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October 17, 2017

REPORT TO HONORABLE MAYOR AND COUNCILMEMBERS

RESPONSE TO COUNCILMEMBERS' MEMORANDA RE: PROPOSED SHORT TERM  
RENTAL POLICIES

## INTRODUCTION

On October 23, 2017, the San Diego City Council (Council) is scheduled to consider proposed ordinances regulating the short term use of dwelling units.

Staff will present three alternative ordinances, based largely on actions by the Smart Growth & Land Use (SG&LU) Committee on March 24, 2017. In anticipation of the October 23, 2017, meeting, Councilmembers Ward, Kersey, Sherman, and Alvarez submitted a memorandum regarding policies and strategies related to the short term use of dwelling units (Sept. 18 Memorandum). In addition, Councilmember Bry submitted a memorandum suggesting topics for discussion (Sept. 19 Memorandum).

This Office's analysis of the proposals and related memoranda is composed of four sections: I. Matters already contained in the ordinances presented for Council's consideration or in the existing San Diego Municipal Code (Municipal Code or SDMC); II. Matters raised by the memoranda that Council may address on October 23, 2017 by interlineation of the proposed ordinances; III. Matters that are not before the Council on October 23, 2017, but are anticipated to be presented to the Council at a future date; and IV. Matters with potential legal issues.

## ANALYSIS

### **I. MATTERS ALREADY CONTAINED IN THE ORDINANCES PRESENTED FOR COUNCIL'S CONSIDERATION OR IN THE EXISTING MUNICIPAL CODE**

The items discussed below are already addressed by the three alternative ordinances presented for Council's consideration or are already in the Municipal Code.

- Amend the City's zoning ordinances to define short-term rental use as a land use category, clarify where this use may occur, either for all or a portion of a primary residence,<sup>1</sup> and provide supplemental standards for the operation of these uses. Sept. 18 Memorandum, § A, STR Zoning Regulations. See Planning Department

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<sup>1</sup> See Section IV of this memorandum, regarding the requirement that the dwelling unit be a "primary residence."

Report to SG&LU Committee, Attachment 4, Fact Sheet (Mar. 14, 2017) (Attachment 1); proposed SDMC §§ 141.0309, 141.0621 (enacting zoning laws pertaining to short term occupancy and adopt the associated regulations).

- Define short term use as any stay of 29 nights or fewer. Sept. 18 Memorandum, § A, STR Zoning Regulations. *See* Planning Department Report to SG&LU Committee, Attachment 4, Fact Sheet; proposed SDMC §§ 141.0309, 141.0621 (requiring permits for occupancy of less than 30 days).
- Provide building occupancy and code standards.<sup>2</sup> Sept. 18 Memorandum, § B, STR Building Occupancy Code and Statewide Standards. The City adopts the California Building Code, which regulates statewide building standards. *See* Municipal Code, Chapter 14, Articles 5-10. In addition, the City is subject to the Uniform Housing Code, which regulates statewide occupancy standards. Cal. Health & Safety Code § 17922; Municipal Code, Chapter 9, Article 8, Division 1.
- No permit shall be issued to an applicant whose property has outstanding code violations. Sept. 18 Memorandum, § B, STR Building Occupancy and Code Standards. *See* proposed SDMC § 123.0705 (prohibiting issuance under these circumstances unless necessary to remedy the violation).
- Require a permit for all short term occupancies and be subject to a permit/registration fee.<sup>3</sup> Sept. 18 Memorandum, § C, STR Permitting Requirements. *See* proposed SDMC § 123.0702 (imposing permit requirements).
- The permit shall be prominently displayed on the front façade of the property, in a location clearly visible from the street during the short term occupancy, and must contain the permit number, contact information, and occupancy limit.<sup>4</sup> Sept. 18 Memorandum, § C, STR Permitting Requirements. *See* proposed SDMC §§ 141.0309, 141.0621 (requiring that the information be displayed, but not the permit itself).
- Residents must provide each tenant with a “Good Neighbor Code of Conduct” that defines the parameters of the stay (i.e. occupancy limits, noise, trash and parking regulations) and presents potential fines and penalties for non-compliance.<sup>5</sup> Sept. 18 Memorandum, § C, STR Permitting Requirements. *See* Planning Department Report to Smart Growth and Land Use Committee, Attachment 4, Fact Sheet; proposed SDMC §§ 141.0309, 141.0621 (imposing residential occupancy notice requirements).
- A third verified offense within 365 days should result in the revocation of the permit. Sept. 18 Memorandum, § E, STR Enforcement. *See* proposed SDMC

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<sup>2</sup> *See* Section IV of this memorandum, regarding occupancy limits.

