive days duration" "shall be permitted with a conditional use permit in any zone." Staff does not believe that the permitting of a short-term rental rises to the level which would require discretionary review. Much like a zone clearance or home occupation permit, so long as the applicant is compliant with the regulations adopted by Council the decision would be ministerially approved. To require a special use permit would become overly burdensome for the applicant and the City.

Similarly, the City of Carpinteria created a Vacation Rental Zone. This zone is confined to a 40 acre area along the coast. There are four zones and a limited number of permits within each of the four zones. For comparison only, the total number of permits allowed within these forty acres is 218 or 5.4 per acre. In the Oxnard Shores neighborhood this density of STRs would be equivalent to 50% of the properties. Although these regulations have been implemented in other

jurisdictions, staff is not recommending such geographic area limits as they would create an unreasonable concentration of short term rentals and their impacts.

STRATEGIC PRIORITIES

This agenda item supports the Economic Development Strategy. The purpose of the Economic Development Strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character. This item supports the following goals and objectives:

Goal 1. Create vibrant and economically sustainable commercial, industrial and retail industries throughout the City.

Objective 1a. Focus available resources on a comprehensive effort to promote economic activity in Oxnard, including a marketing program that communicates the City's available resources and assets.

This agenda item supports the Quality of Life Strategy. The purpose is to build relationships and create opportunities within the community for safe and vibrant neighborhoods which will showcase the promising future of Oxnard.

Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.

FINANCIAL IMPACT

The financial impact of the regulation of STRs is a complicated matter. Regulations that require permits, business licenses, and the payment of Transient Occupancy Tax (TOT) would provide funding to enforce the STR regulations, provide additional revenue to the City, and aid in promoting the City's tourism trade. Regulations that are overly restrictive could reduce options for potential tourists as visitors may choose to vacation in another Southern California coastal city that provides more options. Currently, without regulations of the STR industry, most STRs operating in Oxnard are doing so without a business license, without paying TOT, and without a permit. The hosting platforms are also doing business in Oxnard without business licenses or paying taxes to the City on the revenue they generate from properties located in Oxnard.

Residents are reporting more concerns created by STRs which results in more services calls by the police department and code enforcement. The cost of these additional service calls would need to be evaluated. There are also studies that indicate that regulations of STR have an impact on property values (and thus property taxes), however, the studies often have conflicting conclusions.

Prepared by Paul McClaren, Associate Planner and Kathleen Mallory, Planning & Environmental Services Manager.

ATTACHMENTS:

Attachment A - Best practice regulations

Attachment B - CCC Guidance_120616

Attachment C - Summary Report on STR

Attachment D - STR Ordinance Development

Recommended Best Practice Regulations

Definitions

Daytime hours - 7 a.m. to 10 p.m.

Guest - A person invited by the tenant to visit the STR.

Homestays - The owner, or a long-term tenant acting as a responsible caretaker hired by the owner who occupies and is present during the period that a STR is leased.

Long-term tenant - A tenant who has entered into a lease for a period of one year or more.

Property Owner - The person, group of people, trust or company shown on Ventura County Tax Assessor's records as having fee title interest in the property. Each individual, beneficiary, partner or officer is considered an owner of the property.

Quiet hours - 10 p.m. to 7 a.m. Monday through Sunday.

Responsible Caretaker - An owner, or individual(s) or management company hired by the property owner, who is responsible for the care and upkeep of the property.

Tenant - The person or people listed on the rental agreement for the STR.

Where STRs are allowed with a permit

a. Existing residential units throughout the City

b. Non-coastal zone - R-1, R-2, R-3, R-4, MH-PD, CBD

c. Coastal Zone - R-B-1, R-W-1, R-W-2, R-2-C, R-3-C, R-BF, MHP-C, CVC

Administration

1. Homestays are authorized as a form of Short-Term Rental.

2. The property owner of an STR must have a valid permit for the STR and a business license issued by the City of Oxnard.

3. Where a property has received an entitlement permitting an accessory dwelling unit, the primary or the accessory dwelling unit, but not both, may be used as an STR. The other unit must be occupied by the property owner.

