

STAFF REPORT



COMMUNITY DEVELOPMENT



DATE: June 16, 2020

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
Via: Ron Takiguchi, Assistant Community Development Director – Building Official
Via: Fred Ramirez, Assistant Community Development Director - Planning
By: Nick Burant, Admin. Analyst & Karen Pan, Admin. Officer

SUBJECT: Consideration of Short-term Rentals

RECOMMENDATION

Provide policy direction and input for a proposed Short-term Rental Ordinance.

BACKGROUND

Prior to the Covid-19 outbreak, Burbank and other neighboring cities had seen an increase in demand for short term rentals. A short-term rental (STR) is a residential property that is rented for a brief duration, typically for 30 days or less. STRs consist of (1) home-sharing, where a room in the unit or an accessory structure is rented, typically with the owner present, or (2) vacation rentals, where the entire unit is rented out to guests with the owner absent. STRs have become increasingly popular over the past decade as homeowners and renters search for additional sources of income and with the proliferation of platforms such as Airbnb, VRBO, Home-Away and FlipKey.

This report will lay out the regulatory issues brought up by STRs, recommend staff solutions to some of these issues, and ask for the Council's input while laying out the advantages and disadvantages of STRs. Once staff has Council's input and possible direction to move forward, staff will bring back a proposed ordinance reflecting Council's recommended course of action.

Economic Development

The purpose of bringing this item to the City Council now is to seek direction on whether to formalize regulations on STRs in Burbank as this type of activity begins to ramp up

after the State and County Safer At Home Orders are lifted. On May 19, 2020 the City Council approved the Economic Recovery Plan to (in part) encourage development and business recovery and financial stability for our residents, thereby continuing to build a safe, beautiful and thriving community. Regulating and allowing STRs in Burbank dovetails with the Economic Recovery Plan's Policy No. 6:

6) Helping Burbank's tourism industry recover by promoting and marketing our hotels, restaurants, the Hollywood Burbank Airport, and other local destinations.

STRs help this policy on two levels. First, on a macro scale, STRs are now a critical part of a city's tourist infrastructure. By formalizing regulations on STRs, the City would effectively add accommodations and allow more visitors to stay in Burbank. On a micro scale, STRs may be important to residents to improve their finances during the recovery. Many residents may want to rent out their homes to help with mortgage or rent payments, or for extra spending money.

Regulation of STR

The rise in STR activity over the last decade caught municipal officials across the country off-guard, as STRs do not fit into normal municipal regulatory structures. Municipalities have responded by either banning STRs entirely or creating new regulatory systems to allow regulated STR activity. Currently, the Burbank Municipal Code (BMC) does not identify STR activity as a use within the City's residential zones and therefore it is a prohibited use. In addition, the City does not pro-actively enforce this prohibition because there is no resource or mechanism to identify those properties. Therefore, the City is reacting to each complaint as they are received and uses Code Enforcement and Police Department personnel to address each complaint on a case-by-case basis.

Arguments in favor of regulating and allowing STRs include allowing homeowners and renters to generate extra income, making more hotel-like rooms available for rent in the City, providing alternatives to hotels, and creating an economic spark for the communities where STR visitors choose to stay. Arguments against regulating and allowing STRs are that they decrease the housing supply and increase rental prices by reducing the number of available units, create noise and parking supply issues in neighborhoods, and harm the existing hospitality industry.¹ Staff believes that in order to build and protect neighborhoods, regulations addressing already occurring STRs are necessary. Clearly defined rules and regulations will enable both STR operators, visitors, and the City to have standards regarding the operation of an STR. Furthermore, staff would like to ensure that STRs do not limit the housing market, and that neighborhoods and residents are not affected by their operations. In addition, since hotels and STRs similarly offer nightly

¹ [The economic costs and benefits of Airbnb](#)

accommodations, regulating STRs would bring them within the purview of the City's Transient Occupancy Tax (TOT).