<sup>3</sup> *See* Section III of this memorandum, regarding future Council actions.

<sup>4</sup> *See* Section II of this memorandum, regarding the display of the occupancy limit.

<sup>5</sup> *See* Section II of this memorandum, regarding the potential fines and penalties for non-compliance.

§ 123.0706; Municipal Code, Chapter 12, Article 1, Division 3 (providing that these offenses within a year may result in revocation).

- Verified [unpermitted] operation of an STR shall be considered a violation of the Municipal Code and will be subject to civil penalties and/or judicial remedies. Sept. 18 Memorandum, § E, STR Enforcement. *See* Municipal Code, Chapter 1, Article 2 (addressing penalties and remedies).
- Whole home use, without the primary resident being on-site. Sept. 19 Memorandum. *See* proposed SDMC § 141.0621 (addressing regulations specific to whole home use).
- Home sharing with the primary resident on-site. Sept. 19 Memorandum. *See* proposed SDMC § 141.0309 (addressing regulations specific to home sharing).
- Short Term Occupancy Permit, Application, and Written Noticing Requirements.<sup>6</sup> Sept. 19 Memorandum. *See* proposed SDMC §§ 123.0702, 123.0703 (regarding permit requirement and application).
- Maximum Short Term Occupancy days allowed per calendar year. Sept. 19 Memorandum. *See* Planning Department Report to Smart Growth and Land Use Committee, Attachment 4, Fact Sheet; proposed SDMC § 141.0621, Option 2 (allowing a maximum of 90 days per calendar year for short term occupancy).

## **II. MATTERS RAISED BY THE MEMORANDA THAT COUNCIL MAY ADDRESS ON OCTOBER 23, 2017 BY INTERLINEATION OF THE PROPOSED ORDINANCES**

Council may address the items below by revising the proposed ordinances by interlineation.

- Require homes with more than four bedrooms to obtain a Process Two Neighborhood Use Permit. Sept. 18 Memorandum, § B, STR Building Occupancy and Code Standards. *See* proposed amendments to the Use Regulations Tables in Municipal Code, Chapter 13, Article 1 (Base Zones) (the Use Regulations Tables separate this use into categories of 1-2 guest rooms, 3-5 guest rooms, and 6 or more guest rooms; the three options include a range of permit requirements). The Council may revise these proposed tables.
- Whole home rentals shall be permitted as a limited use.<sup>7</sup> Sept. 18 Memorandum, § C, STR Permitting Requirements. *See* Planning Department Report to Smart Growth and Land Use Committee, Attachment 4, Fact Sheet. *See* proposed amendments to the Use Regulations Tables in Municipal Code, Chapter 13,

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<sup>6</sup> *See* Section II of the memorandum, regarding written noticing requirements.

<sup>7</sup> This appears to conflict with the request above to require a Process Two Neighborhood Use Permit for homes with more than four bedrooms. Sept. 18 Memorandum, § B, STR Building Occupancy and Code Standards.

Article 1 (Base Zones) (the Use Regulations Tables separate this use into categories of 1-2 guest rooms, 3-5 guest rooms, and 6 or more guest rooms; the three options include a range of permit requirements). The Council may revise these proposed tables.

- Revise proposed Municipal Code sections 141.0309 and 141.0621 regarding the information posted for the public, to include the occupancy limit. Sept. 18 Memorandum, § C, STR Permitting Requirements. The Council may amend sections 141.0309 and 141.0621 to include this requirement.
- Revising proposed Municipal Code sections 141.0309, 141.0621, regarding the “Good Neighbor Code of Conduct” to include the potential fines and penalties for non-compliance. Sept. 18 Memorandum, § C, STR Permitting Requirements.

