

CASE STUDIES SUMMARY MEMO

DEVELOPMENT OF SHORT-TERM RENTAL PROGRAM AND REGULATIONS CITY OF LONG BEACH

To: City of Long Beach

From: Lisa Wise Consulting, Inc. (LWC)

Date: July 23, 2018

INTRODUCTION

The recent rise of the sharing economy, particularly the significant growth in short-term rentals (STRs), presents opportunities and challenges for communities and lawmakers. While the rise of STRs presents some consistency in policy challenges across jurisdictions, a range of regulatory responses have been instituted to address specific local issues. This memo addresses responses in four California cities to consider as the City of Long Beach (City) formulates STR regulations.

This memo describes STR policies of four California cities: San Francisco, Santa Monica, Newport Beach, and Sacramento. The four case studies were selected by the City of Long Beach (City) in coordination with LWC as representative of a range of approaches. Various approaches have been implemented throughout California and nationally. As such, options for a Long Beach STR ordinance are not limited to those described in this memo.

SUMMARY

Table 1 provides a summary comparison across the four STR case studies. A detailed discussion of each case study's STR regulations follows this table and the Takeaway section.

Table 1 – Short-Term Rental Case Studies Summary

	San Francisco, CA	Santa Monica, CA	Newport Beach, CA	Sacramento, CA
Overview	Only verified permanent residents may rent their primary home as a STR. Prohibited in affordable housing units ¹ , accessory dwelling units (ADUs), and boats/watercraft. Hosting platforms remove invalid listings.	Only hosted STRs (“home sharing”) are allowed. A new ADU is considered as a separate home. Online hosting platforms are prohibited from completing bookings for hosts that are not registered ² .	Not allowed in single-family residential zones or single-family homes in planned developments or specific plan areas. STRs in single-family homes as of June 1, 2004 are grandfathered.	Primary residents may rent their home as a STR. Dwellings that are not primary residences may be rented for 90 days/year. Dwellings that are not primary residences and are rented for more than 90 days/year require a Conditional Use Permit ³ .
Hosted Limit	No limit	No limit	No Limit	No Limit
Un-hosted Limit	90-days	Not allowed	No limit	Primary residence - 181-days ⁴ Not primary residence - 90-days unless CUP issued
Host Requirements	Lived in the unit for ≥ 60 days and must reside in the unit for ≥ 275 nights/year. Property liability insurance of ≥ \$500,000.	Must advertise STR as a shared space. Actively prevent nuisance activities.	Local 24-hr contact. Limit occupants per Building Code. Provide guests with City rules and regulations. Best efforts to prevent nuisance activities.	Local 24-hr contact. Rent to no more than 6 people at one time. Provide guests parking and noise regulations.
Geographic Limitations	Prohibited in The Presidio, Fort Mason, Treasure Island	N/A	Prohibited in single-family residential zones	N/A
STR Permit	STR Residential Rental Registration Application	Business License: Home-Sharing Application	Short Term Lodging Permit/TOT Registration	Short-Term Rental Permit or Conditional Use Permit
STR Permit Fee	\$250 every two years (non-refundable)	No fee	\$93	\$125 ⁵ \$90 renewal (annual)
TOT	14% effective rate	14%	10% effective rate	12%
Business License Fee/Tax⁶	Based on anticipated gross receipts (\$75 if ≤ \$100,000)	Based on anticipated gross receipts (\$75 if ≤ \$60,000) ⁷	\$162 for residentially based businesses	\$50 (hotel rate) ⁸
Misc.	Must post map of fire extinguishers and escape routes.	Exterior signage prohibited. Must provide listing URL on business license application.	Post permit conditions in unit. Must include business license number in listing.	Exterior signage prohibited. Post permit in each rental room. Must include STR permit number in listing.

¹ Affordable housing consists of single-room occupancies (SROs), student housing, dormitories, income-restricted units (e.g., below-market-rate units), and public housing units.

² Hosting platform requirements are not currently being enforced due to a pending lawsuit.

³ These operations are considered as “bed and breakfast inns” (Municipal Code Sections 17.108.030, 17.228.104).

⁴ Difference between 365 days and the primary resident requirement of 184 days per year.

⁵ Conditional Use Permit (CUP) application fees are \$5,000 to \$6,000.