4. Prior to the issuance of a permit, the property owner must agree to the City's nuisance response plan.

5. The owner is responsible for notifying, by registered mail, all property owners and tenants within 300 feet of the STR property when an application is filed to establish a new STR, when an STR is renewed, and when the contact information for the responsible caretaker changes.

6. When the owner of the property chooses to restore the property to an owner-occupied residence or a long-term rental, the owner shall notify the City so that it can be removed from the rolls of short-term rentals.

Permits and Fees

1. A permit fee and annual renewal fee will be charged. This fee will be set and updated by the City Council and will cover administrative and enforcement costs.

2. The City's Transit Occupancy Tax (TOT) will be collected for each night the property is leased and said tax remitted to the City on a quarterly basis.

3. Permits are only issued to the property owner. A property owner may only have one permit. Where the property owner is a Trust, LLC, LP or an incorporated entity each beneficiary, partner or officer is restricted to one permit.

4. No person shall offer to rent or advertise for rent a short-term rental without including in the offer or advertisement the city permit number.

5. The owner shall ensure that the property complies with all applicable codes regarding fire, building and safety and all other relevant laws and ordinances. Prior to permit issuance, the property will be inspected for compliance. The cost of said inspection will be collected at the time the permit application is filed.

6. The property owner must have a sign affixed to the exterior of the building in a location that makes it visible from the street and shall include the permit number for the STR and the Responsible Caretaker/s number/s.

7. The STR rules and operating instructions must be prominently available inside the STR at all times that the STR is occupied by a short term tenant. This posting will include maximum day and nighttime occupancy, parking restrictions, quiet hours, and the trash pick up schedule.

Performance Standards

1. Minimum rental duration of 3 nights.

2. A property, or room within a property, shall be rented no more than 180 nights per calendar year for periods of 30 nights or less. For the balance of the calendar year, the property or rooms may be rented for periods greater than 30 days.

3. Overnight occupancy is limited to a total of 2 people per bedroom, plus 2 additional people with a maximum of 12 tenants over the age of 5. All tenants shall be listed on the lease agreement and their ages noted. Daytime hours occupancy is limited to the tenants and up to 12 guests over the age of 5.

4. The property may not be used as a venue for events. No weddings, parties, or other activities may occur that exceed the maximum number of daytime guests. At all times the tenants and guests must be compliant with the City's sound regulations (Oxnard City Code Section 7-180 et seq.).

5. The owner shall require the primary overnight and daytime occupant of the short-term rental to be an adult twenty-one (21) years of age or older. This adult shall provide a telephone number to the owner or responsible caretaker and shall be accessible by telephone at all times.

6. Parking is restricted to the number of vehicles that can be accommodated on-site on legally created parking spaces. No off-site parking allowed.

7. Trash receptacles are to be stored out of sight from public view except on pickup days. All trash shall be contained in the receptacles in a manner which protects them from the elements.

Enforcement

1. Enforcement of these regulations will be contracted by the City with a third party compliance company.

2. A permit issued pursuant to these regulations may be suspended, modified or revoked for violations of these regulations or for violations of any other laws that occur on the premises of the short-term rental.

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:
https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals

.pdf). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise

and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,

STEVE KINSEY, Chair
California Coastal Commission

CITY OF OXNARD CALIFORNIA

PLANNING COMMISSION
STUDY SESSION

TO: Planning Commission

FROM: Kathleen Mallory, AICP, MA, LEED GA, Planning Director

DATE: May 23, 2017 (for June 1, 2017 Commission meeting)

SUBJECT: **Study Session Regarding Short-Term Vacation Rental (STR) Regulations.**

1) **Recommendation:** Receive a presentation on Planning Staff's prior work efforts regarding regulation of Short Term Vacation rentals and receive public and Planning Commission input on this topic. Input will be communicated to the City Council to assist in providing direction to address this issue.

