

**CITY OF ALAMEDA
PLANNING BOARD**

WORKSHOP

STAFF REPORT

ITEM NO: 5-A

PROJECT

DESCRIPTION: **Short Term Rental Ordinance.** Discussion of the City's workplan to consider updates to the zoning ordinance to address short term rentals.

GENERAL PLAN: Citywide

ZONING: Citywide

ENVIRONMENTAL

DETERMINATION: Exempt – A workshop discussion has no possibility of an effect on the physical environment.

PROJECT PLANNER: Steven Buckley, Planning Services Manager

PUBLIC NOTICE: No notice is required for a workshop discussion; the agenda was posted at City Hall and on the City's website. Notice will be given more broadly when warranted.

EXHIBITS: None

BACKGROUND

"Short-term rental" (STR) refers to the rental of rooms or entire homes for short periods, usually less than 30 days. While home sharing, vacation rentals, and other forms of STR are not new, the growth of online hosting platforms like AirBnB and VRBO in the past 15 years have led to their rapid proliferation and changed how they are typically operated. A growing number of cities and counties, including many of Alameda's neighbors, have adopted local ordinances that legalize some types of STRs while establishing regulations to protect public interests. By contrast, STRs are still unregulated in Alameda aside from business license and business tax obligations.

The Housing Element committed the City to consider regulations for STRs to preserve the rental housing supply. The purpose of this workshop is to brief the Planning Board about the upcoming workplan. It describes the context and need for STR regulations,

identifies key issues for the regulations to address, and provides a preliminary project timeline. This meeting is an opportunity for Board members to offer initial comments and highlight topics they would like addressed. Staff will conduct further research and analysis and return later this year with specific recommendations and policy questions for the Board to consider. City Council will then be engaged to consider ordinance amendments.

CONTEXT AND PURPOSE

Policy Context

Alameda's 2023 – 2031 Housing Element calls for limiting short-term rentals. Policy H-19 states, "Limit short-term rentals, conversions to hotels, which reduce the supply of long-term housing units for sale or rent." New zoning regulations for STRs are therefore needed to implement this Housing Element policy. (Note, zoning must work in combination with other existing or new regulations such as business tax, rent program, and health and safety, to ensure an effective regulatory framework.)

Potential Benefits and Impacts of STRs

STRs provide opportunities and benefits for those who host and stay in them. For home owners and long-term renters, they offer the chance to earn income from their living spaces, offsetting the cost of owning or renting a home and providing flexibility to travel. For guests, they offer a greater variety of interesting lodging options compared to traditional hotels.

However, STRs can have negative impacts on communities. The higher nightly rates paid for STRs can incentivize property owners to take rental properties off the market and effectively turn them into hotel rooms, creating a shortage of available rental housing, which can drive up the cost of the remaining housing supply and may be used as a vehicle for avoiding rent program requirements. In addition, unmonitored STRs leave neighborhoods at risk of increased noise, traffic, or parking problems.

Nearby Jurisdictions' Regulations

Most nearby jurisdictions, including the cities of San Francisco, San Leandro, Berkeley, Emeryville, Piedmont, Orinda, and Fremont, have adopted STR ordinances. These ordinances typically allow the short-term rental of rooms within dwelling units (houses or apartments) where the host also lives, but they either prohibit the short-term rental of entire units or limit the number of days per year that entire units can be rented without a host present. All of these nearby cities' ordinances require that STR hosts be the primary, permanent resident of the unit, thereby preventing the complete conversion of permanent housing to transient lodging.

One of Alameda's largest neighbors, the City of Oakland, does not yet have an STR ordinance but is in the process of developing one. In the meantime, the Oakland Planning Code classifies STRs as hotels, effectively prohibiting them in residential

districts and conditionally permitting them only in the downtown and a few other commercial districts.

Because the City of Alameda does not currently limit STRs, in contrast to neighboring cities, Alameda may be experiencing more STR activity than otherwise would be expected.

STRs in Alameda

In the summer 2024, the Planning Division obtained data showing 339 STR listings in Alameda at that point in time. Of these listings, 264 (78%) were for renting an entire house or apartment, while 75 (22%) were for renting a room within a house or apartment. Staff does not have information on how many units are being used exclusively or primarily as STRs, as opposed to having a primary, long-term tenant or owner who sometimes rents out their place as STR. However, if any of the STRs in Alameda are being used primarily or exclusively for short-term rental, this would represent lost permanent housing units.

Current Regulations in Alameda

Alameda's current Zoning Ordinance is largely silent on STRs. There is not a specific land use category for STRs and they are not addressed in the land use regulations—the lists of permitted, conditionally permitted, and prohibited uses—for each zoning district.