⁶ Fees identified exclude State fees.

⁷ A person who makes \$40,000 or less annually in gross receipts may apply for a Small Business Exemption.

⁸ A hotel type business rate is \$50 plus \$0.75 per unit over four.

TAKEAWAY

Each case study city approaches STR regulation differently based on unique circumstances and objectives, and some are continuing to explore methods to improve STR-related procedures and enforcement. Clear and simple regulations are often most efficient to administer and enforce, but STR regulation has proven to be complicated in the sharing economy era. The reliance on online hosting platforms to take a role in ensuring legality of STRs is apparent but brings significant challenges as well. This memo provides insight on potential regulatory strategies that the City of Long Beach may consider when drafting a STR ordinance.

CASE STUDIES

San Francisco, CA

In 2014, San Francisco was home to over 5,000 STRs, all of which were operating illegally because the City's⁹ Municipal Code did not allow STRs. At this time, the City began the process of developing regulations to allow STRs in a manner consistent with the community's goals for affordable housing and quality of life.

As a strategy for managing potential negative STR impacts, San Francisco's regulations require permanent residency of a STR. This limits the number of STRs because a host must primarily reside in the STR (i.e., live in the STR for at least 275 nights per year). As such, un-hosted rentals are allowed up to 90 nights per year. Furthermore, a host must live in the STR for at least 60 days before applying for an STR permit. The City's Office of Short-Term Rentals (OSTR) verifies primary residency during the review of the STR Residential Rental Registration Application (Application). The OSTR also reviews the Application for compliance with other requirements, including conformance with dwelling conditions (e.g., City Codes, not in The Presidio, Fort Mason, or Treasure Island, not an affordable housing unit, not outdoor sleeping areas, not a boat, etc.) and property liability insurance coverage¹⁰. Application processing time is approximately two to four weeks, but that is expected to decrease after the surge of 2018 permits is addressed (see discussion regarding the settlement agreements with Airbnb and HomeAway, below). The City has allowed hosts to rent their STR while the Application is being processed.

Neighbor notification is only required for STRs in the lowest density, detached single-family zone (RH-1(D)). This entails a courtesy notice to property owners and residential tenants within 300 feet of the proposed STR, as well as nearby neighborhood groups registered with the Planning Department. A 45-day comment period follows; however, neighborhood input will only affect the STR Application if sufficient evidence is submitted to show that the host or unit is ineligible according to City requirements. Also, if the host applying for a STR permit is a tenant, the OSTR will provide the owner of the unit

⁹ "City" is used in this section to refer to the City and County of San Francisco.

¹⁰ Each host must maintain property liability insurance in aggregate of \$500,000 or conduct each STR transaction through a Hosting Platform that provides equal or greater coverage (Airbnb provides this coverage).

notification of the tenant's intent to be a STR host. The OSTR encourages applicants to review their lease and receive permission from the property owner (landlord) prior to applying for a STR permit.

If the STR Application is approved by the OSTR, the host is certified for a two-year period. A \$250 non-refundable fee is required for each Application. Currently, OSTR's rejection or denial rate for STR Applications is 40%¹¹. Hosts are required to submit quarterly reports to the OSTR detailing listing history (i.e., dates of stays for both hosted and un-hosted stays for the quarter).

STR hosts are also required to register (Business Registration Certification) with the City's Office of Treasurer and Tax Collector and collect and remit Transient Occupancy Tax (TOT) (Certificate of Authority to Collect TOT). STR hosting platforms certified as a Qualified Website Company (QWC) by the City may collect and remit TOT on behalf of the host; however, only two platforms have been certified as a QWC: Airbnb in 2015 and Hostwell in 2018. The TOT rate is 12% with the imposition of an additional 2% surcharge, for an effective rate of 14%.

Currently, the OSTR maintains a staff of six with strong analytical skills and planning experience. OSTR is autonomous but works most closely with Planning, Treasurer and Tax Collector, and Attorney Offices. On occasion, OSTR will coordinate with Building, and will work with Digital Services when needed on web or database support systems (primarily during the web/portal/etc. development phases). In addition to host quarterly reports, the OSTR uses information provided by hosting platforms and a third-party contractor to analyze compliance. In fiscal year 2015-2016, the OSTR processed 1,278 STR Applications and pursued enforcement against 267 illegal STR hosts with a budget of \$275,604¹². However, these processing statistics are expected to change in fiscal year 2017-2018 and stabilize thereafter as compliance rates increase and the San Francisco's local market for STRs adjusts to enforcement (see next paragraph). The OSTR's budget has been increasing over time, and its fiscal year 2017-2018 budget was \$524,585.