2) **Background:**

a) **Generally**: Over the last few year, the success of online platforms has made it easier and more convenient for private residences to advertise the availably of their homes for what is commonly referred to as "vacation rentals" or "short-term rentals." As a result, the City of Oxnard, like many other cities along the coast, have seen an increase in the use of private residences for these purposes. The purpose of this staff report is to summarizes staff's prior work efforts conducted in 2016 regarding this topic, report back on November 3, 2016 Planning Commission questions and comments pertaining to this issue, and to receive public and Planning Commission input on this topic. Input from the June 1st meeting will be transmitted to the City Council to assist the Council in formulating direction to address the issue of STR's.

Although short term rentals are not specifically indicated as an allowed use in the residential zones, short term rentals (rentals less than 30 days in duration) have occurred in the City of Oxnard for a number of years. Especially in the Coastal Zone (including the Channel Islands Harbor area), some owners use their homes as vacation homes and lease them out for part of the year – generally using a property management company to manage the rentals if they lived outside of the area. With, however, the advent of Internet rental services such as Airbnb, HomeAway and VRBO, the short term rental of homes, condominiums and apartments in Oxnard has substantially increased, with additional impacts on the neighborhood occurring – especially within the Coastal Zone.

b) **California Coastal Commission:** The California Coastal Commission (CCC) has provided guidance on the matter. In a letter dated December 6, 2016, the CCC recognizes vacation rentals as an important source of visitor accommodations while understanding legitimate community concerns associated with the use. The letter explains that the CCC has

not historically supported blanket vacation rental bans and has found such programs in the past to be inconsistent with the Coastal Act. The letter also highlights certain regulations that have been historically supported the Commission and provide guidance and direction on developing vacation rental regulations in the coastal zone (see Attachment "A"). A number of cities within the Coastal Zone are currently considering new regulations, or outright bans on short term rentals. However, the CCC has taken the position that – given that short term rentals have occurred in the Coastal Zone for a number of years – cities cannot ban short term rentals without an amendment to the Local Coastal Plan which addresses state policy concerning coastal access. Given the CCC position to date, it is unlikely that the CCC would allow an outright ban on short term rentals within the Coastal Zone. CCC staff have, however, expressed willingness for cities to adopt so-called "good neighbor" regulations on short term rentals.

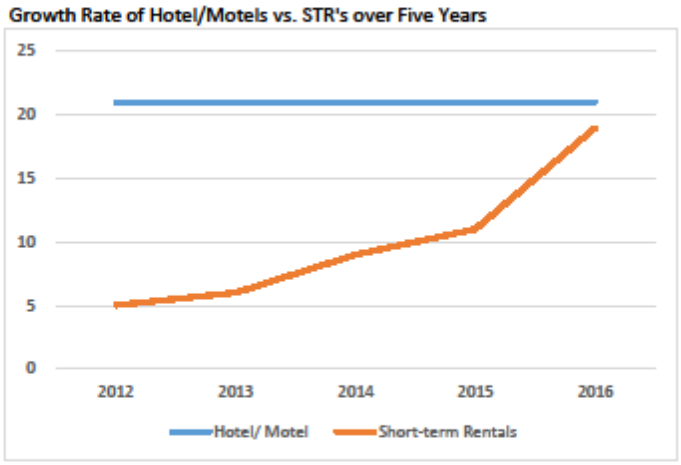
c) **Transit Oriented Tax (TOT):** The City's currently collects TOT hotels/motels and on those STR's that choose to pay it on a self-reporting basis (e.g., 30 days or less). The current TOT rate is 10 percent. Most of the local property management companies that manage the rental of homes collect TOT from that individuals renting the homes and transmit the TOT to the City of Oxnard. In 2012, the City received a little less than $3.4 million in TOT taxes and in 2016, the City received a little less than $5 million in yearly TOT tax. In four (4) years, STR TOT tax has increased by 56% while STR Hotel/Motel revenue has increased by 8% (1):

Year	TOT Hotel/ Motel Revenue	Annual Growth Rate Hotel/Motel	TOT Short-term Rental Revenue	% Change in STR Revenue	Total TOT Revenue	% of overall TOT
2012	3,361,108.57		39,875.49		3,400,984.06	1.17%
2013	3,779,393.70	12%	46,934.10	18%	3,826,327.92	1.23%
2014	4,162,947.13	10%	61,638.33	31%	4,224,585.56	1.46%
2015	4,585,296.52	10%	69,080.17	12%	4,654,376.79	1.48%
2016	4,934,144.42	8%	107,513.61	56%	5,041,658.11	2.13%