Currently these proposed sections reference the penalties for non-compliance with the City of San Diego’s noise ordinance, however, Council could add a more general statement to the beginning of these sections regarding the penalties for non-compliance. This Office suggests that the fines and penalties be stated generally, due to the many remedies available to the City for a violation of the Municipal Code, as well as the many variables affecting both the choice and outcome of the remedies. *See* Municipal Code, Chapter 1, Article 2; Municipal Code Chapter 12, Article 1, Division 3.

- Written Noticing Requirements. Sept. 19 Memorandum. We understand this to refer to written noticing requirements related to this specific permit type and application. General noticing requirements for approvals subject to Processes Two through Five are set forth in Municipal Code, Chapter 11, Article 2, Division 3. Although specific noticing requirements could be created for these permits, more information is needed before this Office can provide further guidance.

### **III. MATTERS THAT ARE NOT BEFORE THE COUNCIL ON OCTOBER 23, 2017, BUT ARE ANTICIPATED TO BE PRESENTED TO THE COUNCIL AT A FUTURE DATE**

As set forth in staff’s Report to the City Council, the Planning Department anticipates bringing forward the enforcement component of these ordinances at a future date. There is no action presented on October 23, 2017, for the Council’s consideration regarding permit or impact fees, or other aspects of enforcement not already included in Section I. Council will be asked to approve a permit fee and could address the following issues on a future date:

- Creation of a comprehensive online permitting and enforcement process. Sept. 18 Memorandum, § C, STR Fees and Taxation.
- Short term rentals shall be subject to a permit/registration fee. Sept. 18 Memorandum, § C, STR Fees and Taxation.

- Establishing a fee to obtain permits, a portion of which should be dedicated towards enforcement of STR regulations, including law enforcement and code enforcement officers who will work nights and weekends to respond to complaints.<sup>8</sup> Sept. 18 Memorandum, § D, STR Fees and Taxation.
- Fines should escalate; \$1,000, \$2,500, and \$5,000 for the first, second, and third offenses, respectively, and result in permit revocation. Sept. 18 Memorandum, § E, STR Enforcement. The Municipal Code currently provides for Administrative Citation penalties of \$100, \$250, \$500, \$750, or \$1,000 per violation on the property, based on various factors. SDMC § 12.0908(c), (d). The City may impose fines, penalties, and forfeitures for violations of ordinances. Cal. Gov't Code § 36901. The City may, by ordinance, make any violation of any ordinance subject to an administrative fine or penalty. Cal. Gov't Code § 53069.4(a)(1); Municipal Code, Chapter 1, Article 2, Division 9.

A charter city may set its maximum fines at a higher amount than \$1,000, unless otherwise limited by its charter, so long as the amount is not excessive, as determined on a case-by-case basis. *County of Los Angeles v. City of Los Angeles*, 219 Cal. App. 2d 838 (1963); *Hale v. Morgan*, 22 Cal. 3d 388 (1978). The San Diego Charter does not contain any maximum penalty amount, therefore, the City may increase the administrative citation amounts. An increase that does not impose a mandatory amount, but leaves some ability to determine the appropriate penalty on a case-by-case basis will likely be upheld. *See* City Att'y Report 2016-15 (Sept. 20, 2016).

The City should consider whether the City-wide administrative citation penalty amounts in Municipal Code section 12.0908(c) should be amended, instead of creating new amounts that are specific to short term residential occupancy. Violations of the Land Development Code (Municipal Code, Chapters 11-15) may result in permit revocation. SDMC §§ 111.0101(a), 121.0311, 121.0313.

#### **IV. MATTERS WITH POTENTIAL LEGAL ISSUES**

The items below are those which present legal issues.

- Some terms are used throughout without benefit of any definition, such as “primary residence,” and “commercial operator.”<sup>9</sup> Sept. 18 Memorandum.