One existing section of the Zoning Ordinance will need to be reviewed and reconciled with the new STR regulations. Section 30-5.5 allows the rental of rooms and/or provision of table board for up to three paying guests as an accessory use in a single-family dwelling. This section functions as something of a loophole. It is also unclear because it doesn't define lengths of stay as a factor in the rental. Staff will analyze whether and how this section needs to be modified and/or incorporated into the STR regulations. Overall, the new STR ordinance is intended to more comprehensively and clearly address STRs than this existing section. State law also prohibits the use of Accessory Dwelling Units (ADUs) established after 2017 as short term rentals.

While STRs are relatively unregulated as a land use in the Zoning Ordinance, their taxation is addressed in another part of the Alameda Municipal Code (AMC). Within Chapter III, Finance and Taxation, Section 3.61 establishes Alameda's 14% Transient Occupancy Tax (TOT) and states that home sharing is subject to the TOT. This section defines STR-related terms such as "home sharing," "host," and "hosting platform." It allows hosting platforms to collect and remit the TOT on behalf of hosts. As part of developing the STR ordinance, staff will analyze how the existing tax provisions and new STR regulations need to be reconciled.

Permitting, Registration, and Taxes

Currently, the City of Alameda does not require STR hosts to obtain a permit. However, it does require hosts to obtain a business license and hosts or hosting platforms (e.g., AirBnB, VRBO, HomeAway) to collect and remit to the City a 14% Transient Occupancy Tax (TOT), paid by the renters as an tax, similar to other hotels.

All businesses operating in Alameda are required to obtain business licenses and pay the Business License Tax (a nominal \$50 annually). In the case of hotels and STRs, business licenses are also a way for the City to keep track of who needs to pay the TOT. In most cases, the platforms collect and remit the TOT to the City on behalf of their clients. (Alternatively, the hosts are required to pay the TOT if no platform is used in the transaction.) However, the platforms do not provide information to the City on the specific locations or operators of the STRs they serve.

The Finance Department reports that there are currently six business licenses for STRs, and the account holders collectively remit over \$700,000 in TOT per year. For comparison, there are 12 TOT accounts for commercial hotels in Alameda and they collectively remit about \$2.5 million per year. The six accounts for STRs are a mix of hosting platforms that represent many individual host locations and individual hosts.

Separately, all rentals of properties with more than one unit are required to register with the Rent Program for the purpose of providing renter protections, including limits on rent increases and/or eviction controls. Short-term rentals are exempt from the program requirements, but must still register as such to obtain the exemption. It appears that there is a gap in registry for a number of units in the City, whether because they are actually vacant, used for short term rentals, or are simply lacking in registry paperwork. Registry also requires a nominal annual fee.

The Finance Department is currently working with the City's Rent Program to identify STRs that do not have a business license and/or are not remitting the TOT.

KEY ISSUES

In crafting a set of regulations for STRs, the City will need to consider several key issues and determine which approach will best meet Alameda's needs and fulfill its policy goals. Decision points revolve around what types of buildings and spaces may be used as STRs, whether time limits should apply to STRs, how to protect affordable housing units, who can serve as STR host, what operational standards should apply to STRs, and what type of permit and enforcement procedures to adopt.

1. Hosted vs. Unhosted STRs

The City will need to decide what types of STRs to allow and whether any time limits should apply to them. There are three basic varieties, or configurations, of STRs:

- a) Hosted STRs, in which the host is a permanent resident of the dwelling unit and stays there while guests stay there. This often takes the form of renting a room within a house or apartment.
- b) Semi-hosted STRs, in which the host lives in one unit on the property but rents out a different unit or set of rooms as an STR. In this arrangement, the guest has a complete unit or set of rooms to themselves.
- c) Unhosted STRs, in which the host does not stay on the property during the guest's stay. This can include the following situations:
 - The primary/long-term occupants vacate the unit while it is rented to short-term guests; or
 - There are no primary occupants -- the unit is fully dedicated to vacation rental.

Note that most nearby cities allow hosted STRs but not semi-hosted or unhosted STRs. Where they do allow semi-hosted or unhosted STRs, they limit them to a certain number of days per year. All of the regulations of the nearby cities reviewed require that any unit rented as an STR be the host's primary, permanent residence, thereby prohibiting the complete conversion of long-term housing to transient lodging. (In practice, it is common to find that entire units or buildings have been converted to STRs even where such conversion is prohibited.)