Despite the requirement for STR hosts to register, in 2015, the City was experiencing an estimated compliance rate of 20% - only 1,082 STR registration applications had been received while Airbnb showed 5,378 unique STRs¹³. In part to address this issue, the City made it a misdemeanor for any hosting platform to list an unregistered host or unit. Subsequently, Airbnb and HomeAway sued the City, courts issued a stay in the case, deferring ruling to a later date, and the City and Airbnb and HomeAway were encouraged to come to an agreement. In a settlement, Airbnb and HomeAway ultimately agreed to help the City enforce regulations requiring hosts be registered with the City¹⁴. Between September 2017 and January 16, 2018, Airbnb reported removing 4,680 San Francisco listings from their site in compliance with the January 16, 2018 deadline for City registration¹⁵. The OSTR described STR listing reductions of approximately 65% for Airbnb and 90% for FlipKey from their peak¹⁶. After notification by

¹¹ Kevin Guy, Director, Office of Short Term Rentals, City and County of San Francisco, teleconference May 31, 2018.

¹² City and County of San Francisco Fiscal Year 2017-2018 Budget.

¹³ Airbnb, Inc. v. City and County of San Francisco, 2016.

¹⁴ Ibid.

¹⁵ San Francisco Business Times, "Even while Airbnb drops nearly half of San Francisco hosts, company says it won't affect business here" 2018.

¹⁶ Ibid.

the OSTR, platforms now have six business days to remove invalid listings and cancel future reservations.

All hosting platforms are also required to submit monthly affidavits to the OSTR affirming they have exercised reasonable care in verifying listings on their site are registered with the City. Furthermore, platforms must maintain business records for all hosts for three years. To streamline registration, platforms may choose to institute a pass-through system that enables guests to complete the required City STR Application on the platforms' site. Currently, the City charges platforms \$40,000 upfront to develop a pass-through system and charges an annual maintenance fee of \$5,000¹⁷. Both Airbnb and HomeAway utilize this pass-through system, and as a result, new listings on these platforms are all City-approved¹⁸.

The City's policy response to the growth in STRs has resulted in a significant shift in the market for STRs in San Francisco. Hosting platforms, like Airbnb and HomeAway, have conceded to regulatory requirements to pull hosts that do not have a valid permit with the City and provide a mutually agreed-upon level of host data to the City, which have contributed to a dramatic improvement in the level of STR compliance. However, according to OSTR, it is unlikely that Airbnb would agree to operating under this arrangement in another city without a legal battle.

Increased compliance has resulted in a fewer STRs operating in San Francisco, which has generated lower TOT revenues (TOT is collected from illegal STRs). Furthermore, with higher levels of compliance, fewer fines are being issued, further reducing revenue. The OSTR requires funding from the General Fund to maintain operations, as STR permit fees also do not support full operation¹⁹. Nonetheless, the Director of OSTR finds that the Office is running smoothly and doesn't foresee any changes to improve protocol or processes.

Santa Monica, CA

Through STR regulations adopted in 2015, the City of Santa Monica aimed to address concerns related to housing affordability and stability and character of residential neighborhoods. The City regulates STRs through two categories - Home-Sharing (hosted stays) and Vacation Rentals (un-hosted stays).

- Home-Sharing is defined as an activity where residents host visitors in their homes, for compensation, for 30 consecutive days or less, and where at least one of the dwelling unit's primary residents lives on-site. Living on-site means being present in the dwelling unit where the home-sharing is being offered, including sleeping overnight, preparing and eating meals,

¹⁷ OSTR, Letter to Platforms, Administrative Guidance, 2017.

¹⁸ HomeAway/LWC teleconference, June 12, 2018.

