

City of Oceanside
Development Services Department
Memorandum

DATE: April 9, 2019
TO: Economic Development Commission
FROM: Shannon Vitale, Planner II
SUBJECT: CONSIDERATION OF OPTIONS FOR THE REGULATION OF SHORT TERM RENTALS

Recommendation

Staff recommends that the Economic Development Commission review the Planning Commission Ad Hoc Committee Permitting Options Matrix, including staff recommendations, and provide feedback via a motion and vote to be shared with the Planning Commission and City Council.

Background

A Short Term Rental (STR) is defined as the rental of any legally permitted dwelling unit (or portion thereof) for occupancy for dwelling, lodging, or sleeping purposes for a period of less than 30 consecutive days. Although STRs are not specifically defined or regulated in the Zoning Ordinance, in consultation with the City Attorney's Office, City staff has determined that the rental of a dwelling unit for less than 30 consecutive days is not prohibited.

There are approximately 900 registered STRs in the City, with estimates of nearly 1,300 operating. The City actively pursues unregistered STRs through use of a third party contractor, Host Compliance. Since contracting with Host Compliance in 2017, the number of registered STRs has increased 68%. In response to the increase in STRs throughout the City, the Planning Commission has expressed concerns with the associated impacts and appointed an Ad Hoc Committee (comprised of Planning Commissioners Colleen Balch, Curtis Busk and Tom Rosales) to thoroughly study the issue and recommend an approach to the regulation of STRs. Three Ad Hoc Committee (AHC) meetings were held (August 21st, 2018, November 27th, 2018, and January 29th, 2019) to discuss possible STR regulations and hear public testimony.

Staff created a permitting options matrix and draft Good Neighbor Policy (GNP) to guide the AHC discussion on possible STR recommendations. The final AHC recommendations per the matrix are included as Attachment 1 and the GNP, also reviewed by the AHC, is included as Attachment 2. It should be noted the GNP is different from the AHC recommendations matrix and continues to evolve as staff holds additional meetings to discuss STRs. The AHC recommendations, including staff recommendations were shared with the Housing Commission on February 26, 2019.

Analysis

The AHC recommendations would provide a framework for regulating STRs throughout the City.

AHC Recommendations

Key components of the AHC recommendations include the following:

1. Ministerial Operating Permit and GNP required for all STRs unless the unit is exempt.
2. Exempt units include hosted units where the STR operator lives on-site; and STR locations where all of the following conditions exist:
 - a. Property is governed by an HOA
 - b. Property where the STR is located is self-contained (i.e., gated)
 - c. Property provides 24-hour on-site management.
3. Payment of Transient Occupancy Tax (10%) and Oceanside Tourism Marketing District assessment (1.5%) for all STRs – no exemptions.
4. 24-hour contact information for all STRs provided on a sign posted on the property and in an online City directory of all registered STRs.
5. Maximum occupancy of two people per bedroom, plus two people.
6. Two-night minimum consecutive night stay.
7. Maximum number of daytime guests (allowed between 7am-10pm) is 10 guests.
8. All garage, driveway and designated on-site parking spaces shall be made available for vehicle parking.
9. One-hour inspection warning for code enforcement violations.
10. Initial property inspection conducted by Fire Department staff at time of STR registration with regular inspections to occur every three years if no complaints or violations.
11. Three strikes policy (three citations within 12 months or five citations within 24 months may result in STR revocation of 36 months. Some violations may result with immediate revocation.)
12. Annual permit fee of \$300 to \$400 used to fund enhanced enforcement.
13. Distinguish corporate ownership from home ownership and further regulate or cap the corporate ownerships.
14. Prohibition of STRs in any mobile home park.

The AHC did not recommend placing a total cap on STRs or limiting the number of STRs per owner at this time. The AHC recommended that there should be a distinction between private or corporate ownership, but did not recommend a maximum number of STRs per owner. Alternatively, the AHC suggested the City implement a STR permit process and GNP with enhanced enforcement and for staff to review and monitor for

effectiveness. Staff can monitor and provide a progress report annually to the Planning Commission, with the option of proposing revisions if warranted.