Over the past five years, and based upon STR's that pay TOT, STR's have increased by 380% in the City:

Year	No. of Hotel/ Motel	No. of Short-term Rentals	Growth rate over 5 yrs in STR's
2012	21	5	
2013	21	6	
2014	21	9	
2015	21	11	
2016	21	19	380%

1 Per fiscal year – July 1st – June 30th



d) Enforcement: STR complaints are filed with the Police Department. When a complaint is made, it is unknown if the complaint is related to an STR. When the Police Department investigates the call and completes their report, the police report is not correlated to the initial call. In other words, if the Police Department responds to a domestic dispute call and upon investigation determines that the call is STR related, there is no way in the current Police Department call and report summary software to go back and identify the call as an STR related call. It is possible to query Police Department calls by address. Due to staff resources and questions regarding the origins of the complaints, staff has not spent time doing this. City code enforcement staff periodically receive complaints regarding STR's; these typically occur on the weekend. Weekend code enforcement is limited to approximately 16 hours on Saturday and Sunday. Staff and Police resources to investigate these complaints is extremely limited.

e) Recent Legal Cases: Since the Planning Commission considered the STR issue in November 2016, there have been two Ventura County Superior Court decisions relating to short term rentals – *Greenfield v. Mandalay* and *Kracke v. City of Santa Barbara*.

In *Greenfield*, the plaintiff sued the Mandalay Shores Community Association (the "Association") and sought a preliminary injunction to stop the Association from enforcing its ban on the short term rentals. The plaintiff argued that the limitation on the rental period is a "development" under the provisions of the California Coastal Act (Public Resources Code Section 30000 *et seq.*) and thus required a coastal development permit before the regulations could take place. (Under Public Resources Code Section 30106, a "development" includes a "change in the density or intensity of use of land".)

The court declined to grant the preliminary injunction, finding that the ban on short term rentals by the Association was not a "development" since it did not change the existing zoning use for the property. The court, however, stated that the evidence in the case was

substantially in conflict and that the appropriate agency to address the issues raised by the case was the California Coastal Commission.

It is important to note that the California Coastal Commission and the City of Oxnard were not named as parties in the *Greenfield v. Mandalay* case. In addition, the action by the judge on January 5, 2017 was to deny the request for a preliminary injunction; there was no final judgment in the case. However, on March 3, 2017, the attorney for the plaintiff filed an appeal of the court's interim decision. The matter is now pending in the 2nd District Court of Appeal (Case No. B281089). No date has been set for briefing in this case.

The other case was *Kracke v. City of Santa Barbara*. While the case raised a number of procedural issues, the most relevant matters were a request by Petitioner Kracke for a preliminary injunction and writ of mandate to keep the City of Santa Barbara from enforcing certain of its municipal code provisions prohibiting short term rentals in specific residential zones. The court indicated that there were no cases holding that a governmental entity's zoning enforcement decision constituted a "development" under Public Resources Code Section 30106 (part of the California Coastal Act), which would require the issuance of a coastal development permit before the decision could be made.

The court's ruling was on March 10, 2017, however, that was not a final action in the case. A further hearing in the *Kracke* case has been set for May 25, 2017, with further action in the case possible after that date. Once the court takes a final action on that date, then the matter will be subject to appeal (see Attachment B).

3) Prior Planning Staff Work on STR's (Community Outreach and Public Input) and Planning Commission Input: Because members of the Planning Commission have changed since 2016, this section of the staff report is provided to bring new Commissioners up to speed on Staff's prior work on the STR issue. This report also summarizes prior Planning Commission meetings on this topic.

