



# STAFF REPORT

AGENDA ITEM NO:

MEETING DATE: December 2, 2019

**To:** Honorable Mayor and City Council

**Date:** December 2, 2019

**From:** Kevin Gardiner, Community Development Director – (650) 558-7253  
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**Subject** Discussion of Short-Term Rentals

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## **RECOMMENDATION**

Staff recommends that the City Council discuss residential short-term rentals and provide direction regarding any future work on the issue.

## **BACKGROUND**

Residential short-term rentals are defined as dwelling units that are rented for periods lasting fewer than 30 days. Common examples include renting a room, house, or an apartment for a week or weekend for a short stay or for several weeks. Short-term rentals are most commonly offered and rented through online hosting platforms such as Airbnb, VRBO, Hostmaker, Sonder, Vacasa, and HomeAway.

While short-term rentals can provide income to residents and broader lodging options than the existing hotel market, there can be significant downsides to these uses. The popularity and profitability of short-term rentals has spurred an industry where dwellings are used exclusively for short-term rentals, removing housing stock that could otherwise be available for longer lease terms. A rotating series of renters in residential neighborhoods can create traffic, noise, parking, and safety concerns for neighborhoods.

The short-term rental industry has grown and evolved at a fast pace in recent years. Once a small, informal part of the economy, it is now larger and more established. Its growth in popularity, coupled with an increase in the professionalization of the industry, including the emergence of full-time rentals and hosts that do not live in the units they are renting, have raised the profile of this issue and led many jurisdictions to consider regulation and taxation.

The City's existing transient occupancy tax applies to short term rentals when they meet the municipal code's definition of "hotel," which is as follows: *"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.* Therefore, a residential unit or portion thereof which is "occupied ... by

transients for dwelling, lodging or sleeping purposes” is required to collect transient occupancy tax on behalf of the City. The City does not currently have a program for monitoring or collection of TOT from short-term rentals. Operators running short term rentals are also required to secure a business license. Currently, there are seven registered short-term rentals in Burlingame, but the City doesn’t have access to data regarding how many nights per year they are rented out, or whether owners are on the premises during such rentals. Looking at online advertisements for short-term rentals (which do not provide addresses), it appears as though fewer than ten percent of rentals are registered with the City. However, it can be difficult to ascertain whether the rentals listed are in frequent or occasional use.

The City has received complaints regarding fewer than ten locations relating to short-term rentals in the last three years. The majority of these were related to the fact of a short-term rental existing in a nearby residence. The relevant property owners were referred to the Finance Department and secured business licenses. One complaint related to overflowing garbage bins. One location has generated several different complaints by neighbors, including renters coming and going at various times, ride share drivers blocking the street for drop off and pickup, the owner not being on site, and work without permits.

## **DISCUSSION**

The short-term rental market has various components. A variety of activities fall under the general category of short-term vacation rental, ranging from occasionally renting an extra bedroom to leasing an entire home or residential unit on a short-term basis year-round. While some cities have chosen to regulate all rentals the same way, these different types of activities have different potential impacts.

One of the ways to categorize vacation rentals is to identify those rentals that are hosted or unhosted. *Hosted rentals* may include just bedrooms or sometimes accessory buildings or Accessory Dwelling Units (ADUs), and have an owner or resident living on the property. This type of rental is perceived to be less of an issue because there is someone living on-site who can respond to problems that might arise.

*Unhosted rentals* may include the entire home and sometimes an accessory building or ADU, that are vacant and do not have an owner or resident living on the property. These types of short-term rentals can be owned by investors, who are buying them to rent as a business, or by local homeowners who are away temporarily. There are also hosts that rent their home as an unhosted rental for corporate retreats, either during the day or overnight.

It is additionally important to distinguish if units are dedicated for year-round short-term rental or available only for a limited time. Units that are rented on a short-term basis year-round will be removed from the jurisdiction’s housing stock as a potential source of local housing.

The number and composition of short-term rentals in a jurisdiction can be challenging to determine given the wide array of listing platforms, as well as the lack of transparency in the listings themselves. However, a number of data aggregators have emerged in recent years that download and analyze listings from the most commonly used platforms, and in some instances

assist municipalities in enforcing short-term rental regulations. Host Compliance and AirDNA are two examples, but there are many others.

As a potential snapshot of short-term rentals in Burlingame, AirDNA provides the following figures (as of November 2019):<sup>1</sup>

- There are 116 active rentals within Burlingame.
- 58% of the listings (67 listings) are for an entire home or unit; 41% (48 listings) are for a private room in a home or unit. There is also one listing (1%) offering a shared room.
- 30% of the listings are available full-time, implying that the room or unit is dedicated exclusively to short-term rental.
- 86% of the listings are listed on Airbnb; 7% are listed on HomeAway; and 7% are listed on both platforms.
- There is an average of 3.9 guests per rental.
- 41% of the listings allow one-night stays; 24% require two nights; 12% require three nights; 10% require between four and six nights; and 8% require seven to 29 nights. 5% require 30 nights or more.