The topic of whether an affordable housing impact fee should be assessed for STR properties came up during the AHC meetings. Initially, the AHC had mixed opinions on whether such a fee should apply for STR properties. The City of San Diego recently established a STR affordable housing impact fee of \$3.96 per night (whole home units) and \$2.73 per night (home share units). However, the City of San Diego STR ordinance has since been rescinded and this fee no longer applies. If a similar fee is adopted by Oceanside, it is estimated that such a fee would produce between \$200,000 to \$300,000, annually. Staff does not support the creation of such a fee in Oceanside given the relatively small benefit in comparison to the large amount of time and cost necessary to implement and administer such a fee program. The AHC agreed with staff and did not recommend an affordable housing impact fee.

While the AHC recommended that STRs should be allowed citywide, the AHC did not recommend allowing STRs in mobile home parks. Initially, staff recommended that STRs not be allowed in mobile home parks that are subject to the City's rent control program. However, after further discussing the issue at an interdepartmental meeting, staff revised their recommendation to align with the AHC recommendation to prohibit STRs in all mobile home parks. Staff recommends grandfathering in the existing five STRs that are located in a mobile home park.

The AHC recommended an annual STR permit fee of \$300 to \$400 to cover the cost of one additional full time code enforcement officer and to cover permit processing time. After further discussion at an interdepartmental meeting, staff recommends an annual permit fee of \$250. As further described later in this memo, the funds generated from a STR permit fee would help to provide enhanced enforcement and dedicated staff to respond to complaints attributed to STR properties; and would cover administrative staff time for permit processing.

The AHC also recommended a Fire Inspection Fee of \$119 that would be required at time of registration and collected every three years thereafter in conjunction with subsequent inspections.

Staff Recommendations

While staff agrees with most of the AHC recommendations listed above, there are a few items staff does not currently support or in which a different approach is recommended. These items include the following:

1. Distinguishing between private versus corporate ownership.
 - a. The AHC recommended that there should be a distinction between the types of ownership of STR properties. At this time, staff does not recommend this approach as it will be difficult to regulate.
2. One-hour inspection warning for code enforcement violations.

- a. After consultation with the City Attorney's Office, staff does not support this approach due to concerns with constitutional protections. Alternatively, staff recommends having language in the GNP that requires an owner or authorized agent to respond to a complaint within one hour.
3. Property inspection
 - a. Similar to the AHC recommendation, staff recommends an initial property inspection conducted by the Fire Department at time of STR registration and then every three years thereafter if there are no complaints or violations. While staff recommends the Fire Department to conduct the initial property inspection, subsequent inspections could be performed by the Code Enforcement Department. Additionally, staff recommends a self-inspection (with a form provided by the Fire Department) for the intervening years between inspections.
4. Three strikes policy (three citations within 12 months or five citations within 24 months may result in STR revocation of 36 months. Depending on severity of violation, permit may be revoked after initial citation).
 - a. After consultation with the City Attorney's Office, staff revised the enforcement language to read as follows: "Violations of the ordinance are subject to all of the criminal and civil remedies set forth in Chapter 1 of the Oceanside City Code. These include misdemeanor criminal prosecution, administrative monetary citations, and/or civil nuisance abatement actions. In addition, a short term rental permit may be modified, suspended, or revoked for documented violation(s) of the Ordinance. Any short term rental that has been the subject of three verified complaints in a twelve month period will be automatically referred to the City Attorney Office for enforcement of appropriate remedies."
5. Mobile home park prohibition.
 - a. At this time, staff recommends grandfathering in the existing five STRs that are located in a mobile home park and prohibiting any additional STRs located in a mobile home park.
6. Annual reporting program. Staff recommends implementing an annual review and reporting process to monitor the effectiveness of the proposed STR permit process and GNP and make revisions as necessary. Staff recommends monitoring the following:
 - a. The number of STRs allowed and whether a maximum number of STRs should be allowed in the City or in an area or neighborhood.
 - b. Inspection Process. Staff can monitor to determine if annual property and/or fire inspections should be required or if the inspections can occur less frequently (i.e. every three years if no complaints or code enforcement violations.)
 - c. STR permit exemptions. Staff can evaluate whether properties considered exempt (hosted units and HOAs that are gated and have 24-hour on-site management) shall maintain an exempt status or if they should be subject to obtaining a STR permit and/or abide by a GNP.