Prior STR Work and City Meetings

a) Online Survey: The City hosted an online survey between March 21 and April 6, 2016 to solicit public opinion on STRs. The survey was completed by 840 people, 750 of whom either reside or own property within City limits. Although opinions expressed in the survey varied, there was consensus that STRs have the potential to negatively impact the community and should be regulated. The results of the online survey are included as Attachment "C" – see https://www.oxnard.org/str/

b) August 16, 2016 Community Meeting: On August 16, 2016, a community meeting was held to review the results of the online survey, provide an overview of STRs, best practices to regulate STRs, and discuss proposed standards for STRs; 157 people attended this meeting. Of the attendees, 86% of the participants represented coastal neighborhoods.

Following Staff's presentation, the public was asked to participate in an exercise to provide additional feedback on seven specific STR regulations (see Attachment "D" - https://www.oxnard.org/str/ - scroll about half way down the page).

c) November 2016 Planning Commission Public Hearing: On November 3, 2016, the Planning Commission conducted a public hearing to receive public input on a specific series of STR performance standards. Staff provided a series of questions and comments intended to solicit input on best practices. The report identified staff recommended best practices for which there was consensus and best practices which needed further dialogue. The community and Commission discussed various concerns regarding the STR issue, but no clear policy direction was communicated. No clear consensus was gained from this meeting (see Attachment "E" - https://www.oxnard.org/str/). The Commission did ask a series of questions. Staff's response to these questions is contained in Attachment "F".

d) General Community Input: In addition to the online survey and the community meeting, Staff has established a dedicated email address (info.str@oxnard.org) and wepage (www.oxnard.org/str). To date, Staff has received approximately 200 e-mails, 200 phone calls and approximately 70 handwritten letters regarding STRs. The correspondences include suggested regulations, complaints of existing STRs and how the community is negatively affected, requests to allow, and requests to ban STRs in Oxnard.

4) STR Regulatory Options:

a) Types of STR's: Vacation rentals or STR's can be broken into two categories as described below:

1. **Whole House STR's** – A whole home is a dwelling unit that is occupied as a whole by transient for compensation for fewer than thirty consecutive days.
2. **Home Sharing STR's –** Home sharing is an accessory use within a dwelling unit where the primary resident resides in the dwelling unit while providing accommodations to guests for compensation. The guest would not have free access to and use of all of the dwelling unit.

b) Best Practices Applicable to Either Whole House or Home Sharing STR's: Through Staff's research regarding this topic over the past two (2) years, Staff has identified the following best practices which should be universally applied to either whole house or home sharing STR's:

- STRs should be defined as the rental of a housing unit for less than 30 days.
- Occupancy limits should be set at two people plus two additional people for each bedroom.
- A responsible caretaker must respond to complaints within 30 minutes of the complaint being logged and transmitted to the caretaker.

- Trash cannot be left in public view, except in containers for collection between certain hours for collection.
- An STR must have a nuisance response plan approved by the City as part of the STR review and approval process.
- STR lease agreements shall include operating restrictions to address the public health, safety, and welfare.
- Operating restrictions shall be prominently posted inside the STR while it is rented.
- Advertisements must include a City permit number.
- Nearby residents and property owners must be notified of a new STR in their area and should be provided with caretaker's contact information.
- Due to City resources and the extensive number of hours and associated cost incurred to implement an STR program, a third-party compliance company should be utilize the verify compliance with best practices, permit conditions, and dispute resolution.

c) Regulations Suggested by Community Consensus: The 2016 survey and 2016 community meeting, indicated that there is overwhelming support from the community for the following regulations:

- Limit the number of visitors to an STR. A suggested limit is two daytime visitors, plus one additional visitor for each bedroom. Daytime hours were not specified by the community, but staff proposes 7:00 AM to 10:00 PM.
- An STR should be required to pay TOT.
- An STR should receive a permit to operate from the City of Oxnard.
- The minimum rental duration of STRs should be the same year round and not vary by season.

d) Staff Recommended Regulations: In addition to the identified best practices, and regulations suggested by community consensus, Staff recommends implementing regulations which specifically address STR issues expressed by members of the community, and which are unique to specific areas of the City. Staff recommends the inclusion of the following additional regulations:

- **Parking-Based Occupancy Limit**: Apply a parking-based occupancy limit to supplement the occupancy limit based on bedrooms. The lower of the two occupancy limits shall be established as the overnight occupancy limit. Staff recommends allowing a parking-based occupancy limit of four people for each vehicle parking space provided on the STR property.

