



Agenda Item No. 15.

Staff Report

Date: June 8, 2017
To: Mayor Hoertkorn and Council Members
From: Heidi Scoble, Planning Manager
Subject: Short-Term Residential Rentals

Recommendation

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Background and Discussion

Consideration of regulating short term rentals within the Town has been an on-going discussion since February 2015. At the February 2015 meeting, the Council determined that regulation of short-term rentals was not warranted at that time. In April 2016, the Council directed staff to resume the discussion on whether to regulate short term rentals. On July 14, 2016, the Council identified that short-term rentals would provide both opportunities and challenges and requested staff to solicit further input from the community before a decision on this matter could be made.

Since the July 2016 meeting, staff prepared a 12-question survey that was sent to the Town-wide email distribution list (1,132 recipients). The Town received 165 responses. The following provides a summary of the responses:

- 160 respondents came from property owners, 2 respondents came from renters, and 3 respondents came from people who chose not to provide a response.
- 9 respondents have identified that they have previously rented their entire residence as a short-term rental.
- 53 respondents have identified that they have not previously rented their home as a short-term rental, but have considered renting either their entire residence, a detached unit/guesthouse, and/or a bedroom.
- 36 respondents stated that they have no interest in renting their home as a short-term rental, but would not be opposed to allow some usage as a short-term rental with regulations (e.g.,

rent only during emergencies, rent only to family members and/or close friends, rent only to senior citizens, and/or rent with strict regulations and standards).

- 67 respondents stated that they have no interest in renting their home as a short-term rental and would like the Town to prohibit short-term rentals.
- 88 respondents did not support a transient occupancy tax, 60 respondents did support a transient occupancy tax, 10 respondents were undecided, and 7 respondents did not provide a response.

In terms of where the responses came from, the following table provides a distribution of respondents by neighborhood area:

Neighborhood	Yes, I have rented my residence	No, I have not rented my residence, rooms, or guesthouse, but would consider it.	No, I am not interested in renting, but would support short-term rentals	'No, I am not interested in short-term rentals and would like to prohibit them
Bolinas	1	4	1	0
Glenwood /Upper Road	0	4	2	4
Sir Francis Drake Blvd.	0	9	2	7
Laurel Grove Area (Laure Grove, Canyon, Walters, Makin Grade, and Upper Toyon)	1	7	5	7
South- Southwest Area (Bridge, Redwood, Poplar, Quail Ridge, Woodside, Chestnut, Madrona)	2	5	4	13
Winship Park Area (Garden, Wellington, Winship, Baywood, Fallen Leaf)	2	11	6	14
Shady Lane Area (Ames, Upper Ames, Southwood, Norwood, Fernhill, and Circle)	2	4	10	16
Lagunitas Area (Lagunitas, Willow, Allen, and Ivy)	1	9	6	6
TOTAL:	9	53	36	67

The responses to the qualitative questions provided a range of comments advocating both support and opposition to short-term rentals. The respondents in support of short-term rentals provided the following comments when asked under which circumstance would you be supportive of allowing a short-term rental:

- Allow short-term rentals “without intrusion or interference from the Town.”
- Allow one lease during summer months only.
- Allow only if hosted by a reliable platform, such as AirBnb
- Allow only a few times a year.
- Allow only if rented to family members or friends.
- Allow only if there were “clear rules and regulations based on careful research and comparing how this was handled in other similar communities.”
- Allow if no large party or events and if only rented to small families.
- Allow if “no impact on our neighborhood and if our neighbors were unaffected.”
- Allow if no more than 90 days per year.
- Allow if “only 2 rentals in one calendar year, no business activity, and if fully disclosed to the Town”.
- Allow if “full security background check of renters and owner takes responsibility of any problems.”
- Allow if Town receives half of the rent.
- Allow “only if the neighbor is away and is leaving an empty home.”
- Allow only if no more than 5-6 people.
- Allow only when there is a county-wide emergency.
- Allow only with strict regulations and policies.
- Allow only homeowners and not corporations.
- Allow when not visible to neighbors.
- Allow only if hosted.

The respondents opposing short-term rentals provided the following comments when asked under which circumstance would you be supportive of allowing a short-term rental:

- “Absolutely none!”
- “Not at all supportive under any circumstances.”
- “Under no circumstances.”
- “Never because you do not know who is coming and going.”
- “I am not supportive. I have children and their safety to consider and when having unknown people/renters around them.”
- “None. High turnover, unfamiliar help coming and going, drive too fast, not involved in the community, no community investment.”
- “The Town Council should not support short-term rentals.”

Based on the responses to the question regarding if the Town were to consider developing short-term rental regulations, the majority of the respondents identified that the following items should be addressed (items ranked by level of importance):

- Noise
- Parking
- Trash/litter
- Complaint process and dispute resolution
- Enforcement
- Advertising and signs
- Fire Safety and Building Inspection
- Regulatory Permit
- Rental Type
- Business license and taxes

Lastly, based on the community's responses in support of short-term rentals, the community appears divided as to supporting hosted versus non-hosted short-term rentals. The Town did receive responses whereby respondents suggested limits on the number consecutive days rented, number of rentals per year, seasonal rentals, and limitations on special events and parties.