When no definition is provided in a legislative enactment, the courts will use the plain and commonsense meaning, typically a dictionary definition. 58 Cal. Jur. 3d *Statutes* § 135 (2017). If the Council intends for undefined terms to have a specific meaning, definitions or descriptions should be included in the ordinance.

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<sup>8</sup> *See* Section IV of this memorandum, regarding the ability of the Council to direct the administrative affairs of the City.

<sup>9</sup> The Sept. 19 Memorandum lists “Defining Primary Resident and verification requirements” as a point of discussion.

In addition, due process requires that statutes be definite and certain so that citizens have notice of the required conduct and law enforcement cannot enforce the law in an arbitrary manner. 13 Cal. Jur. 3d *Constitutional Law* § 334 (2017).

- Allowing short term rental only in association with the applicant's "primary residence." Sept. 18 Memorandum, § A, STR Zoning Regulations.

The City is subject to claims that it has violated equal protection when it enacts regulations that treat similarly situated people differently. Cal. Const. art. 1, § 7. First, there must be a showing that the City has adopted a classification that treats similarly situated groups unequally. *People v. Buffington*, 74 Cal. App. 4th 1149 (1999). When the classifications are not based on a suspect classification or a fundamental interest, the court will uphold the classification "if there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *People v. Cruz*, 207 Cal. App. 4th 664, 675 (2012) (internal quotes and citations omitted). The classification must bear a "rational relationship to a permissible state objective." *Breneric Associate v. City of Del Mar*, 69 Cal. App. 4th 166, 187 (1998) (citation omitted).

Treating primary residents who wish to allow for the short term use of their dwelling unit differently from those who are not "primary residents" requires a rational relationship between the requirement that the property be an applicant's primary residence and a permissible state objective. It is unclear what permissible state objective would be met by this requirement.

- Requirement for a three-night minimum stay in the Coastal Overlay Zone and in historic districts. Sept. 18 Memorandum, § A, STR Zoning Regulations.

This proposal also raises concerns regarding equal protection. It is unclear what permissible state objective would be met by a three-night minimum stay in only these two areas of the City. In addition, the Coastal Act's public access policies state that "[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided." It is unclear how a three-night minimum stay requirement that singles out the Coastal Zone is compatible with that Coastal Act policy. Cal. Pub. Res. Code § 30213. Moreover, amendment to the City's local coastal program must be certified by the California Coastal Commission. Pub. Res. Code § 30514.

- Occupancy limits "consistent with California's '2+2' standard (two adult occupants per bedroom, plus two in the home)." Sept. 18 Memorandum, § B, STR Building Occupancy and Code Standards. This Office is unaware of a "2+2" legal occupancy standard. California has adopted the Uniform Housing Code, which states: "Dwelling units and congregate residences shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet." Unif. Housing

Code § 503.2. For areas used for sleeping, the floor area “shall be increased at the rate of 50 square feet for each occupant in excess of two.” *Id.*

The City is preempted from adopting different occupancy standards. *Briseno v. City of Santa Ana*, 6 Cal. App. 4th 1378 (1992); 2007 City Att’y MOL 142 (2007-14; Sept. 12, 2007). Any changes to the state standards must be supported by express findings that the changes are necessary due to local climatic, geological, or topographical conditions. Cal. Health & Safety Code §§ 17958.5, 17958.7. The findings must be filed with the California Building Standards Commission, and are not effective until filed. Cal. Health & Safety Code § 17958.7. Other regulations, such as the California Building Code or Fire Code, may also result in limits to the occupancy.

- Permits shall be capped at three per homeowner. Sept. 18 Memorandum, § C, STR Building Occupancy and Code Standards. It is also unclear what permissible State objective would be met by this requirement. *See* the equal protection discussion above.
- The entity applying for the permit must have owned the property for at least one year, unless the property is also used as the applicant’s primary residence. Sept. 18 Memorandum, § C, STR Building Occupancy and Code Standards. *See* the equal protection and defined terms discussion above.
- Permits must be assigned to an individual, not a commercial operator. Sept. 18 Memorandum, § C, STR Building Occupancy and Code Standards. *See* the equal protection and defined terms discussion above.
- Permit fee shall escalate, with the first permit fee at \$100, second permit at \$250, and third permit at \$500. Sept. 18 Memorandum, § C, STR Building Occupancy and Code Standards.