- **STRs on Properties Built to Zero Property Lines:** A number of community members have expressed concern over the unique security and safety issues associated with the close proximity of properties where residences are constructed immediately adjacent to a property line; this is often characterized as condominiums, some small lot single-family subdivisions, and townhomes. Zero property line construction is common in the Channel

Islands and Oxnard Dunes neighborhoods. Staff recommends that in instances where residences are built to a zero property line, an STR must seek neighbor(s) approval from the immediately adjacent neighbor.

- **Require Posting of Contact Information for Operator/Owner:** At all times that the STR is being rented, a sign shall be posted outside of the STR with the name and contact information for the responsible caretaker as well as other pertinent information regarding operating restrictions. The sign shall be taken down when the STR is not being rented.

e) Regulations Without Community Consensus: Consensus has not been achieved for the following regulations being considered by Staff:

- **Minimum Rental Duration**: The community has been surveyed twice on this topic with responses being sufficiently varied. An excerpt from Attachments "C" (Online Survey) and "D" (Community Meeting) are contained below and show the breakdown of community input:

Online Survey		
What minimum rental duration should be established?		
1 night	123	17.5%
2 nights	168	24%
7 nights	**196**	**28%**
14 nights	42	6%
30 nights	172	24.5%
Total Responses:	701	100.0%

August 16, 2016 Community Meeting		
What minimum rental duration should be established?		
1 night	12	11.2%
2 nights	14	13.1%
3 nights	25	23.4%
7 nights	22	20.6%
10 nights	**34**	**31.8%**
Total Responses:	107	100.0%

The CCC has not approved a minimum rental duration of greater than seven nights for communities with recently established STR regulations. Staff recommends that the Commission consider what, if any, minimum rental duration is appropriate for the City of Oxnard. Based upon CCC decisions and community input, staff recommends either two, three, or seven nights.

- **Maximum Total Number of Nights Rented Per Year:** Oxnard has historically been a place where long term residents share their neighborhood with people who own vacation homes, who visit those homes occasionally and rent them when not in use. Prior to the community meeting in August 2016, a concern expressed was that an increasing number of STRs are being operated by investors who have little connection with the neighborhood and have been unresponsive to neighbor concerns. At the community meeting, Staff asked for input from the community on this issue. However, as shown in an excerpt from Attachment "D" below, no clear direction was received:

August 16, 2016 Community Meeting		
Maximum Number of Nights Rented Per Year		
Should an STR be limited to a maximum number of rentals per year?		
No	**60**	**46.9%**
90	55	43.0%
120	4	3.1%
180	9	7.0%
Total Responses:	128	100.0%

Establishing a limit on the number of days per year an STR may be rented discourages the operation of STRs as investment properties and encourages their use by owners. The maximum nights rented per year is a limit on the total number of nights a STR may be rented in a calendar year, not necessarily consecutively. As an example, if the maximum number of nights is set at 90 the STR could be rented out nearly every day of the summer, but could not be used as an STR for the rest of the year. Alternatively, the STR could be rented out nearly every weekend for the entire year as there are approximately 104 weekend days in a year, but would need to be empty during the week. If a 7 day minimum were instituted, in addition to a 90 night maximum number of nights rented, STRs would be limited to 12 one-week rentals per year (90/7 = 12.8). As a reference, the City of Los Angeles Draft Ordinance, proposes a 120 day maximum number of nights per year. Staff would like the Commission to consider if a limit on the total number of nights an STR may be rented would be appropriate for the City of Oxnard.