In closing, based on the above summary of the survey and the community responses, the respondents are strongly divided. As such, staff is seeking direction regarding the below policy questions regarding short-term rental regulations:

1. Based on the existing zoning regulations, would the Council provide policy direction on whether short-term vacation rentals should be considered an accessory use or home occupation for residential properties (single-family, multifamily) or should rentals be considered a commercial use and therefore prohibited in residential zoning districts per Section 18.16.030 of the Ross Municipal Code? The Larkspur City Council has provided similar policy direction that short-term rentals are considered commercial uses and therefore not permitted in residential zoning districts.
2. Should the zoning regulations be amended to regulate short term rentals (approve, approve subject to a permit, or prohibit)? If the direction is to allow short term rentals, provide direction to staff on what level of review should be required (discretionary use permit or an administrative permit; registration and or business license)?
3. What level of control and monitoring does the Town desire to have over short-term residential rentals?
4. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?

By answering the above questions, staff would be able to determine whether code amendments to the Municipal Code would be warranted. If code amendments are warranted, staff would

work with the General Government Committee and the Town Attorney to craft regulations to address how short-term rentals should be regulated.

Update on other Marin jurisdictions regulating short term rentals

Attached is an updated summary of Marin jurisdictions relative to their position on short term rentals. Out of the 12 local jurisdictions, the City of Mill Valley is the only municipality that is legally permitting short term rentals subject to registration, a business license, and payment of a transient occupancy tax. Even though San Anselmo allows short terms rentals provided no breakfast is served, there are no specific short term rental regulations. Sausalito, Tiburon, Belvedere, and Larkspur expressly prohibit short term regulations based on existing regulations and/or policy determinations. For example, the Larkspur City Council made a policy determination whereby the Council determined short-term rentals in residential neighborhoods were considered a commercial use and therefore prohibited based on its existing zoning regulations. Another example would be Belvedere's position that because the zoning regulations do not identify short term rentals as a land use, then based on the rules of permissive zoning, the use therefore would not be allowed. The remaining jurisdiction in Marin are taking a "wait and see" approach as to whether to regulate short-term rentals.

Fiscal, resource and timeline impacts

Staff and attorney time to prepare an ordinance.

Alternative actions

None recommended.

Environmental review (if applicable)

N/A

Attachments

1. Constant Contact Survey Questions and Responses
2. Staff Report dated July 14, 2016
3. Town Council Minute Excerpt from July 14, 2016
4. Staff Report dated January 22, 2015
5. Town Council Minute Excerpt from February 12, 2015
6. Updated Summary of Short Term Rental Regulations in Marin

ATTACHMENT 1



Constant Contact Survey Results

Survey Name: Short Term Rentals

Response Status: Partial & Completed

Filter: None

4/7/2017 10:27 AM PDT

TextBlock:

The Town of Ross is seeking feedback regarding short term rentals. A short term rental is when you rent your home, a bedroom within your home, or a second unit/guest house for less than 30 days. Your feedback will help the Town decision makers if any standards and/or regulations should be developed, and if so, what should be considered. Please take a few moments of your time to provide a response to the following questions.

Which of the following best describes you?

Answer	0%	100%	Number of Response(s)	Response Ratio
Property Owner			160	96.9 %
Renter			2	1.2 %
Business Owner			0	0.0 %
Other			0	0.0 %
No Response(s)			3	1.8 %
Totals			165	100%

Which neighborhood or street do you live on? (Please describe)

162 Response(s)

How many short term rentals are you aware of in your neighborhood?

Answer	0%	100%	Number of Response(s)	Response Ratio
None			106	64.2 %
One			35	21.2 %
2-5			23	13.9 %
6 or more			0	0.0 %
No Response(s)			1	<1 %
Totals			165	100%

Have you rented, or considered renting your residence, bedroom, or a separate guesthouse or similar dwelling unit in the Town of Ross for less than 30 days? (Mark all that apply)

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes, I have rented my entire residence			9	5.5 %
Yes, I have rented rooms in my home			0	0.0 %
Yes, I have rented a separate guesthouse or similar dwelling unit			0	0.0 %
No, but I have considered renting my entire residence			32	19.6 %
No, but I have considered renting bedrooms			4	2.4 %
No, but I have considered renting a separate guesthouse or similar dwelling unit			11	6.7 %
No, and I have no interest in renting			111	68.0 %
Totals			163	100%

If

you have ever rented your residence, bedroom, or a separate guesthouse or similar dwelling unit in the Town of Ross for less than 30-days, which website hosting platform(s) did you use (e.g., AirBNB, VRBO, Homeaway, etc.)? List all hosting platforms that apply.