Proposition 26, approved by the California voters on November 2, 2010, considers “any levy, charge or exaction of any kind” imposed by local government agencies to be a tax that requires voter approval, unless an exception applies.<sup>10</sup> Cal. Const. art. XIIIIC, § 1(e). A general tax is one imposed for a general revenue purpose and requires the approval of the majority of the voters. Cal. Const. art. XIIIIC, § 1(a), § 2(b). A special tax is a tax imposed for a specific purpose and requires the approval of two-thirds of the voters. Cal. Const. art. XIIIIC, § 1(d); Cal. Const. art. XIIIIA, § 4; Cal Const. art. XIIIIC, § 2(d).

Development Services Department permit fees may fall within several of the listed exceptions, including: (1) charges for a specific benefit or privilege granted to the payor that is not available to those not charged and which does not exceed the reasonable cost to the government of providing the services; (2) charges for a

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<sup>10</sup> For a general explanation of Proposition 26, *see* 2011 City Att’y MOL 46 (2011-3; Mar. 4, 2011).

specific government service provided to the payor that is not provided to those not charged which does not exceed the reasonable cost to the government of providing the service; and (3) charges imposed for the reasonable regulatory costs to the local government for issuing licenses and permits, performing investigations, inspections, and audits. Cal. Const. art. XIII C, § 1(e)(1)-(3).

The City bears the burden of proving by a preponderance of the evidence that any charge is not a tax, and that the amount charged “is no more than necessary to cover the reasonable costs of the government activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Cal. Const. art. XIII C, § 1. A permit fee schedule such as the one proposed does not appear to fall within an exception to Proposition 26 and would require voter approval. The permit fees should be based on the cost to the City to provide the service.

In addition, the Development Services Department is an enterprise fund department, which means that its fees are established to fund the operations of the department. *See* Council Policy 100-20, at 8. An escalating fee structure such as this means some permits cost too little, while other permits costs too much, compared to the cost to the City to provide the service.

- Dedication of a portion of the permit fees towards code enforcement officers who will work nights and weekends to respond to complaints. Sept. 18 Memorandum, § D, STR Fees and Taxation.

Pursuant to the Meyers-Milias-Brown Act, the terms and conditions of employment of city employees is subject to meet and confer. Cal. Gov’t Code §§ 3500 – 3511. In addition, the Council cannot direct the administrative affairs of the City, which includes directing that certain employees perform certain functions. *See* San Diego Charter § 270(g); 2008 City Att’y MOL 167 (2008-18; Sept. 18, 2008); 2006 City Att’y Report 949 (2006-11; Mar. 13, 2006).

- Requirement that the permit fee include an “impact fee.” Sept. 18 Memorandum, § C, STR Permitting Requirements, § D, STR Fees and Taxation.

*See* the discussion regarding Proposition 26 above. Impact fees, which are those fees calculated to mitigate the effects of a development, are also one of the listed exceptions from Proposition 26. Cal. Const. art. XIII C, § 1(e)(6). However, legislatively imposed impact fees must be reasonably related to the impacts they are intended to address and must be proportional to those impacts.<sup>11</sup> *Ehrlich v. City of Culver City*, 12 Cal. 4th 854 (1996).

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<sup>11</sup> *See* 2013 City Att’y MS 211 (2013-13; Oct. 25, 2013) for an extended discussion of impact fees.

There is nothing currently in the record to support the imposition of an impact fee on short term occupancy permits. This Office recommends that before any impact fee is approved, there be some analysis in the record demonstrating that short term occupancy has an impact on affordable housing, and some analysis regarding the proportionality of the proposed fee to that impact.

- Use of the City's Administrative Citation Policy, through the issuance of citations by Police Investigative Service Officers. Sept. 18 Memorandum, § E, STR Enforcement.