¹⁹ Although the OSTR strives for full cost recovery, it would be difficult to accomplish this in the absence of either significant penalty revenue (which is declining) or without significantly increasing the STR application fee. The City Controller or the Board of Supervisors could at any time mandate full cost recovery and increase the application fee accordingly.

entertaining, and engaging in other activities in the dwelling unit that are typically enjoyed by a person in their home²⁰.

- Vacation Rentals are defined as the rental of a dwelling unit for “exclusive transient use”, meaning none of the dwelling unit’s primary residents live on-site for the duration of the visitor’s stay.

Vacation Rentals, or un-hosted STRs, are prohibited. Similar to San Francisco, Santa Monica’s resident requirement for Home-Sharing limits the number of STRs, but is more rigid than San Francisco as a resident must be present whenever Home-Sharing takes place. However, a host or resident may be a tenant or the property owner, and there is no limit to how many nights Home-Sharing may occur within a dwelling unit.

The 2015 STR regulations were amended in 2017 to address accessory dwelling units (ADUs), which must be allowed under recent State legislation. An ADU that received a building permit on or after March 31, 2017 is considered a separate dwelling unit for the purposes of Home-Sharing, meaning that a new ADU may not be rented on a transient basis even while a resident is present in the primary dwelling. In advertisements for Home-Sharing, the host is required to clearly advertise the unit as a shared space unless the advertised rental is an allowed accessory structure (i.e., not an ADU that received a building permit on or after March 31, 2017).

These STR regulations were upheld by a recent Court decision, finding the Home-Sharing Ordinance is a proper exercise of the City’s police power and is not preempted by the Coastal Act. The Court specifically concluded that the Ordinance does not require a Coastal Development Permit from the Coastal Commission because it is not “development” under the Coastal Act. Further, the Court concluded that the Ordinance is not an improper amendment to the City’s existing certified Coastal Land Use Plan²¹.

STR host must register with the City by completing a Business License: Home-Sharing Application (Application) and pay the effective business license tax. The business license tax is \$75 on the first \$60,000 of gross receipts, and a tax of 0.3% is assessed on every \$1,000 above \$60,000²². During the review of this Application, the City evaluates proof of residency, which can be provided in the form of a bank statement, utility bill, phone bill, cable bill, or credit card bill. It typically takes a week to process an Application. The host platform website and the listing number is required to be provided on the Application.

Santa Monica also imposes hosting platform requirements; however, a case is pending between the City and two major hosting platforms (Airbnb and HomeAway, see later discussion). All platforms that collect payment for a Home-Sharing rental are responsible for collecting and remitting TOT. Subject to applicable laws, platforms are also required to report rental addresses, name of person responsible for the listing, length of each stay, and price paid for each stay to the City on “a regular basis”. Perhaps most

²⁰ City of Santa Monica Municipal Code Section 6.20 and Home-Sharing Ordinance Rules, July 1, 2017.

²¹ Denise Smith, Administrative Analyst, City of Santa Monica, June 7, 2018.

²² This tax is not specific to STRs (the City used the existing tax code). A person who makes \$40,000 or less annually in gross receipts may apply for a Small Business Exemption.

importantly, platforms are prohibited from “completing any booking transaction” unless the unit is listed on the City’s publicly available Home-Sharing registry. However, the City’s Code includes a “safe harbor” exclusion whereby hosting platforms operating exclusively online are presumed to be in compliance with the City’s regulations but must comply with administrative subpoenas issued and served by the City to obtain specific information (e.g., names of person(s) responsible for listings, length of stay, price paid for each stay, etc.). The online hosting platform has a minimum of 30 days to provide the information.

Home-Shares are not allowed to advertise on the exterior of the unit and must include the business license number in all advertisements, as well as remit TOT (set at 14%). Following a series of citations, Airbnb began complying with the City’s TOT requirements, remitting TOT on behalf of hosts in November 2015. TripAdvisor is the only other hosting platform remitting TOT on behalf of hosts in Santa Monica. Furthermore, a STR host is required to take responsibility for an actively prevent any nuisance activities that may result from STR activities.

The City has a three-person Code Enforcement task force dedicated to enforcement of STR regulations (one Administrative Analyst and two Code Enforcement Officers). City staff from the Finance Department (Business License and Revenue) are involved as well but are not dedicated solely to the STR program; the City uses no outside contract services for administration or enforcement. Complaints initiate 75% of enforcement cases, and 25% are proactive or City-initiated. Citizen complaints are crucial to enforcement efforts because citizens can provide exact addresses and names of hosts who are tenants in multi-family units.