36 Response(s)

How do you perceive the presence of short term rentals in your neighborhood?

Answer	0%	100%	Number of Response(s)	Response Ratio
They have a positive impact			16	9.6 %
They have both positive and negative impacts			19	11.5 %
They have a negative impact			52	31.5 %
They have no impact			20	12.1 %
I am not aware of any in my neighborhood			50	30.3 %
Other			7	4.2 %
No Response(s)			1	<1 %
Totals			165	100%

Have you been affected by the operation of short term rentals in your neighborhood? If so, briefly describe examples of how short term rentals have affected your neighborhood.

100 Response(s)

Please describe under which circumstance(s) would you be supportive of allowing a short term rental?

139 Response(s)

Please describe under which circumstances would you not be supportive of allowing a short term rental?

120 Response(s)

If Ross were to create short term rental regulations, which of the below common rental issues should the Town of Ross consider developing standards or regulations to address? Check the boxes. (Continued in question 11)

1 = Extremely Important, 2 = Important, 3 = Not Important

Answer	1	2	3	Number of Response(s)	Rating Score*
Regulatory permit				161	1.8
Business license and taxes				159	2.0
Advertising and signs				156	1.6
Noise				161	1.3
Health and Safety (fire safety & building inspection)				157	1.7
Trash/Litter				162	1.5
Parking				161	1.4
Complaint process and dispute resolution				158	1.5
Enforcement				154	1.6
Rental Type (hosted or non-hosted) requirements				156	1.9

*The Rating Score is the weighted average calculated by dividing the sum of all weighted ratings by the number of total responses.

(Continued from question 10) If Ross were to create short term rental regulations, which of the below common rental issues should the Town of Ross consider developing standards or regulations to address? Check the boxes.

1 = Extremely Important, 2 = Important, 3 = Not Important

Answer	1	2	3	Number of Response(s)	Rating Score*
Owner occupancy (hosted or non-hosted) requirements				156	1.8
Limit on the number of occupants				161	1.6
Limit on the number of bedrooms rented				152	2.0
Limit on the number of rental days				156	1.8
Neighbor notification				158	1.8
Property management or contact requirements				157	1.7
Special Events				155	1.6
Other (please explain)				44	2.2

*The Rating Score is the weighted average calculated by dividing the sum of all weighted ratings by the number of total responses.

Do you support the Town of Ross considering a transient occupancy tax to generate income from short term residential rentals?

158 Response(s)

TextBlock:

Please email Heidi Scoble, Planning Manager, at hscoble@townofross.org if you have any questions regarding short term rentals or questions regarding this survey.

ATTACHMENT 2



Staff Report

Date: July 14, 2016
To: Mayor Hoertkorn and Council Members
From: Heidi Scoble, Planning Manager
Subject: Short-Term Residential Rentals

Recommendation

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Background

On April 14, 2016, the Town Council requested staff to bring back to Council as a future agenda item a discussion on short term rentals. This discussion would follow-up on the discussion that was presented to the Town Council on February 12, 2015 (see attached staff report dated January 22, 2015 and an excerpt of the meeting minutes dated February 12, 2015). The information presented to the Council at the February 12, 2015 meeting included research on regulatory approaches taken by various California jurisdictions and a summary of regulatory options for the Town Council's consideration. At the time, the Council concluded that there did not seem to be many short-term rentals, or problems associated with rentals, to warrant Town regulation at this time.

Discussion

Since the Council's last discussion regarding short-term rentals, the popularity of hosting platform websites such as Airbnb, VRBO, and Homeaway continues to grow. There are currently 14 short-term rental listings (1.4% of the parcels in Ross) that can be seen on some or all of the above listed platforms. The short term rental listings range from the renting of a bed room, similar to a bed and breakfast model, or the rental of the entire residence.

As stated in the January 22, 2015, the Ross Municipal Code is ambiguous whether short-term residential rentals are a residential use because there is no definition of "residential use" in the zoning regulations. The Town's zoning regulations defines "family" and "dwelling" (see Sections

18.12.100 and 18.12.120 of the Ross Municipal Code), but where a home or a room within the home is occasionally rented to a single family or person, the use could be deemed a residential use, an accessory use, or possibly even a home occupation (see Section 18.16.030 of the Ross Municipal Code). However, if a property is rented out on a regular basis, the high-volume commercial use would arguably exceed residential use, and therefore be prohibited.

Short term rentals would provide both opportunities and challenges for the Town of Ross. Short term rentals could attract and host tourist to support the local businesses, and the Town could collect additional permitting and administrative fees, as well as potentially being able to collect a transient occupancy tax upon voter approval. The challenges associated with short term rentals is that without establishing proper regulatory mechanisms, such as advertising, building inspection, host residency requirements, permit caps, calendar-year caps, maximum occupancy caps, noise regulations, parking, neighbor notice, reporting, etc., the short-term rentals could adversely impact the Ross community and neighborhood character.