DISCUSSION

As previously noted, the Burbank Municipal Code (BMC) is largely silent on the matter of STRs. As such, there is no useful tool available to staff to actively manage STRs. City staff currently handles complaints related to STRs through the Police Department and Code Enforcement staff in the Community Development Department. As of today, staff has received 5 complaints this year and 19 complaints last year from the public.

Many residents are operating STRs in Burbank. Industry websites and consultants indicated there are between 300 and 500 STRs operating in Burbank at an average price of \$130 per night as of December 16, 2019.² As of December 16, 2019, STRs in Burbank have a 30% occupancy rate, meaning they are booked, on average, 110 days out of the year. These STRs are spread across Burbank, and the impacts of STRs are felt across the entire City and are not felt by select neighborhoods, but by all. Attachment 2 displays approximate locations of STRs in Burbank.

The BMC deems that hotel guests pay a TOT for stays of less than thirty (30) days. Burbank's TOT is currently set at 10% of the rent charged by the operator. These funds are sent to the City's General Fund. Burbank does not currently levy a TOT on STRs, as STRs are presently not allowed in Burbank. If the City did levy a TOT on STRs, the City would collect over \$575,000 annually in TOT. To arrive at this estimate, staff conservatively assumed 400 properties are operating, that they rent 110 days per year, and that the average price is \$130 per night. Since there is no STR regulation in Burbank, the City is currently forgoing ongoing TOT revenue from the current STR market.

Neighboring Cities Survey

Staff conducted a survey of neighboring cities to determine if and how they regulate STRs. The table below depicts the high-level results of staff's survey for a selection of cities that allow STRs, including whether they allow home sharing, vacation rentals, or both; whether hosts are required to be on-site, and the length of any imposed rental cap. A more detailed description of the high-level regulatory systems that each City uses to administer their STR programs is included in Attachment 1.

² insideairbnb.com and airdna.co.

City	Home Sharing	Vacation Rentals	Owner Occupancy	Rental Cap
Beverly Hills	Yes (Only Single Family)	Yes (Only Single Family)	Yes	60 days (2 stays max per year)
Los Angeles	Yes	Yes	Yes	120 Days
Pasadena	Yes	Yes	Yes	90 Days (Vacation Rental)
Glendale	Yes	No	Yes	None
Santa Monica	Yes	No	Yes	None
West Hollywood	Yes	No	Yes	None

Alternative: Prohibit STRs from Operating in Burbank

While the table on the previous page shows cities that currently allow STRs, some of them have also had experience initially banning STRs in previous years. Based on those experiences, staff anticipates that there would be a large need for resources and time if Burbank chooses this route. The main challenges to banning STRs is addressing the legality of the ban with an ordinance and implementing ongoing enforcement.

Extensive resources would be needed to identify who is illegally operating a STR. Since online platforms do not provide addresses of rental units publicly, staff would hire a consultant firm that has the ability to find this information. Currently, staff only receives information about who is operating a STR from the public. If the public is able to provide information on the specific housing unit, Code Enforcement staff can then investigate to find any information that is available online prior to contacting the homeowner.

Staff would also need to invest in resources such as budgeted positions to handle the ongoing communication. In the City of West Hollywood, there was a ban on all STRs from 2015 to 2018 and staff experienced more than 265 open code enforcement cases related to STRs, mailed over 800 warning letters, and levied over \$250,000 in fines. However, the success rate in getting people to respond or remove their listing was low. People would either re-list at a different time or use a different room in their house. Due to the complexity of addressing the ban and the increased demand from residents to allow STRs, the City of West Hollywood now allows STR through their Home-Sharing Program and requires residents to register for a Home Sharing Business License as of 2018. While Burbank has a different demographic area and needs, the City should anticipate the additional cost to draft an ordinance and the staffing resources associated with a new ban.

Alternative: Allow Regulated STRs in Burbank with Consideration

1. Vacation Rentals

Should the City allow vacation rentals?

As discussed above, STRs can be divided into two categories, home-sharing and vacation rentals. Home-sharing involves renting out part of a property for 30 or less

days, typically with the owner present. Cities allow home-sharing as part of their STR regulation, and therefore, are uncontroversial.