The City issues fines of \$500 for advertising, facilitating, or operating violations or operating without a business license, and \$75 for failure to pay TOT²³. Most of the citations (65%) have been for advertising violations. Full investigative costs on administrative citations can be charged to violators in addition to the fines. Further, unregistered hosts are required to pay back TOT and remit all illegally obtained rental revenue, so it may be returned to guests or victims of illegal STRs, in addition to compensating the City for the cost of the investigation. These amounts are determined during the City’s investigation, and the illegally obtained revenue consists of post-stay revenues. Citations can be appealed, but the City has prevailed in all but two of 34 appeals in a 12-month period. The average amount of time a STR case is open is five months, and as of February 2018, the Code Enforcement task force was investigating 150 active cases. Ten criminal cases are pending and being pursued by the City Attorney’s Office.

According to Code Enforcement, the primary challenge is proving that the host is not present during guest stays; although, the City would not disclose its enforcement strategy out of concern for compromising its effectiveness. Additional challenges are identifying hosts in multi-family apartment buildings and hosts coaching guests to tell enforcement officers and neighbors that they are friends or relatives of the host²⁴. Just over half of licensed STRs occur in single-family homes, and most hosts (70%) are property owners²⁵. The average nightly rental rate is \$163.

²³ Ibid

²⁴ Ibid

²⁵ Information Item, Short-Term Rental Program Update, City of Santa Monica, February 9, 2018.

The City typically receives approximately \$2 million annually in TOT revenue from STRs. According to the City's Home-Sharing registry²⁶, there were just over 200 legal Home-Shares in April 2018. This number grew to almost 300 as the summer tourist season kicked-off in early June 2018. The City requires TOT remittance from legal and illegal STRs, and the total number of STRs in Santa Monica was not available, but the City estimated 502 unlawful listings in February 2018. The most recent numbers for collection of STR fines was approximately \$80,000 annually. STR revenues (TOT, permit fees, and fines) are deposited in the City's General Fund. STR revenues far outpace the City's cost to administer STR regulations, which is less than \$500,000 per year.

Initially, the City took enforcement action against two of the major online hosting platforms and collected \$42,630 in fines from those platforms. However, recent litigation has prevented the City from continuing enforcement against hosting platforms. In 2016, Airbnb and HomeAway filed suit against the City²⁷, following the adoption of its original ordinance that banned vacation rentals and made it a misdemeanor for a platform to complete transactions for unregistered properties. Ruling in the case is still pending, though a petition for preliminary injunction filed by HomeAway and Airbnb was denied in March 2018²⁸. While both San Francisco and Santa Monica's regulatory policies place similar requirements on platforms, and both cities are in the jurisdiction of the California Ninth Circuit of Appeals, San Francisco's STR program developed from settlement agreements with Airbnb and HomeAway and is not based on legal precedent established in court.

Newport Beach, CA

The City of Newport Beach regulates STRs through zoning and business regulations to address concentrations of tourists that can cause neighborhood disturbance issues (e.g., parties, noise, trash, etc.). The Zoning Code prohibits "short-term lodging" in the Residential-Agricultural (R-A) Zone and the Single-Unit Residential (R-1) Zone, which are detached single-family home zones. STRs are allowed by-right in the higher intensity residential zones. A complicating factor is that STRs in existence as of June 1, 2004 and located in the R-1 Zone are "grandfathered", meaning they may continue to operate, regardless of the current zoning prohibition. The City has only revoked the right to operate one of these R-1 Zone STRs upon demolition of the structure in which a grandfathered STR was operating; however, City staff has discussed the possibility of revoking this right if STR operation is discontinued for a certain period. An estimated 200 grandfathered R-1 Zone STRs exist²⁹.

The Code does not limit the number of nights a STR may be rented, regardless of whether the rental is hosted or un-hosted. Additional requirements include the provision of a 24-hour local contact who is available to respond to complaints, limiting the number of guests in accordance with the Building Code, and providing City rules and regulations to guests, including the number and location of on-site parking spaces and trash location and pick-up information. Hosts must use "best efforts" to ensure guests do

²⁶ <https://data.smgov.net/Permits-Licenses/Home-Sharing-Registry/qza6-nc9s/data>

²⁷ *HomeAWAY. COM, INC. v. City of Santa Monica*, No. 2: 16-cv-06641-ODW (AFM) (C.D. Cal. Mar. 9, 2018).