Key Policy Questions for Consideration

Similar to the questions presented to the Council at the February 12, 2015 meeting, staff is seeking direction regarding the below questions:

1. Based on the existing zoning regulations, would the Council provide policy direction on whether short-term vacation rentals should be considered an accessory use or home occupation for residential properties (single-family, multifamily) or would be rentals be considered a commercial use and therefore prohibited in residential zoning districts per Section 18.16.030 of the Ross Municipal Code?
2. Should the zoning regulations be amended to regulate short term rentals (approve, approve subject to a permit, or prohibit)? If the direction is to allow short term rentals, provide direction to staff on what level of review should be required (discretionary use permit or an administrative permit; registration and or business license)?
3. What level of control and monitoring does the Town desire to have over short-term residential rentals?
4. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?
5. What are the key regulatory concerns with short-term vacation rentals?

By answering the above questions, staff would be able to determine whether code amendments to the Municipal Code would be warranted. If code amendments are warranted, staff would work with the General Government Committee and the Town Attorney to craft regulations to address how short term regulations

Update on other Marin jurisdictions regulating short term rentals

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served, there are no specific short term rental regulations. Sausalito, Tiburon, Belvedere, and Larkspur prohibit short term regulations based on existing regulations and/or policy determinations. For example, the Larkspur City Council made a policy determination whereby the Council determined short-term rentals in residential neighbors were considered a commercial use and therefore prohibited based on its existing zoning regulations. Another example would be Belvedere's position that because the zoning regulations do not identify short term rentals as a land use, then based on the rules of permissive zoning, the use if therefore not allowed. The remaining jurisdiction in Marin are taking a "wait and see" approach as to whether to regulate short-term rentals.

Update on Pending Legislation

Although the "Thriving Communities and Sharing Economy Act" (SB 593) was introduced by Senator McGuire on February 27, 2015, the bill did not pass at committee and officially died on February 1, 2016. The bill would have authorized a city, county, or city and county to adopt an ordinance that would require a transient residential hosting platform, as defined, to report specified information quarterly to the city, county, or city and county, and to establish, by ordinance, a fine or penalty on a transient residential hosting platform for failure to provide the report. The bill would have also authorized a city, county, or city and county to require a transient residential hosting platform to collect and remit applicable transient occupancy tax and would have prohibited a transient residential hosting platform from facilitating occupancy of a residential unit offered for tourist or transient use in violation of any ordinance, regulation, or law of the city, county, or city and county, and would authorize a city, county, or city and county, by ordinance, to establish a civil fine or penalty on an operator of a transient residential hosting platform for a knowing violation of this provision.

Fiscal, resource and timeline impacts

Staff and attorney time to prepare an ordinance.

Alternative actions

None recommended.

Environmental review (if applicable)

N/A

Attachments

1. Staff Report dated January 22, 2015
2. Town Council Minute Excerpt from February 12, 2015
3. Summary of Short Term Rental Regulations in Marin
4. Short Term Vacation Rental Regulatory Mechanism Examples

ATTACHMENT 3

**REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, JULY 14, 2016**

1. 6:00 p.m. Commencement.

Present: Mayor Katie Hoertkorn; Mayor Pro Tempore Elizabeth Robbins; Council Member Elizabeth Brekhus; Council Member P. Beach Kuhl; Council Member Rupert Russell; and Town Attorney Greg Stepanicich.

15. Town Council consideration on whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

Mayor Hoertkorn opened the public hearing on this item.

Mike Abel, Berry Lane resident, explained this is a small town with narrow streets and long-term residents are very aware of the neighborhood and small children, which is an important component. He did not move to Ross to have a Motel 6 or a Ritz Carlton. He is quite concerned that within one block of his home there are two properties with transient rentals. Renters are loud and party all hours, so there is no sense of community with short-term rentals and believed this should be regulated.

Peter Nelson, Circle Drive resident, believed Airbnb and VRBO is an efficient use of a residence on a limited basis. He felt noise could be regulated and noted support for short-term rentals with constraints.

Jeff Babcock, Redwood Drive resident, favored banning short-term rentals because they have no concerns for their neighbors' quality of life. Regulating is not a good idea because the renters will find a way around the rules. Short-term rentals should be banned. The incremental revenue from short-term rentals is not worth it.

Diane Rudden, Willow resident, explained that there are 14 active listings and did not know if there is a major problem or just one or two incidences.

Cate Babcock, Redwood Drive resident, understands the individual right and community right and in Ross, residents want to live in a quiet, safe community to raise their children. With short-term rentals, people are not vested in their community. With short-term rentals there are noise and parking problems. There is noise from morning until late at night with the pool. Short-term rentals will destroy the character of the Town. She favored prohibiting short-term rentals.