Vacation rentals entail renting out an entire property for 30 or less days with the owner absent, and these types of rentals are a controversial aspect of STRs. Vacation rentals allow owners to offer a more private experience, as well as one that both combines the privacy of a hotel room with the convenience and intimacy of a home. Furthermore, property owners may want to generate income on their properties if they are not renting or living in them. On the other hand, they are often associated with the negative impacts of STRs, such as excessive noise and parking issues. In addition, allowing vacation rentals could potentially have a negative impact on the housing market in Burbank. Allowing vacation rentals could potentially remove housing units from the long-term market to place them on the STR market instead, effectively reducing the housing stock of the City. The City has a choice to limit or not limit the number of housing units that can be rented out by one homeowner.

The following cities allow home-sharing: Glendale, Los Angeles, Pasadena, Santa Monica, West Hollywood

The following cities allow vacation rentals: Beverly Hills, Los Angeles, Pasadena

2. Owner Occupancy

If someone owns more than one residential property, should someone be allowed to use their additional residential properties as a STR?

Approximately 2,500 Burbank residents and companies own more than one residential property in Burbank. Allowing someone to only use their primary residential property helps control the number of participating STR listings and preserves homeowner occupancy in Burbank. Staff would be able to regulate this information through the business license permitting process, and only issue one business license per homeowner as well as require proof of homeownership and primary residence. However, someone may have business-related and/or personal-related reasons why they need to list multiple residential properties as STR. A property owner may be struggling to rent out a housing unit in a specific gap period; or someone may prefer to run their rental unit as a STR because it brings in more income than operate it to someone with a monthly or annual lease. For the proposed Ordinance, the City has a choice to limit or not limit the number of housing units that can be rented by one homeowner.

No cities surveyed allow an owner of more than one residential property to use their additional properties as STRs. Beverly Hills does not address this issue.

The following cities do not allow a property owner to use additional residential properties as STRs, and further require owner occupancy: Glendale, Los Angeles,

Pasadena, Santa Monica, West Hollywood all require hosts to only register their primary residence.

3. Rental Cap

Should someone be allowed to rent their residential property all year long or should it be limited to a specific number of days per year?

Including a cap on the number of days someone can rent out their property can help regulate the demand of STRs in a neighborhood. STR neighborhood impacts can include excessive noise and parking issues. Some STR listings can be more popular than other STR listings, and the impact would vary throughout the City. However, verifying the number of days someone operates their residential property is solely dependent on the homeowner, and there is no mechanism for City staff to regulate this policy on a proactive basis. Cities have acknowledged that it is already difficult to capture all STR listings to register for business licenses and to monitor a rental cap is difficult. The City has a choice whether or not to include such provisions in their Municipal Code. A rental cap may or may not be necessary due to Burbank's STR occupancy rate. Based on staff's research, the average occupancy rate for STR listings in Burbank is approximately 30% annually.

The following cities have rental caps on STRs: Beverly Hills (60 days – 2 stays max per year); Pasadena (Host not present – 90 days, Host present – 9 months); Los Angeles (120 days);

The following cities do not have rental caps on STRs: Glendale, Santa Monica, West Hollywood

It is important to recognize that how the City Council chooses to proceed on the previous three questions will influence the proposed ordinance. For example, allowing one person to operate more than one residential property (referred to as vacation rentals) in Burbank might have a negative impact on housing supply in the City. To combat this, the City Council could institute a rental cap, which may reduce the number of units any one owner might rent out. Similarly, mandating owners have primary residency raises similar questions about allowing vacation rentals, and if a rental cap is necessary.

Should the City Council decide to review a proposed Ordinance, staff anticipates this would be presented at a future City Council meeting in late 2020/early 2021.

FISCAL IMPACT

STR businesses currently operate throughout the City, and those businesses are not paying the City any user fees or local taxes such as the City's 10% TOT. Pre-Covid 19 and the implementation of the Safe At Home orders from the County and State, staff estimated that there would be \$575,000 of potential recurring annual revenue if a fee is

associated with regulating business licenses and collecting TOT. If activity were to return at the previously projected occupancy rates, then the potential recurring annual revenue assumes all current STRs would obtain a business license with the City and have a 30% occupancy rate throughout the calendar year.