²⁸ <https://www.santamonica.gov/press/2018/03/13/city-of-santa-monica-prevails-against-airbnb-and-homeaway>

²⁹ Ellen Brenan, Revenue Department, City of Newport Beach, teleconference May 25, 2018.

not create unreasonable disturbances, including posting conditions of the STR Permit in a conspicuous place within the unit.

STR hosts are required to register with a business license, and subsequently complete a Short-Term Lodging Permit Application and Transient Occupancy Tax Registration form (STR Permit/TOT registration). A \$93 fee is required with the STR Permit/TOT registration, and the annual business license tax is \$162 for residentially based businesses. If a STR operator is different from the property owner, and that operator is collecting TOT on behalf of the owner, the operator's information must be provided on the application form. If the information is complete and accurate, processing will take only 5 to 10 minutes, although there is frequently further clarification needed³⁰. While the business license requires annual renewal, the STR Permit/TOT registration does not. The STR Permit/TOT registration is non-transferable (i.e., a new owner would need to reapply). In May 2018, the total number of licensed and permitted STRs in Newport Beach was 1,368.

STR operators or agents are required to submit TOT forms quarterly, and the property owner is required to sign the TOT form annually, even if no TOT is due to the City. According to City staff, this requirement seems to cause confusion to property owners, and City staff spends time each year enforcing this requirement. The City has no arrangement with any online hosting platform to collect and remit TOT. The TOT rate is 10%, and the City collects TOT from illegally operating STRs, including the payment of back taxes when an illegal or noncompliant STR is identified. The amount of back taxes is determined by the statement of rental history provided by the STR operator, which may be provided in response to City correspondence identifying that the STR operator can be audited by the City.

Since STR regulations reside in Business License and Zoning titles of the Code, both the City's Revenue Division staff and Community Development Department Code Enforcement staff are charged with enforcement. Currently, the City's Revenue Division has one part-time employee processing STR Permit/TOT registrations and issuing notices to comply with STR Permit and business license registration requirements. When the business license registration is submitted, the City cross references the address with the City's GIS (mapping system) to verify the STR is located within an allowed zone. Additionally, the City contracts with a third party to verify online STR listings are valid based on the business license and STR Permit/TOT registration numbers posted in the listing, or lack thereof (it is required to be included in the advertisement)³¹. The Community Development Department's Code Enforcement staff is tasked with enforcing compliance of the Zoning Code, namely issuing citations to STRs located in the R-1 Zone, where STRs are prohibited. There is no Community Development Department Code Enforcement staff dedicated solely to STR compliance. According to the Revenue Division, STR revenues (permit fees, TOT, fines) have outpaced the cost of STR program staffing; however, these revenues are deposited into the General Fund, not set aside for specific purposes.

The split of enforcement responsibilities was cited by the City as a source of confusion. Furthermore, Code Enforcement staff cited residents' reluctance to report complaints as a challenge in enforcing regulations and that officers are typically not available when complaints are most likely to be reported

³⁰ Ibid.

³¹ Host Compliance provides the City with data on active listings.

(evenings and weekends). City staff also identified a need for clearer distinction between revocable offensives and minor violations to enable effective enforcement. Staff recommended establishing higher fines for illegal STRs³² and requiring the posting of 24-hour contact information on the outside of STRs as potential ways to improve compliance. Lastly, Code Enforcement staff recommended the STR Permit/TOT registration should be valid for one-year to generate annual permit revenue that covers enforcement costs. It is estimated that a couple hundred STR code enforcement cases are opened each year in Newport Beach.

Sacramento, CA

Through STR regulations, the City of Sacramento aimed to achieve a balance between property owners supplementing their income and bringing more visitors to Sacramento while preserving the structure and function of residential neighborhoods. The City addresses STRs through special use regulations for Bed and Breakfast Inns (Sections 17.108.030 and 17.228.104) and business license regulations (Chapter 5.114). Bed and Breakfast Inns are broadly defined as “a dwelling unit in which temporary night-to-night lodging, with or without meals is being provided for compensation.”