Charlotte Levin, Poplar resident, felt short-term rentals would impact the Town in terms of noise and parking issues, which will directly affect the surrounding neighbors. She opposed short-term rentals in Ross.

July 14, 2016 Minutes

Barbara Call, Redwood Drive resident, heard rumors that Eddie's is being considered as a bed and breakfast and wondered if this issue is being brought to the forefront because of that possibility.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Russell found it very helpful to listen to the views of the community and suggested scheduling a workshop to gather more information. He would hate to make regulations based on 14 homes in Town without having strong input from the community. Before the Council takes action, a broader consensus is needed in his view. Council Member Kuhl concurred with Council Member Russell's comments. He desired additional public input before a decision is made on this matter.

Council Member Brekhus felt torn and suggested they look at possibly limiting parties and require onsite parking. Airbnb is getting pressure from a lot of communities and in the interim she could support regulating because it is appropriate to address the concerns.

Mayor Pro Tempore Robbins believed this is a major topic and agreed the Council should solicit additional public input before a decision is made.

Mayor Hoertkorn agreed to schedule a workshop to receive additional input from the public. She believed this would be extremely difficult to regulate. She is concerned in a small residential community to have commercialization of property.

As the popularity of hosting platform websites such as Airbnb and VRBO grows, cities across the country are attempting to address issues associated within short-term and/or home sharing rental regulations in residential neighborhoods. In February 2015, at the request of the Town's Finance Committee, the Council considered whether or not to regulate short-term rentals and if so, what methods should be used. At that meeting, the Council concluded that there did not seem to be many short-term rentals to warrant regulations. Fast-forward a year and a half and the popularity of hosting platform websites such as Airbnb, VRBO, and Homeaway continues to grow. There are currently 14 short-term rental listings (*1.4% of the parcels in Ross*) that can be seen on some or all of the above listed platforms. The short-term rental listings range from the renting of a bedroom or the rental of the entire residence.

Short-term rentals would provide both opportunities and challenges for the Town of Ross. Short-term rentals could attract and host tourists to support the local businesses, allow residents to generate some income, as well as potentially being able to collect a transient occupancy tax upon voter approval. The challenges associated with short-term rentals is that without establishing proper regulations, the short-term rentals could adversely impact the Ross community and neighborhood character, such as increased traffic and parking, noise, and trash.

The Council agreed to solicit further input from the community before a decision on this matter can be made. For more info on this topic or to provide input on whether or not you support short-term rentals, contact Planning Manager Scoble at hscoble@townofross.org.

ATTACHMENT 4



Agenda Item No. 13.

Staff Report

Date: January 22, 2015

To: Mayor Elizabeth Brekhus and Councilmembers

C: Rob Braulik, Town Manager

From: Greg Stepanicich, Town Attorney
Amanda Charne, Assistant Town Attorney

Subject: Short-Term Residential Rentals

Recommendation

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Background

At its meeting on December 8, 2014, the Finance Committee requested information be presented to the Town Council on how the Town might address short term (i.e., less than 30 days) residential rentals. Finance Committee members noted several rentals located in Ross are listed on hosting platform websites, such as Airbnb. The Town Manager requested the Town Attorney research the regulatory approaches taken by various California jurisdictions and to prepare a summary of regulatory options for the Town Council's consideration. The goal of this report is to obtain Council consensus on whether or not to regulate short-term residential rentals and, if so, what methods should be used. With this policy guidance, staff and the Town Attorney will prepare the desired Municipal Code amendments for Town Council review and approval.

Discussion

As the popularity of hosting platform websites grows, cities across the country are attempting to address the issues associated with short-term vacation rentals in residential neighborhoods. We are unaware of any pending state legislation to regulate short-term residential rentals. Perhaps as a sign of things to come, however, the Sacramento Bee recently reported that Airbnb has retained a prominent California lobbying firm.

In many California cities, short-term residential rentals are illegal by default because such uses are not expressly allowed by or do not fall within the residential use permitted by the local zoning code. The Ross Municipal Code is ambiguous whether short-term residential rentals are a residential use.

This results because there is no definition of “residential use” but only of “family” and “dwelling.” See Ross Muni. Code §§ 18.12.100; 18.12.120; 18.16.030. Where a home or a room within the home is occasionally rented to a single family or person, the use could be deemed a residential use, an accessory use, or possibly even a home occupation. Ross Muni. Code §§ 18.12.030; 18.12.180. On the other hand, if a vacant property is rented out on a regular basis, the high-volume commercial use would arguably exceed residential use. Ross Muni. Code § 18.16.030.

Some cities have elected to allow short-term residential rentals subject to some type of business regulatory permit. The permits are often referred to as a “vacation rental permit,” or “short term residential rental permit.” Other jurisdictions opt to regulate vacation rentals through a use permit (e.g., Sonoma County, Laguna Beach). San Francisco takes a slightly different approach by requiring residents to register with the Planning Department. Violations of the San Francisco ordinance are enforced through administrative penalties, and if there are multiple violations, the Department removes the unit from the registry for one year.