- **Homestays**: A homestay is when the property owner and/or a long-term tenant remains on the property while a portion of the housing unit is being rented; often a room. Homestays seek to address the negative impacts of STRs by ensuring that a caretaker is onsite to immediately address potential issues or violations. All facilities, including kitchens, are shared between the owner or long-term tenant and the short-term tenant as part of a homestay. Homestays also limit the feasibility of investor operated STRs. The City of Santa Monica and the City of Los Angeles (Draft Ordinance), do not allow short-term rental of a house unless it is operated as a homestay. The City of San Francisco has separate regulations for STRs where the homeowner is onsite versus when they are out of the home. Based on San Francisco's experience, dual regulation for owners being onsite

/ offsite is nearly impossible to enforce. Staff would like the Commission to consider whether to require homestays. As shown in an excerpt of Attachment "D" the community was split on the issue of homestays:

August 16, 2016 Community Meeting			
Homestays Only (Property Owner Must Live On-Site While Rented)			
Should a property owner be required to be on-site while the unit is rented?			
No	**69**	**51.5%**	
Yes	65	48.5%	
Total Responses:	134	100.0%	

5) Conclusion: The STR issue continues to be a significant public policy and planning issue for which policy-direction is needed. While Planning Staff has been evaluating options and tracking regulatory approaches, ultimately the decision on how to address the STR will be made by the City Council. Community and Planning Commission input on these important questions and regulatory approaches will help the City Council craft a regulatory approach which is suited for the City of Oxnard.

Attachments:

A. December 6, 2016 California Coastal Commission Guidance on Short-Term Rentals
B. Recent Legal Cases – Kracke and Greenfield
C. Online Survey Results – See https://www.oxnard.org/str/
D. August 16, 2016 Community Meeting Results – See https://www.oxnard.org/str/
E. November 3, 2016 Staff Report – See https://www.oxnard.org/str/
F. Staff's Response to November 3, 2016 Commission Comments