- Oakland is in the process of developing new regulations for STRs. Currently, it prohibits them in most zoning districts. Most STRs fall into the same land use classification as hotels ("Transient Habitation Commercial Activities"), which are only allowed with a CUP in certain downtown and commercial zones.
- San Leandro only allows hosted STRs, in which the owner resides on premises. It allows them to be operated for up to 180 days a year.
- Berkeley generally requires STRs to be hosted but allows up to 90 days per year to be unhosted.
- Emeryville allows STRs with a 90-day-limit per year on non-hosted STRs.
- Fremont adopted an STR ordinance in 2024. It allows...
- San Francisco allows STRs by permanent residents of a dwelling unit, meaning they spend at least 275 nights per year in the unit. Unhosted rentals, in which the permanent resident is not present during the guests' stay, are allowed for up to 90 days of each year.
- Santa Monica allows only hosted rentals. It has an occupancy limit and a limit on the number of separate groups of guests that may rent in a house at the same time.

2. Types of Buildings and Spaces

Closely related to the issue of hosted vs. unhosted STRs, the City will need to determine what types of buildings and facilities may be rented as STRs. The regulations will need to address whether entire houses, entire apartments, or individual rooms within houses and apartments can be used as STRs. Some local ordinances also

address whether RVs, boats, commercial spaces, and other nontraditional spaces may be rented as STRs. The City could consider allowing STRs only in habitable space, as defined in the Building Code.

Who Can Serve as a Host

Some cities have adopted regulations that define who can host an STR. For example, they require that hosts be long-term tenants or that they occupy the unit for a minimum number of days per year. Many cities require that the unit used as an STR be the host's primary residence. A few cities require that hosts be natural persons rather than corporations. Such measures are intended to discourage speculative investment in STRs and conversion of permanent housing stock to transient lodging. Another question to consider is whether only property owners may host STRs or whether renters may also do so, and under what circumstances. Most of the other local STR ordinances that staff has reviewed allow tenants to be STR hosts with the landlord's permission.

Protection of Affordable Housing and Tenants' Rights

Preventing conversion of rental housing to transient lodging could help conserve long-term rental housing in Alameda. The STR ordinance may need to include additional measures to protect affordable housing and tenants' rights. For example, many cities exclude any deed-restricted affordable housing from being used as STRs. Others exclude units where tenants have been evicted under the Ellis Act or for owner move-ins. Staff will conduct a review to ensure that the STR regulations are consistent with other relevant parts of the AMC.

Operating Regulations

The City will need to consider whether to establish operating standards intended to foster safety and minimize nuisance impacts of STRs on nearby residents. Such regulations could include:

- Prohibiting special events like weddings, parties, or other large gatherings.
- Establishing curfews on outdoor activities.
- Adopting noise regulations for STRs or referencing the City's existing noise ordinance.
- Establishing a maximum number of guests per bedroom or unit.
- Setting parking standards for STRs.
- Requiring that a contact person be available to respond to complaints within a certain period of time or within a certain distance of any STR.
- Requiring safety features such as fire extinguishers and smoke/CO2 alarms.
- Advising hosts on how to be a good neighbor or having them develop and submit good neighbor policies.
- Requiring that hosts have liability insurance.

Permitting or Registration

Most nearby cities with STR ordinances require some form of permit or registration for STRs beyond a business license. Registering STRs will help the City track their

locations and assess any impacts to neighborhoods or the housing stock, and to respond to complaints more efficiently. It will also make hosts aware of applicable rules. The City will need to determine what type of registration or permit would be most appropriate and useful. For example, a typical home occupation requires a Zoning Clearance from the Planning Department prior to obtaining a Business License.

Enforcement

The City will need to decide how to enforce the STR regulations. Options include:

- Self-certification and acknowledgement of rules by STR operators;
- Complaint-based enforcement;
- In-house tracking and enforcement by City staff; and/or
- Contracting with a firm that specializes in registering and monitoring STRs.

Note that these strategies could be used in combination. In considering which enforcement strategies to use, the City will need to balance the benefits of enforcement with the financial costs and personnel resources required. In exploring and developing an enforcement program, the Planning Services Division will coordinate with the Finance Department and Rent Program, as these City departments also interact with STRs. Enforcement programs in other cities are often supported by the General Fund and STR registration fees and fines.

Penalties for Violations

Related to the issue of enforcement, the City will need to determine what types of penalties should apply to violations of the STR ordinance. Questions include whether violations will be considered infractions or misdemeanors and how fines will be calculated, particularly for repeated or ongoing violations. Staff will work with the City Attorney's office to ensure that any penalty provisions are consistent with State law.

WORK PLAN AND TIMELINE

The City has retained planning consultant Heather Coleman, who has written a number of other ordinance updates for Alameda, to work with staff to develop an STR ordinance. Ms. Coleman and staff prepared a project scope and timeline. They began work in December 2024, building on previous research on STRs that the City conducted in 2022. The goal is to adopt an STR ordinance before the end of 2025. Staff expects to bring recommendations and a draft ordinance to the Planning Board in the summer and to the City Council in the fall.

RECOMMENDATION

Hold a public workshop and provide direction to staff on a draft Short Term Rental ordinance.