Most of the ordinances also require the hosts to pay the same transit occupancy taxes that hotels do. San Francisco requires, and San Jose allows, the hosting platforms, such as Airbnb, to collect and remit transient occupancy taxes. The hosting platform, HomeAway, recently filed a lawsuit challenging San Francisco’s requirement that the hosting platform collect hotel taxes, claiming that this requirement is burdensome for out-of-state companies and forces them to conform to a specific business model approved by the ordinance. The Ross Municipal Code does not contain a transient occupancy or hotel tax. At this time, it would require majority voter approval to adopt such a tax.

Below is a list of the various regulatory mechanisms that have been adopted by or are under consideration by various California cities and counties. This list is by no means exclusive. Please consider these as possibilities to be tailored to fit the unique community and circumstances of the Town of Ross. While we present this list of regulatory mechanisms for your consideration, the legality of each will depend on how they are tailored for and implemented in Ross.

- 1. Advertising.** To aid in enforcement, many cities require that any advertisement for the vacation rental must include the permit number (e.g., Petaluma, Ventura, San Francisco).
- 2. Building Inspection.** Most jurisdictions have not required building code compliance in order to receive a vacation rental permit. Petaluma is considering a requirement that all short-term vacation rentals provide smoke detectors, carbon monoxide detectors, heating, and satisfy all applicable requirements of the California Building Standards Code. However, it is more common for jurisdictions to require plans showing that the parking and bedrooms listed are consistent with official records (see e.g., Napa, Santa Cruz County, El Dorado County).
- 3. Business License.** In addition to a vacation rental permit, some jurisdictions also require the host to obtain a city business license or business registration certificate. Other jurisdictions, such as Solana Beach and El Dorado County, allow the short-term vacation rental permit to serve as the business certificate for rental activity.
- 4. Complaint Process and Dispute Resolution.** Some jurisdictions have required a local contact person be available to handle complaints and problems. As a further step, some cities require that the permittee or contact person must respond within 1-2 hours of complaint and correct issues within 24 hours.

At least one city is considering voluntary mediation where there are three or more complaints in a calendar year (Petaluma). Santa Cruz County requires agreement to dispute resolution as a condition of a vacation rental permit through a county mediation center.

5. Duration and Renewal of Permit. Most of the regulatory permits are issued for 1-2 years. (Where utilized, use permits typically run with the land.) Petaluma is considering a provision that would allow the Director of Planning to deny renewal if he or she determines that the permittee has failed to timely remit transit occupancy taxes, there have been more than three violations of the ordinance, the applicant has provided false information, or there are health or safety violations.

6. Host Residency Requirements and Limits on Number of Rental Days. To discourage hosts from taking their properties out of the affordable housing rental stock needed for local residents or to preserve neighborhood character and stability, some cities impose limits on the number of nights that a property may be rented. Petaluma is considering a limit of 90 days to the number of days a non-hosted house can be rented per calendar year. San Jose imposes an annual limit of 90 days per year that a dwelling may be offered for transient occupancy, regardless of whether or not the host is present.

In San Francisco, resident hosts must demonstrate that they actually live in the unit for no less than three-quarters of the year. Some hosting platforms are geared toward vacation rentals and second homes whose owners do not reside in their properties. HomeAway has recently sued San Francisco in federal court arguing that the local residency requirement unconstitutionally discriminates against non-residents that own property in San Francisco. As noted above, HomeAway's lawsuit also challenges the requirement that the hosting platform collect hotel taxes. Decoupling the annual limit on rental days from a residency requirement, as in Petaluma and San Jose, may avoid the discrimination alleged by HomeAway.

7. Insurance. San Francisco requires hosts to carry liability insurance of not less than \$500,000 that covers the short-term residential rental use, or to conduct the rental transaction through a hosting platform that provides equal or greater coverage. There is confusion among hosts and the insurance industry whether short-term residential rentals are covered under standard homeowners' insurance policies. See New York Times, "The Insurance Market Mystifies an Airbnb Host," dated December 19, 2014, available online at: <http://www.nytimes.com/2014/12/20/your-money/the-insurance-market-mystifies-an-Airbnb-host.html>.

8. Noise. Some jurisdictions simply rely on their general plan noise standards (e.g., Sonoma County). Others include a standard that occupants may not create unreasonable noise or disturbances, disorderly conduct or violations of state law regarding overcrowding, alcohol or drugs (e.g., Solana Beach, El Dorado County).

9. Notice to Neighbors. Some cities require posting of the permit on the rental property (e.g., Solana Beach). Petaluma is considering a requirement to mail notice to all neighbors within 100 feet. Ventura requires notice of the approved permit and a nuisance response plan be provided to neighbors within 300 feet and posted on city website.