Pursuant to the Meyers-Milias-Brown Act, the terms and conditions of employment of city employees is subject to meet and confer. Cal. Gov't Code §§ 3500 – 3511. In addition, the Council cannot direct the administrative affairs of the City, which includes directing that certain employees perform certain functions. *See* Charter § 270(g); 2008 City Att'y MOL 167; 2006 City Att'y Report 949.

### CONCLUSION

Many of the matters raised in the Sept. 18 Memorandum and Sept. 19 Memorandum are already addressed in the draft ordinances, or the existing Municipal Code. Other matters, such as those relating to permit fees, are not before the Council at this time, but could be addressed at a future date. Finally, we identified some proposals that raise legal concerns and require further analysis. This Office is available to discuss these issues in greater detail, upon request.

MARA W. ELLIOTT, CITY ATTORNEY

By /s/ Shannon M. Thomas

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Deputy City Attorney

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RC-2017-6

Doc. No. 1605074

Attachment: Fact Sheet (Attachment 1)

cc: Andrea Tevlin, Independent Budget Analyst

# **ATTACHMENT 1**

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## POSSIBLE ORDINANCE FRAMEWORK WHOLE HOME

REGULATION	OPTION 1	OPTION 2	OPTION 3
Zones	Allowed in certain zones that allow single/multiple dwelling units <sup>1</sup>	Allowed in certain zones that allow single/multiple dwelling units <sup>2</sup>	Allowed in certain zones that allow single/multiple dwelling units <sup>1</sup>
Permit Process	<ul style="list-style-type: none"> <li>• ≤5 bedrooms and ≤10 transients<sup>3</sup> (limited use)</li> <li>• ≥6 bedrooms or ≥11 transients - NUP<sup>4</sup></li> <li>• Deviations - NUP<sup>4</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Limited use</li> <li>• Deviations - NUP<sup>4</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Limited use</li> </ul>
Permit Term	<ul style="list-style-type: none"> <li>• Ministerial - Annual</li> <li>• NUP<sup>4</sup> - Established by permit</li> </ul>	Ministerial - Annual	Ministerial - Annual
Limited Use Regulations	<ul style="list-style-type: none"> <li>• Occupancy Agreement<sup>5</sup></li> <li>• Local Contact<sup>6</sup></li> <li>• Occupancy of ≤30 consecutive days</li> </ul>	<ul style="list-style-type: none"> <li>• Occupancy Agreement<sup>5</sup></li> <li>• Local Contact<sup>6</sup></li> <li>• Min occupancy of 21 consecutive days in RS zones and for detached units in RM zones; No min elsewhere</li> </ul>	<ul style="list-style-type: none"> <li>• Occupancy Agreement<sup>5</sup></li> <li>• Local Contact<sup>6</sup></li> <li>• Occupancy of ≤30 consecutive days</li> </ul>
Companion Unit	<ul style="list-style-type: none"> <li>• ≤5 bedrooms and ≤10 transients combined<sup>7</sup></li> <li>• ≥6 bedrooms or ≥11 transients combined<sup>7</sup> - NUP<sup>4</sup></li> </ul>	Allowed if owner resides in the primary residence	Permitted with no additional regulations
Parking	No additional required	No additional required	No additional required

<sup>1</sup> No limitations (no Ministerial Annual Permit) in RM-4, RM-5, CR-1, CV, CN, CO-1, CO-3, CC-1, -3, -4, -5 and Mission Beach PDO zones. Limited Use in RM-1, RM-2, RM-3, OR, AR, RE, RS, RX, RT and IP-3 zones

<sup>2</sup> Limited Use in OR, AR, RE, RS, RX, RT, RM, CN, CR-1, CO-1, CO-3, CV, CC-1, -3, -4, -5, IP-3 and Mission Beach PDO zones

<sup>3</sup> Six or more bedrooms and 11 or more transients results in a change of occupancy under the State Building Code and subject to additional construction standards.

<sup>4</sup> Process 2 Neighborhood Use Permit

<sup>5</sup> Occupancy Agreement includes "good neighbor policy," rules for trash and recycling, safety info, noise limits and violations, and maximum # of bedrooms and occupants.