As a point of reference, 116 listings is roughly equivalent to the size of one of the medium-sized hotels in Burlingame such as the Bay Landing Hotel (130 rooms) or Hilton Garden Inn (132 rooms).

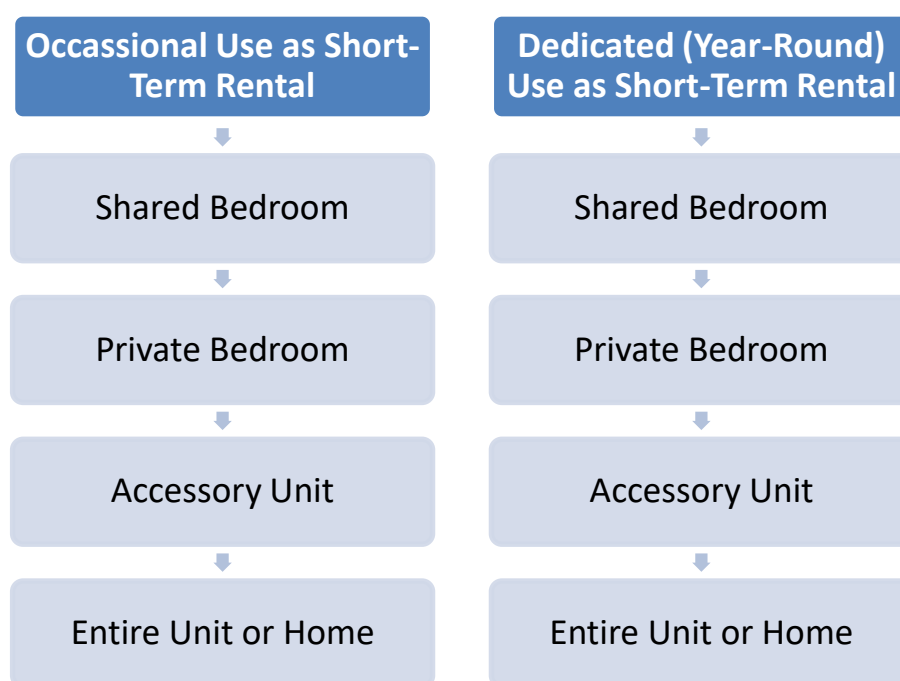
**Regulatory Options.** There are many levels of regulation to consider. The challenge is to decide which types of rental activities a jurisdiction wants to encourage, regulate, or not allow. The graphic below illustrates a continuum of regulatory choices related to short-term rentals.



Many jurisdictions apply different levels of regulation to different types of short-term rentals. For example, the graphic below indicates the range of different listing types and suggests that different approaches may be desirable or appropriate for different types of listings and whether or not the listing is an occasional or dedicated (year-round) rental:

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<sup>1</sup> <https://www.airdna.co/vacation-rental-data/app/us/california/burlingame/burlingame/overview> - accessed 11/24/19



Below is an overview of some of the more common approaches jurisdictions have implemented to regulate short-term rentals:

**Collecting Transient Occupancy Tax (TOT):** Listing services like Airbnb have been willing to collect a TOT and remit it to jurisdictions on a semi-annual basis. Listing services also have agreed with some jurisdictions to remove illegal listings or those that pose a significant code enforcement challenge. A number of local cities, including Redwood City, San Francisco, and Berkeley, have negotiated deals where their hotel tax is automatically collected. These arrangements generally require cooperation with the listing companies and fewer limitations on listed properties.

**Requiring Permits:** A common strategy for cities looking to regulate short-term rentals is to require a local permit. It is important to balance the cost and difficulty for a potential host to acquire a permit with the need for regulation. If it is too expensive or difficult to get a permit, casual hosts may be discouraged from applying. However, a professional host may not be discouraged by such regulation. Also, an overly cumbersome permitting system may result in people renting their homes without permits. Nonetheless, permits are a potentially important strategy to help cities understand and regulate the short-term rental market.

For the permitting process, there are many decisions to make such as cost, what department will issue permits, notices to neighbors, business license requirements, length of permit, and the revocation process. Jurisdictions have also shown interest in requiring online listings to display host permit numbers, which both hosts and sites have been resistant to do.