7. Annual STR permit fee.
 - a. After further discussion at an interdepartmental meeting, staff recommends an annual STR permit fee of \$250. Staff believes this fee is appropriate and would generate enough funds to cover the cost of an additional code enforcement officer and cover permit processing time.
8. Fire lane and property access
 - a. Staff recommends the GNP state that parked vehicles shall not block or restrict access to adjacent properties. Additionally, staff recommends that the GNP prohibit vehicles from parking in a designated fire lane.

Housing Commission Summary

The Permitting Options Matrix, including staff recommendations, was presented to the Housing Commission on February 27, 2019. The Commission voted 7-1 to recommend approval of the staff recommendations regarding potential STR regulations. The Commission also recommended that a portion of the TOT revenue generated by STRs be diverted to help fund affordable housing. However, the Commission did not discuss the dollar amount that should be set aside. The Commission commented that STRs should be prohibited in all mobile home parks, but did not make a formal recommendation to prohibit STRs from operating in mobile home parks.

Fiscal Impact

TOT Revenue

According to the Finance Department, total TOT revenue for the City has increased over the past few years. The following table provides a breakdown of annual TOT received since 2011. The first row provides the annual TOT generated from STRs while the second row provides TOT generated from hotels/motels/timeshares.

Table 1: TOT Revenue

	FY 2011/2012	FY 2012/2013	FY 2013/2014	FY 2014/2015	FY 2015/2016	FY 2016/2017	FY 2017/2018
STR Revenue	\$790,222	\$917,738	\$1,082,489	\$1,359,008	\$1,614,945	\$1,926,257	\$2,474,693
Non STR Revenue	\$3,026,933	\$3,321,448	\$3,624,984	\$4,591,702	\$4,959,234	\$5,139,913	\$5,469,777
Total Revenue	\$3,817,155	\$4,239,186	\$4,707,473	\$5,950,710	\$6,574,179	\$7,066,170	\$7,944,470

As indicated in the table above, although the City has seen a greater increase in TOT attributed to STRs, TOT from non-STR properties (hotels, motels and timeshares) continues to increase as well. Total TOT has increased each year and increased approximately 6% in the last fiscal year (2017-2018).

The AHC requested staff to provide information regarding the impact STRs have on hotels. Planning staff met with Visit Oceanside staff on December 18, 2018 to discuss the impacts STRs have had on hotel revenue. Although there has been a decrease in

hotel occupancy levels in 2017, the average daily rate for hotels in the City has increased. More recently, rates and occupancy have plateaued.

STR Permit Fee

In order to provide for enhanced code enforcement, the AHC and Staff recommend an annual STR permit fee. This fee would apply to all STR operators, unless exempt (hosted units and HOAs that are self-contained and have 24-hour on-site management). The annual fee charged to each STR should collectively cover the full cost of one additional full-time code enforcement officer, plus permit processing time of about \$25 per permit. As the number of registered STRs increases, the amount charged for a STR permit could decrease. Staff anticipates an annual increase in the number of registered STRs, thereby reducing the fee amount required per STR permit, over time. On the other hand, if some STRs are exempted from the permit fee, the fee amount would have to increase.