<sup>6</sup> Local Contact must be available to respond in person to address, actively discourage and prevent any nuisance activity at the rental, including excessive noise, disorderly conduct, overcrowding and excessive accumulation of refuse. One Hour Response.

<sup>7</sup> Threshold limits reflect a combination of the number of rooms/transients in the primary dwelling and companion unit.



## HOME SHARING

REGULATION AREA	OPTION 1	OPTION 2	OPTION 3
Zones	Allowed in certain zones that allow single/multiple dwelling units. <sup>1</sup>	Allowed in certain zones that allow single/multiple dwelling units. <sup>2</sup>	Allowed in certain zones that allow single/multiple dwelling units. <sup>3</sup>
Permit Process	<ul style="list-style-type: none"> <li>• 1-2 bedrooms (no permit)</li> <li>• 3-5 bedrooms (limited use)</li> <li>• ≥6 bedrooms (CUP<sup>4</sup>)</li> <li>• Deviations (CUP<sup>4</sup>)</li> </ul>	<ul style="list-style-type: none"> <li>• Limited use</li> <li>• Deviations<sup>5</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Limited use</li> <li>• Deviations<sup>5</sup></li> </ul>
Permit Term	<ul style="list-style-type: none"> <li>• Ministerial – Annual</li> <li>• CUP<sup>4</sup> – Established by permit</li> </ul>	Ministerial – Annual	Ministerial – Annual
Limited Use Regulations	<ul style="list-style-type: none"> <li>• Local Contact<sup>6</sup></li> <li>• Additional Parking</li> <li>• Annual Permit</li> <li>• Resident host must reside in unit</li> </ul>	<ul style="list-style-type: none"> <li>• Local Contact<sup>6</sup></li> <li>• Occupancy Agreement<sup>7</sup></li> <li>• 2 guests max</li> <li>• Max 25% existing floor area</li> <li>• Additional Parking</li> </ul>	<ul style="list-style-type: none"> <li>• Local Contact<sup>6</sup></li> <li>• Occupancy Agreement<sup>7</sup></li> </ul>
Companion Unit	<ul style="list-style-type: none"> <li>• Follow ‘Permit Process’ allowances<sup>8</sup></li> </ul>	Allowed if owner resides in the primary residence	Permitted with no additional regulations
Parking	Required parking for the primary dwelling unit plus 0.5 additional space for each bedroom >2	Required parking for the primary dwelling unit plus 1 additional space	Required parking for the primary dwelling unit. No additional parking

<sup>1</sup> Permitted in OR, AR, RE, RS, RX, RT, RM, CN, CR-1, CO-1, CO-3, CV, CC-1, -3, -4, -5, IP-3 and Mission Beach PDO zones. May be subject to limited use regulations or may require Conditional Use Permit depending on number of guest rooms provided

<sup>2</sup> No limitations (no Ministerial Annual Permit) in RM-5-12, all commercial and Mission Beach PDO zones. Permitted as Limited Use in OR, AR, RE, RS, RX, RT, RM (except RM-5-12), and IP-3

<sup>3</sup> No limitations (no Ministerial Annual Permit) in OR, AR, RE, RS, RX, RT, RM, CN, CR-1, CO-1, CO-3, CV, CC-1, -3, -4, -5, IP-3 and Mission Beach PDO zones for up to two bedrooms. Limited Use regulations apply for three or more bedrooms.

<sup>4</sup> Process 3 Conditional Use Permit

<sup>5</sup> Either Variance, Planned Development Permit or Site Development Permit

<sup>6</sup> Resident Host is the Local Contact and must be available to respond in person to address, actively discourage and prevent any nuisance activity at the rental, including excessive noise, disorderly conduct, overcrowding and excessive accumulation of refuse.

<sup>7</sup> Occupancy Agreement includes “good neighbor policy,” rules for trash and recycling, safety info, noise limits and violations, and maximum # of bedrooms and occupants.

<sup>8</sup> Threshold limits reflect a combination of the number of rooms/transients in the primary dwelling and companion unit