10. Occupancy Limits. Most jurisdictions have included limitations on the maximum number of occupants, which is usually two occupants per bedroom, plus one or two persons that presumably sleep in common areas (El Dorado County allows four additional persons). San Jose limits transient occupancy depending on the type of dwelling (single family, multiple family dwelling) and whether or not the host is present. Some ordinances exclude children from the occupancy limit. Some jurisdictions also limit the

maximum number of guests to twice the nighttime capacity. To distinguish from bed and breakfasts, some ordinances limit the number of bedrooms which may be furnished for compensation (Sonoma County, proposed Petaluma).

11. Parking. Some jurisdictions require the permittee to demonstrate compliance with applicable residential parking requirements. Other jurisdictions limit parking to the number of on-site spaces plus 1-2 on street (e.g., Santa Cruz County, El Dorado County).

12. Permit Revocation and Penalties. Many jurisdictions include a provision allowing revocation of the permit, and include administrative citations for owners as well as occupants.

13. Posting of Rules and Guest Manual. Some jurisdictions require hosts to post the permit conditions conspicuously within the residence, or include them as part of the rental agreement (e.g. El Dorado County/City of South Lake Tahoe, Sonoma County). Petaluma is considering a requirement that the host provide a written manual to guests that includes the local manager's contact information, local performance standards, parking limitations and other helpful information to minimize conflict with the neighborhood.

14. Rent Control Laws. San Francisco has extensive rent control laws and requires hosts to comply with all such laws.

15. Rental Day Minimum. Solana Beach prohibits rental for less than seven consecutive calendar days in duration within all residential zoning districts. Ventura requires rentals to be a minimum of seven consecutive days during the summer season, and two consecutive days for the remainder of the year.

16. Reporting. San Francisco requires hosts to report the duration of short-term stays annually. Other jurisdictions simply require guest registration records be maintained for two or three years (e.g., South Lake Tahoe, San Jose).

17. Signs. Petaluma is considering a requirement that would prohibit on-site signage. Other jurisdictions require an exterior sign identifying the structure as a permitted vacation rental with local contact information (e.g., Santa Cruz County).

18. Special Events. Some ordinances require special events to be permitted in accordance with existing special events permit regulations. Others flatly prohibit weddings, auctions, commercial functions, or other similar events that are inconsistent with the use of the property for transient occupancy in a residential neighborhood.

19. Surety Bonds. Ventura requires a surety bond to accompany an application for a short-term vacation rental permit conditioned on the payment of any civil penalty assessed for a violation of the short-term vacation rental ordinance or use of a short-term rental in a manner that otherwise violates the city's municipal code.

We have attached a vacation rental ordinance summary. This summary was prepared by staff from the City of Petaluma and presented to the Petaluma Planning Commission on November 18, 2014. Our firm was not involved in preparing this summary. We are providing it here for the Council's reference in comparing the various approaches taken by different cities.

Key Policy Questions for Council:

1. Should short-term vacation rentals be prohibited as a matter of zoning?
2. Should short-term vacation rentals be treated as an accessory use or home occupation for residential properties (single-family, multifamily)?
3. What are the key regulatory concerns with short-term vacation rentals?
4. If allowed, should the Town regulate short-term vacation rentals as a land use (i.e., a use permit) or as a business regulation? What level of control and monitoring does the Town desire to have over short-term residential rentals?
5. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?

Please let us know if we can provide any additional information or assistance.

Fiscal, resource and timeline impacts

Staff and attorney time to prepare an ordinance.

Alternative actions

None recommended.

Environmental review (if applicable)

N/A

Attachments

- Attachment B from Report to City of Petaluma Planning Commission, dated November 18, 2014
- Summary of Vacation Rental Ordinances

ATTACHMENT 5

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, FEBRUARY 12, 2015

1. 5:30 p.m. Commencement.

Present: Mayor Elizabeth Brekhus; Mayor Pro Tempore Katie Hoertkorn (*Mayor Pro Tempore Hoertkorn participated via teleconference call from 23 Blue Spruce Road, Snowmass Village, Colorado*); Council Member P. Beach Kuhl; Council Member Elizabeth Robbins; Council Member Carla Small; Town Attorney Greg Stephanicich.

13. Informational only. Town Council consideration on whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Town Attorney Greg Stepanicich summarized the staff report and recommended the Council consider whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Mayor Brekhus said unless they are having problems, why are they considering regulating. The idea of reporting notice to all neighbors and police, she felt is creating problems and adding an expense.

Mayor Pro Tempore Hoertkorn wanted to be informed as to whether her neighbor is renting out their home. Council Member Small noted that they had a situation in the past, which was addressed, where someone rented out their home and it ended up being rented out to individuals that had rave parties, which clearly violated zoning. They may have other individuals who rent out their homes that are not a problem, but is it a problem if they enforce some residents and not others. She asked if the inconsistency is a problem. Town Attorney Stepanicich explained if someone is regularly using their property as a wedding and recreation site, then that is a commercial corporation. Anything that starts to become a commercial type of use they should be consistent on treating all those the same way.