The table below provides a breakdown of potential revenue generated from a STR permit fee:

Table 2: Projected Revenue from STR Permit Fee

Year	# of STR Permits*	Permit Fee			
		\$250	\$200	\$300	\$250
		Projected Revenue			
		All STRs		Non-Exempt STRs	
2019	900	\$225,000	\$180,000	\$180,000	\$150,000
2020	1000	\$250,000	\$200,000	\$210,000	\$175,000
2021	1200	\$300,000	\$240,000	\$270,000	\$225,000
2022	1300	\$325,000	\$260,000	\$300,000	\$250,000
2023	1400	\$350,000	\$280,000	\$330,000	\$275,000

** The number of STR permits includes exempt STRs, estimated to equal 300.*

Next Steps

The AHC recommendations and staff recommendations will go before the Planning Commission for their recommendation on April 22, 2019 prior to going to City Council for consideration at a workshop on May 29, 2019.

Attachments:

1. Permitting Options Matrix
2. 2019 Good Neighbor Policy
3. Link to view staff memos prepared for the STR Ad Hoc Committee Meetings:
<https://www.ci.oceanside.ca.us/gov/dev/planning/str.asp>



City of Oceanside Short Term Rental (STR) Permitting Options Matrix

Revised 02/07/19

ITEM	AHC RECOMMENDATIONS
Permit Process	
Ministerial Permit	Ministerial Permit required unless STR is exempt (see below for exemptions). <i>Bu: An ACUP should be required for STRs consisting of 5 or more bedrooms.</i>
Good Neighbor Policy	All STRs subject to Good Neighbor Policy (GNP) unless exempt.
Applicable Taxes	All STRs pay Transient Occupancy Tax (TOT) and Oceanside Tourism Marketing District (OTMD) assessment.
Contact Information	
	List of STR properties provided on the City website and shall include property address and 24-hour contact information. A sign shall be posted on the STR property. Sign shall include 24-hour contact information.
Permit Exemptions	
	STR operator could be exempt if all of the following: <ol style="list-style-type: none"> 1. HOA 2. Self-contained (gated) 3. 24-hour on-site management Hosted units are exempt. <i>Bu: There should not be exempt units (except Hosted Units).</i>
Number of STRs	
Cap	No cap on the number of STRs at this time. Implement a STR permit process and GNP with enhanced enforcement and then monitor and review for effectiveness. <i>Ba: There should be a cap on the number of new STRs. Should be a cap in South O. Cap on new STRs. Cap on new STRs allowed in R1 District.</i>
STRs per Owner	Distinguish between private vs. corporate ownership. <i>Bu: There should be a maximum number per owner. Possibly grandfather existing STRs, but limit new STRs to primary residence.</i>
Locational Requirements	
	STRs allowed citywide. STRs not allowed in mobile home parks.
Operational Regulations	
Max Occupancy	2 people per bedroom, plus 2. (Bedroom is defined in GNP).
Minimum Consecutive Night Stay	2 nights.

Additional comments provided by members of the Ad Hoc Committee (Ba: Balch; Bu: Busk; R: Rosales) are provided in italics. These comments do not reflect the full AHC recommendation.



City of Oceanside Short Term Rental (STR) Permitting Options Matrix

Revised 02/07/19

Daytime guests	The maximum number of daytime guests shall be 10 guests. Daytime guests shall be allowed between 7am and 10pm.
Parking	All garage, driveway and designated on-site parking spaces shall be made available for vehicle parking.
Hosting Platform Contract	Staff to continue to research and discuss contracts with hosting platforms.
Enforcement	
One Hour Inspection Warning for Violations	1-hour inspection for code enforcement violations.
Property Inspection	Initial property inspection at time of STR registration. Fire Dept. to conduct regular inspections thereafter (every three years if no complaints/violations). <i>Ba: Evacuation plan shall be posted in STR. STR operator to provide floor plan with exist signs and indicate location of fire extinguisher. Annual inspection of fire alarm.</i>
Three Strikes Policy	3 citations within 12 months or 5 citations within 24 months may result in STR revocation of 36 months. Depending on severity of violation, permit may be revoked after initial citation.
Applicable Fees	
Permit Fee	\$300 to \$400 annual STR Permit Fee to cover the cost of one additional full-time Code Enforcement Officer.
Affordable Housing Impact Fee	Does not support an Affordable Housing Impact Fee at this time.
Panhandle Properties	
	Defer to Fire Department.