**Occupancy, Parking and Noise Complaint Resolution Options:** Limits on occupancy, parking, and noise can help address many conflicts that might be anticipated to come up, such as increased traffic, negative impacts to neighborhood character, and disruptions. A common

occupancy limit on the number of people is two times the number of bedrooms plus two people. Other strategies include allowing no more than four guests at a time.

Rentals in Burlingame are already required to comply with existing noise and public nuisance regulations, as is every unit in the city. Noise and public nuisance violations can be difficult to document, but the Police Department and Code Enforcement functions are actively engaged in enforcing the code standards as complaints arise. Additional potential requirements include posting noise notices in units and revoking permits for those units with repeated violations.

**Management and Residency Requirements:** Management and residency requirements are particularly helpful to regulate un-hosted units, and ensure that if issues arise, there is someone available to promptly respond. One popular management policy is to require a manager, owner, or responsible party to respond on-site within a given time limit, such as within 15 minutes or up to one hour. Other cities have taken a more lenient approach and required that someone be available by phone 24/7 to resolve issues.

**Neighboring Jurisdictions:** Neighboring jurisdictions in San Mateo County have taken a variety of the above approaches in regulating short-term rentals. Table 1 below provides a summary of neighboring jurisdictions:

**TABLE 1**  
**SHORT-TERM RENTALS – NEIGHBORING COMMUNITIES**

<b>Jurisdiction</b>	<b>Allowed</b>	<b>Business License</b>	<b>TOT Collected</b>	<b>Host Required</b>
<b>Atherton</b>	No – prohibited in all residential districts	N/A	N/A	N/A
<b>Belmont</b>	Yes – allowed by right	Yes – no separate short-term rental permit	Yes	No
<b>Hillsborough</b>	No – must be 31 days or more	Yes (for long-term rentals)	N/A	N/A
<b>Millbrae</b>	Yes	Yes – short-term rental permit and business license required	Yes – TOT certificate required, collected monthly	Yes, for 265 nights out of the year
<b>Redwood City</b>	Yes	No – short-term rental registration form required, but no separate business license	Yes – TOT certificate required	Yes, if the unit is to be rented for more than 120 nights per year
<b>San Carlos</b>	No – prohibited in all residential districts	N/A	N/A	N/A
<b>San Mateo</b>	Yes	Yes – business tax certificate required (same as bus license)	Yes – TOT certificate required, collected monthly	No

**Other Jurisdictions:** Staff also surveyed a sampling of other jurisdictions outside the immediate area as reference:

**TABLE 2**  
**SHORT-TERM RENTALS – SAMPLE OF OTHER COMMUNITIES**

<b>Jurisdiction</b>	<b>Allowed</b>	<b>Business License</b>	<b>TOT Collected</b>	<b>Host Required</b>
<b>Los Altos</b>	No – prohibited in all residential districts	N/A	N/A	N/A
<b>Monterey</b>	No – prohibited in all residential districts	N/A	N/A	N/A
<b>Orinda</b>	Yes	No – short-term registration form required, but no separate business license required	Yes – TOT certificate required, then paid quarterly with TOT return form	Yes – while the City considers stricter ordinance requirements
<b>Santa Cruz</b>	Yes	Yes – short-term permit required, limited to 250 licenses on first-come, first-serve basis	Yes – TOT certificate required	Yes – ADU and non-hosted short-term rentals prohibited
<b>Santa Monica</b>	Yes	Yes – Home-Share Business License and Home-Share Permit required	Yes – monthly	Yes
<b>Sausalito</b>	No – prohibited in all residential districts	N/A	N/A	N/A

**Enforcement:** Jurisdictions have found it much easier to develop short-term rental regulations than to enforce them. Although many cities require hosts to register for licenses, they frequently are only able to respond to complaints.

It can be difficult to know who is in compliance without involving the hosting platforms or data aggregators. One option jurisdictions have is to make it illegal for sites to list rentals from unregistered hosts. Another option is to require host license numbers on listings. Unless a jurisdiction decides on a complete ban on short-term rental activity, regulations will be difficult to enforce without requiring an enforcement role from the rental sites. Efforts to enact strict regulations on short-term rentals or to require specific actions by listing services have resulted in significant litigation from the hosting companies across the state. Should the City Council direct staff to develop regulations, a confidential legal risk analysis will be part of staff's recommendations.

**FISCAL IMPACT**

The current number of short-term rental listings is roughly equivalent to the size of one of the business-class hotels in Burlingame such as the Bay Landing Hotel (130 rooms) or Hilton Garden Inn (132 rooms). Should the City enact a program to collect transient occupancy tax (TOT) from short-term rentals, the additional revenue could be comparable to that of a medium-sized hotel, or approximately \$600,000-700,000.