Council Member Robbins recommended investigating how many houses are actually rented out, and if it is a problem, then they need to understand how extensive and further discuss.

Mayor Brekhus understands if they start to receive complaints they should revisit this issue. Mayor Pro Tempore Hoertkorn did not believe it is about complaints, but using a home as a hotel is a concern. Council Member Kuhl felt drawing a line is going to be very difficult.

Mayor Brekhus opened the public hearing on this item.

Norman Hardie, Winding Way resident, believed if residents rent out their house for a few months during the summer, he did not see a problem. He would object if he had a neighbor continually rent out their home. In his view, he did not see this as a problem at the moment.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

As the popularity of hosting platform websites (such as Airbnb) grows, cities across the country

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are attempting to address the issues associated with short-term vacation rentals in residential neighborhoods. At the request of the Finance Committee, the Town Attorney prepared a summary of regulatory options for the Council's consideration. The goal of the report was to obtain Council consensus on whether or not to regulate short-term residential rentals and, if so, what methods should be used.

In many California cities, short-term rentals are illegal by default because such uses are expressly allowed by or do not fall within the residential use permitted by the local zoning code. Some cities have elected to allow short-term residential rentals subject to some type of business regulatory permit. The permits are often referred to as a "vacation rental permit," or "short term residential rental permit." Other jurisdictions opt to regulate vacation rentals through a use permit (e.g., Sonoma County, Laguna Beach). San Francisco takes a slightly different approach by requiring residents to register with the Planning Department. Violations of the San Francisco ordinance are enforced through administrative penalties, and if there are multiple violations, the Department removes the unit from the registry for one year.

Most of the ordinances reviewed also require the hosts to pay the same transit occupancy taxes that hotels do. San Francisco requires, and San Jose allows, the hosting platforms, such as Airbnb, to collect and remit transient occupancy taxes. The Ross Municipal Code does not contain a transient occupancy or hotel tax. It would require majority voter approval to adopt such a tax. The key policy questions the Council considered were:

- Should short-term vacation rentals be prohibited as a matter of zoning?
- Should short-term vacation rentals be treated as an accessory use or home occupation for residential properties (single-family, multifamily)?
- What are the key regulatory concerns with short-term vacation rentals?
- If allowed, should the Town regulate short-term vacation rentals as a land use or as a business regulation? What level of control and monitoring does the Town desire to have over short-term rentals?

After discussion, the Council determined there did not seem to be many short-term rentals, or problems associated with rentals, to warrant Town regulation at this time.

ATTACHMENT 6

SHORT TERM RENTAL SUMMARY

City of Sausalito	<ul style="list-style-type: none"> • Prohibits Short Term Rentals based on existing regulations • Active Code Enforcement
Town of Tiburon	<ul style="list-style-type: none"> • Prohibits Short Term Rentals • Complaint Driven Code Enforcement
City of Belvedere	<ul style="list-style-type: none"> • Prohibits Short Term Rentals under the permissive zoning
City of Mill Valley	<ul style="list-style-type: none"> • Permits Short Term Rentals through a registration program • Requires Business License and monthly payment of transient occupancy tax
City of Corte Madera	<ul style="list-style-type: none"> • No Short Term Rental regulations • Existing regulations do not specifically preclude Short Term Rentals • No active code enforcement • “Wait and See” approach to determine if future regulations and best practices should be created.
City of Larkspur	<ul style="list-style-type: none"> • Prohibits short-term rentals in residential zoning districts- Policy determination by Council in October 2015 • Complaint driven code enforcement • “Wait and See” approach to determine if future regulations and best practices should be created.
Town of Ross	<ul style="list-style-type: none"> • No Short Term Rental regulations • Existing regulations do not specifically preclude Short Term Rentals • No active code enforcement • Discussion with Town Council scheduled for July 14, 2016 to determine if future regulations and best practices should be created.
Town of San Anselmo	<ul style="list-style-type: none"> • No Short Term Rental regulations • Short Term Rentals allowed as an accessory use if no breakfast is served • Code enforcement only related to illegal construction • “Wait and See” approach to determine if future regulations and best practices should be created.

Town of Fairfax	<ul style="list-style-type: none"> • No Short Term Rental regulations • Future discussion with Council to determine if regulations and best practices should be created.
City of San Rafael	<ul style="list-style-type: none"> • Does not currently regulate Short Term Rentals • “Wait and See” approach to determine if future regulations and best practices should be created. • Contracted with “Host Compliance” to inventory Short Term Rental activity
City of Novato	<ul style="list-style-type: none"> • Does not currently regulate Short Term Rentals • “Wait and See” approach to determine if future regulations and best practices should be created.
County of Marin	<ul style="list-style-type: none"> • Does not currently regulate Short Term Rentals • Future workshops to discuss issue with Board of Supervisors approach to determine if regulations and best practices should be created.