	Ordinance date	Allowed	TOT	Regulations	Review	CCC	Minimum days?	Bond?	Caretaker	Notice	Fees	Occupancy limit	New or Existing	Definition	Issued by	Radiius	Comments
Arcadia	2018	No - complete ban															
Avalon		Yes	Yes, 12%		CUP												
Burbank	2014	No - complete ban															
Beverly Hills	2014	Yes	14%	Only allowed to rent twice per calendar year	None	n/a	No limit but if less than 6 months can only do so twice per year	No	No	No	No	No		6 months or less			
Calabasas	2018	No - complete ban															
Carmel		No				No review (existing ban)											
Carpinteria	2017	Yes	12%	Best practices, Full STR quanitity limited by zone, only allowed west of RR tracks. Restof city allows home stays with application and regulations.	Administrative		No limit	No		Yes, within 100'		2+2	New	30 days or less		limit by zone	4 zones with a set number of units, more STRs allowed closer to the ebach. Each zone cap set slightly higher than existing count. Homestays are regulated but allowed in all R zones.
Cerritos	2016																
City of Monterey	90s, 2017 Advertising	No				No review (existing ban)							Existing Standard				
City of Paso Robles	No ordinance	Yes	10%	Must have a business license	Administrative	N/A	No limit	No	No	No		2+2			Business License		Great good neighbor brochure that must be provider by owner to all renters.
City of Sunnyvale	2015	Yes	12.5% Airbnb collecting for host	4 adult guests per night	Administrative	N/A	No limit	No	No	No		4 adults		30 days or less	Planning		
City of Ventura	2009	Yes	Yes		$612 administrative		7 nuights in summer 2 nights other	1,500	Yes	300'	$612 plus renewal fee	2 per bedroom minimum 2			Finance		
County of Monterey	2017	Inland permitted, Coastal no regulation de facto not allowed	Yes, 10.5%	Discretionary regulations dependent on each use in inland area.	4,500 - 6,000 fee for inland areas												
Dana Point	2013 Moratorium on new permits 2016	Yes	Yes, 10%		$150 permit fee												
Encinitas	2006	Yes	Yes, 10%	SFD Only No events 2 person per bedroom +1	$150 annual fee and review	Denied the original request for a prohibition			Yes		$150	Overnight 2+2		30 days or less	Planning		
Hermosa Beach	2016	No				No review yet											CCC has stated that HB must amend their LCP to adopt the STR band and that supporting the ammendment is against the existing policy of the CCC HB has been taken to court by an STR owner and was told they could continue the ban.
Humboldt County	2016	Yes	Yes 12%	V Zones only No onsite advertising Caretakerwithin 5 mile radius	None	County Tax Collector Not actually allowed per zoning but they are allowed to operate so long as there are no complaints and they pay their taxes			Yes	300'		10		30 days or less	Finance		
Huntington Beach		No (1 area pending)	NA	NA	NA									30 days or less			
Lawndale	2017	No															
Long Beach	Pending	Will be	Yes 12%				Cap of 90 days per year unhosted					2+2, max 10					
Los Angeles	2018	Yes	Yes	Not allowed if property is rent controlled			Limited to 120 days per year							Less than 30 days			
Malibu		Yes	Yes, 12%			N/A					$25			30 days or less	Finance		
Manhattan Beach	2015	No	NA	NA	NA	No review yet											
Monterey County		Yes	Yes	Manager w/iin 25 miles									Existing Standard				
Newport Beach		Yes	Yes, 10%	Not in SFD zone	Permit + Bus. Lic.				Yes		$93			30 days or less			
Ojai	2016	Banned															
Pacific Grove		Yes (3 types)	Yes	Full Time manager w/in 24h Do not disturb neighborhood	License only	No						2 per bdr +1 Max 2 cars		30 days or less		15% of the block max	
Palos Verde Estates	2016	Banned															
Pasadena	2017	Yes, hosted and un-hosted	Yes, 12.1%	Parking on-site only, Inspection prior to permit issuance	Permit		No limit			Neighborhood		2+2					Brochure
Pismo Beach		Only in multifamily and visitor serving zones	Yes	Application, On-call Caretaker annual noticing 2 parking stalls (denied by CC)	Yes	CCC Denied ordinance from 2010 to prohibit vacation rentals in single family zones. Still no resolution with CCC	Call in to Mike at Planning 805-773-7090										
Rancho Palos Verdes	2016	Banned in residential zones															
Redondo Beach	2016	Banned															
San Clemente		Yes	Yes											Less than 30 days	Licensing		
Santa Barbara	2015	As Hotels	Yes	Treated like hotels	CUP								Existing Standard	Hotel, less than 30 days			Existing Hotel Defintion includes STRs. 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."
Santa Cruz County		Yes	Yes	Occupany limits Parking req Density limit in some areas Manager w/in 30 miles	Discretionay Admin Permit Some areas have limited density				Yes	300'		2 per bdr + 2 additional people, children under 12 not included		30 days or less		15% of the number of residentuial parcels in the LODA	In the Live Oak Designated Area (LODA)v acation rental permits have a 5 year life that runs with the land
Santa Monica	2015	Homestays only	14%										Existing Standard	30 days or less			
Seal Beach		No	Yes	Were allowed as CUP no prohibited			No new rentals allowed after CUP processwas implemented										
SLO County		Yes	Yes	Radius & location limitations based on community within County varies from zone clearence to minor use permit	Yes, in some areas	Modified but approved	4 stays per month		Yes	200'		2per bdr +2 or per parking		30 days or less	Finance	50-200	
Solana Beach		Yes	Yes	Annual Fees Minimum 7 days stay	Yes, findings may be made to deny	Approved with modifications	7 days per rental		Yes		$110			30 days or less			
Ventura County (Coastal)	2018	Yes	Required business License and 8% TOT	Homeshares and STRs okay with permit, Prohibits on-site events	Zoning Clearance from Planning Director (Annual Renewal)	Approved	None			Owners 300' / Residents 100'		STR - 2 per bdr +2 max 10, Homeshare 5 max	New	30 days or less	Business License and Planning Director	n/a	
Ventura County (Non-coastal)	2018	Yes	Required business License and 8% TOT	Homeshares okay with permit, STRs only allowed in landmarked buildings or existing STRs, Prohibits on-site events	Zoning Clearance from Planning Director (Annual Renewal)	N/A	None	Code Compliance Monitoring Deposit	Property Manager Required for STR	Owners 300' / Residents 100'	TBD	STR - 2 per bdr +2 max 10, Homeshare 5 max	New	30 days or less	Business License and Planning Director	n/a	
West Hollywood	2015	Homeshare only	Yes														