A STR is defined as a Bed and Breakfast Inn that rents to no more than six guests at one time³³, and if the dwelling unit is not the primary residence of the STR permittee, lodging is provided for no more than 90 total days per calendar year³⁴. “Primary residence” means the STR permittee resides in the dwelling for at least 184 days per calendar year. Thus, STRs that are primary residences could provide entire unit, or un-hosted, rentals up to 181-days per year. Special events, such as weddings, are prohibited in STRs. If the 90-day threshold for non-primary residence STRs is exceeded, a Conditional Use Permit (CUP) may be obtained to allow total guest stays to exceed 90 days per year. The fee for a CUP is \$5,000 to \$6,000 and requires Zoning Administrator approval. There are currently three STR CUPs pending³⁵.

STRs are required to register with a business license and obtain a STR Permit to operate. A \$125 fee is required for new STR Permit applications and a \$90 renewal fee applies every year. STR Permits can be denied if the dwelling is subject to an enforcement action or if the dwelling, property owner, or occupant has been found in violation of the Code (e.g., Building Code, nuisances, etc.). The STR Permit process typically take two weeks. After the issuance of a STR Permit, the City will send notification to all property owners within 200 feet of the permitted STR, and the notice will contain the location of the STR and the contact information of the permittee. For STRs that are not primary residences, the City requires a local (within 30 miles) contact who can quickly respond to complaints. The City has found the 200-foot notification effective in having neighbors contact the local representative to address issues before contacting the City. Further, a copy of the STR Permit must be posted in each guest room; no exterior

³² Current fines range from \$100-\$3,000 depending on the violation (Matt Cosyion, Community Development Department, Code Enforcement, City of Newport Beach, May 29, 2018).

³³ Bed and Breakfast Inns with up to seven guest rooms in lower density residential zones required a Conditional Use Permit approved by the Zoning Administrator.

³⁴ Sacramento Municipal Code Section 17.228.104(D).

³⁵ Cynthia L. Smith, MPA, Finance Department, City of Sacramento, June 11, 2018.

signage is allowed. STR Permits are non-transferrable (i.e., a new property owner would need to reapply).

Challenges identified by the City are registering STRs already in existence and enforcing the guest limit of six people³⁶. The City stated that requiring platforms to ensure hosts are compliant would be desirable (as is being done in San Francisco), but is not a current requirement. Additionally, the City does not have an online process to facilitate the STR Permit application process; STR Permit must be submitted via mail, in-person, or placed in the City's drop box outside Finance Department office. Currently the City uses host advertising to enforce compliance with the six-person guest limit (i.e., any advertisement offering STRs that sleep more than six people).

All STRs are required to pay the 12% TOT and pay an annual business tax of \$50 (hotel rate). STRs that are not primary residences are required to submit quarterly registers documenting dates of stays, how many guests stayed on each date, and the amount paid by guests for each night. These registries are also used by the City to track compliance with the 90-day rental limit for non-primary residence STRs. The City requires TOT remittance from illegal or unpermitted STRs.

There are currently 143 STR Permits issued, and TOT revenues from STRs have been increasing since the ordinance went into effect: 1st year - \$6,200, 2nd year - \$46,000, and \$400,000 so far in fiscal year 2017-2018. The significant increase in TOT revenue resulted from the City executing an agreement with Airbnb to remit TOT on behalf of hosts. However, the agreement with Airbnb limits the City's TOT audit process for STRs, as compared to the audit process conducted for traditional hotels.

All advertisements must include the STR Permit number. Although any person who violates the City's requirements is liable for civil penalties of \$250 to \$25,000 for each day the violation continues, the City has not issued any large citations (e.g., \$25,000) to-date. Additionally, the Code includes clear procedures for revocation of a STR Permit, but the City has not revoked a STR Permit to-date.

There is one full-time employee dedicated to the STR program, who works in conjunction with Code Enforcement, the Police Department, Planning, and the public. The City's Code Enforcement Division is responsible for enforcement, and there are currently nine open STR cases. No outside contractors provide support, but the City is currently in the process of exploring a third-party vendor to assist with registration compliance.

³⁶ Ibid.