The additional service of obtaining a business license and regulating code enforcement complaints would require some additional ongoing resources. This may include staffing to handle processing business licenses and/or handle an increased number of complaints from residents. Staff believes that the potential revenue collected from STR regulation would cover the resources required to enforce the STR regulation. Staff would also need to consider how to implement and maintain an online permitting and a TOT collection system. An anticipated initial cost for fee and revenue collection system, consultant services, and staff is estimated to be \$170,000. The cost for online permitting and TOT collection system may fluctuate based on the number of business licenses.

Neighboring Cities Survey

Below is a survey of neighboring cities and their estimated TOT revenue per year.

City	Allow?	Number of STRs	TOT Revenue Per Year
Beverly Hills	Allow	Unknown	Unknown
Los Angeles	Yes	21,240 ³	\$50,000,000 +
Pasadena	Yes	222	\$771,093.05
Glendale	Yes	None yet – regulations were enacted in December	
Santa Monica	Yes	355 ⁴	\$2,200,000.00
West Hollywood	Yes	579	\$67,720

This projection was performed before the COVID-19 pandemic hit and the Safer at Home Order was extended throughout Los Angeles County. STRs, like other tourism-related industries, have been hit hard by the pandemic. Demand for STRs has plunged in the past three months; indeed, the company Airbnb recently laid off a quarter of their employees and is delaying planned initial public offering as a response to fewer rentals. The projected revenues brought in through a STR regulatory program will depend on when the program is implemented and at what stage of recovery the tourism economy is in. The projected costs are also similarly difficult to forecast, but may be easier to control, as many STR regulation platforms charge by the number of operators in a given jurisdiction. In addition, lower STR activity will also mean fewer resources that staff will need to devote to regulation. Staff unfortunately cannot forecast these uncertain factors. Staff hopes to present a clearer picture of what initial revenues might be during a subsequent consideration of STR regulations.

³ From Airdna.co as of 12/31/2019

⁴ From Santa Monica’s Home-Sharing Registry as of 12/31/19

If the City Council chooses to move forward with a proposed Ordinance on how STRs would be regulated in Burbank, the City would develop new regulations and policies to preserve our neighborhood character and protect the quality of life that Burbank is known for today. During the development phase of the proposed Ordinance, staff would seek community input and feedback through community meetings and public hearings. Staff would also seek consulting services to create a business license permitting system, a TOT collection system, and a process to resolve complaints. Staff would also look into how cities, like Los Angeles, have entered into agreements with STR hosting platforms to collect TOT revenue.

Staff would develop a new business license process where applicants would be: required to submit and pay for an annual business license; self-certify that their housing unit participating in STR is safe and clean; require parking requirements; abide by a new noise policy that would guide renters and protect their neighbors; ban any type of signage or marketing on the residential property; provide adequate garbage disposal; post their required business license number online; and anticipate addressing complaints submitted to the City.

CONCLUSION

The idea of operating a business at home is common and it happens every day in Burbank. Residents who live in single-family homes have a choice to host a garage sale on their property, and/or operate a business at home such as an in-home daycare facility or in-home music lessons. STRs have become an increasingly popular option for both homeowners and renters as a revenue stream, and the City Council has a choice whether STRs need to be regulated and if so, with what parameters.

Like any business license or permit like a garage sale, the City has some type of process to ensure businesses operating in Burbank are permitted or conditionally permitted by the City's Municipal Code. The BMC and permitting process helps the City protect residential neighborhoods through local regulations, and still allow residents to choose to participate and share in the economy resulting from the STR industry. Consistent, with the City Council approved Economic Recovery Plan, staff brought this item before the City Council as part of our long range economic planning efforts in order to seek direction on whether to formalize regulations on STRs in Burbank, and if there are any policy decisions that should be taken into consideration as we prepare an ordinance.

ATTACHMENTS

1. Survey of Neighboring Cities Regarding STR
2. Map of Approximate Locations of Short-Term Rentals in Burbank