Additional comments provided by members of the Ad Hoc Committee (Ba: Balch; Bu: Busk; R: Rosales) are provided in italics. These comments do not reflect the full AHC recommendation.



CITY OF OCEANSIDE

Short Term Rental Good Neighbor Policy

The Good Neighbor Policy (GNP) was created to minimize the adverse impacts Short Term Rental (STR) properties may have on surrounding residential neighborhoods. STR owners/operators and guests are responsible for ensuring the following rules are acknowledged and followed:

STR Operator Responsibilities

- 1. 24-Hour Contact Available.** Owner or owner's authorized agent shall be available 24 hours a day, seven days a week to respond to complaints concerning condition, operation, or conduct of STR occupants.
- 2. Contact Information.** A copy of the STR Permit and TOT Registration Number shall be displayed on the exterior of the unit. The notice must include a local emergency contact phone number that is reachable at all times. The property address and contact phone number for the STR shall also be included on the City webpage directory for STRs.
- 3. Complaint Response Time.** The owner or owner's authorized agent must respond to a complaint received by the City or neighbor within 60 minutes of receipt of the complaint.
- 4. Trash.** Rental properties shall be kept clean with no visible trash. All trash containers shall be stored out of public view except when at the curb on collection days. Ensure guests know about and adhere to the neighborhood trash collection schedule.
- 5. Occupancy.** The maximum number of occupants shall be limited to two adults per bedroom plus two people per unit (including children). The number of bedrooms listed on the STR permit application will determine the appropriate occupancy level for the unit. Bedroom shall be defined as a "private room furnished with a bed and intended primarily for sleeping. Bedrooms must be separated from other rooms by a door and have at least one window and emergency escape/rescue opening and a closet or storage nook. Additionally the room must be accessible to a bathroom without crossing into another bedroom."
- 6. Parking.** All garage, driveway, and on-site designated parking spaces shall be made available for vehicle parking.
- 7. Minimum Night Stay.** Two- night minimum stay for all guests.
- 8. Enforcement.** Violations of the ordinance are subject to all of the criminal and civil remedies set forth in Chapter 1 of the Oceanside City Code. These include misdemeanor criminal prosecution, administrative monetary citations, and/or civil nuisance abatement actions. In addition, a STR permit may be modified, suspended, or revoked for documented violation(s) of the Ordinance. Any STR that has been the subject of three verified complaints in a twelve month period will be automatically referred to the City Attorney Office for enforcement of appropriate remedies.



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Short Term Rental Good Neighbor Policy

- 9. Formal Acknowledgement.** This GNP must be shared with all guests and renters must execute a formal written acknowledgement that they are legally responsible for compliance with all requirements listed under “Guest Responsibilities” below.

STR Guest Responsibilities

- 1. Parking.** Vehicles shall be parked in garage, driveway, and on-site designated parking spaces whenever possible. Please avoid parking on street if on-site parking is available. No vehicles shall be parked on a designated fire lane nor block or restrict access to adjacent properties.
- 2. Occupancy.** The maximum number of occupants shall be two adults per bedroom plus two people per unit (including children).
- 3. Daytime Guests.** The maximum number of daytime guests allowed in a STR unit shall be 10 guests, regardless of bedroom count. Daytime guests are allowed between 7am and 10pm.
- 4. Noise.** Any disturbing, excessive, or offensive noises as defined in Section 38.17 of the Oceanside City Code shall be prohibited between the hours of 10pm and 10am.

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