

**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: April 21, 2016
FROM: Jim Moore, Director of Planning and Building Services
 Garrett Toy, Town Manager
ACTION: Discussion/consideration of standards for short term/vacation rentals

BACKGROUND

At the May 2015 Council meeting, a resident indicated she could not obtain a business license for the short-term rental (e.g., Airbnb) of a room in her house. The Council directed staff to research the issue and report back at a meeting. At the July 2015 Council meeting, staff reported that the Town’s zoning code does not allow short term rentals as a principal use in residential zones, but such uses may be allowed with a conditional use permit. The Council discussed the issue and indicated it would schedule a special study session to discuss the issue more in–depth.

However, given the difficulty finding a date for the special study session, the Council discussed this matter at its November meeting and referred matter to the Planning Commission for consideration.

This is a very complex issue that many communities are struggling with. Locally, many Marin communities have been actively discussing the issue at their Council meetings. The Table below shows the current position of the various Marin communities on the issue.

| <u>Allowed with permit</u> | <u>Not Regulated</u> | <u>Prohibited</u> |
|----------------------------|----------------------|-------------------|
| Mill Valley | Novato | Sausalito |
| Marin County | San Rafael | Larkspur |
| Tiburon | Corte Madera | |
| Fairfax | Belvedere | |
| | Ross | |
| | San Anselmo | |

Attached is a table summarizing the various community’s actions to date.

DISCUSSION

To help frame the discussion for the Planning Commission (PC), the Council is requesting the PC to consider the key policy questions identified below. Staff has attached the summary report of the results from the Town’s on-line community forum on the matter to

assist the PC in its discussions. The on-line forum was conducted from January 22 to April 11, 2016. Of the 76 responses received, 71 are from Fairfax residents.

Is it a problem at this time? Should short-term/vacation rental of residential units be allowed?

A cursory search of websites such as Airbnb and VRBO indicate approximately 30-40 homes are listed in Fairfax at any one time. It is almost impossible to quantify the exact number since the locations are approximate and no addresses given on the websites. A majority of the rentals are for exclusive use of a house, but some are for the rental of private rooms.). However, staff is working with Airbnb representatives to better quantify their numbers.

Short term rentals provide an opportunity for Fairfax to attract and host tourists to support local businesses and generate Hotel Tax (TOT) to the Town. The short term rentals also provide residents with an opportunity to make extra income, which may make their homes more affordable. Short term rentals have the potential to cause parking, traffic, and noise issues in neighborhoods.

Recently, staff has begun receiving informal complaints for short-term rentals (2-3 over the last 2 months.

Of the 76 responses to the on-line forum, 8 residents reported they have rented out a room for short term rentals. Two indicated they have rented out their entire house. Approximately 55% of respondents indicated they would support renting out rooms as short term rentals. However, a much lower percentage (approx. 45%) supported the rental of the entire house. Most of the respondents were unaware that the Town Code prohibits such uses.

If allowed, what should be the process to approve short-term rentals (e.g., use permit, amend zoning code)?

As current Town Code does not allow such uses without a use permit, the Town would need to amend the current Zoning Code. The Town could amend the Zoning Code to allow the use in residential zones with or without limitations (e.g., only allow renting rooms, but not entire homes). In terms of licensing, the Town would require a business license. However, the PC could also establish an administrative use permit process to allow such uses. An administrative use permit is a less costly and simplified version of a use permit.

Should only rooms, with the owner living on the premises, or the entire house/unit be allowed to be rented out?

As stated above, approximately 55% of respondents indicated they would support renting out rooms as short term rentals. However, the support for the rental of the entire house was, in essence, split evenly between respondents: 34 Yes votes and 37 no votes.

For those who did not support short term rentals, over 50% cited parking, "party house," and public safety as their main concerns. Some comments from those in support of short term rentals stated the ability of homeowners to offset their housing costs and/or supplement their household income. The comments of the individual respondents can be viewed by on the Town website by clicking on the community forum topic response line.

Should second units be allowed to be short term rentals?

Approximately 55% of respondents supported the short term rental of legal second units. Approximately 34% said no to the short term rental of legal second units.

Second units are considered a source of affordable rental housing. The PC may not want to allow second units to be used for short term rentals because it would adversely impact the Town's efforts of creating more affordable housing. On the flip side, permitting short term rentals of second units may encourage owners to legalize such units or allow the Town to discover illegal second units.

Should there be a minimum or maximum number of rental days for units within a year?

Some communities impose maximum or minimum limits. The on-line forum did not address this issue. We have asked Airbnb to report on the average number of days a unit in Fairfax is rented during a 12 month period.

How will the Town ensure that TOT (i.e., hotel tax) is collected on the rentals and remitted to the Town?

Short term rentals would be subject to hotel tax as well as require owners to obtain a business license. Airbnb has indicated it would collect and distribute the TOT to the Town if short term rentals were allowed.

It would be difficult to collect TOT for those units without a business license or permit or without a reporting or collection requirement by the short-term rental companies.

Approximately 51% (30 out of 59) of the on-line forum responses supported the business license requirement. Only 9 respondents opposed the requirement and 20 (approx. 34%) selected "don't know."

Similarly, approximately 54% (34 out of 63) of the on-line forum responses indicated they would be willing to collect TOT on rentals. Twelve (12) respondents opposed the requirement and 17 (27%) selected "don't know."

RECOMMENDATION

Discuss/consider results of on-line forum and discuss/consider standards regarding short term/vacation rentals of residential units. Based on the Planning Commission's direction, staff would return with the required amendments to the Town's Municipal Code including the Zoning Code for the PC's consideration.

ATTACHMENTS

Attachment A - Comparison tables of Marin cities

Attachment B - On-Line Forum Summary report

Review of Marin Towns'
Short Term Rental Regulations
November 5, 2015

| TOWN | REGULATION | NO REGULATION |
|--------------|--|--|
| Corte Madera | Prohibits short-term rentals | |
| Larkspur | Prohibits short-term rentals | Town position: no short-term rental permitted by code |
| Mill Valley | Requires business license (fee), and collection of TOT. Leaning away from prohibition and towards more regulation and enforcement | |
| Novato | | |
| Ross | | 2/12/15: Council considered issue and decided not to regulate. Ross has no hotel users tax (aka TOT) |
| San Anselmo | Existing zoning regulations are ambiguous re short-term uses. Staff seeking direction. | 10/13/15: Council considered issue and sent to Planning Commission for 11/16/15 meeting |
| San Rafael | | No regulations |
| Sausalito | Prohibits short-term rentals (defined as less than 30 days). Seeking to enforce regs to collect the TOT and recover costs of enforcement | |
| Tiburon | Has a permit process in place; rejected ordinance prohibiting use. | |

Short Term and Vacation Rentals

What do you think about short term and vacation rentals in Fairfax?

All On Forum Responses sorted chronologically

As of April 18, 2016, 10:36 AM



As with any public comment process, participation in Community Forum is voluntary. The responses in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.

Short Term and Vacation Rentals

What do you think about short term and vacation rentals in Fairfax?

Introduction

Short-term residential rentals (less than 30 days) are growing in popularity, including in Fairfax. Services such as Airbnb and VRBO allow people to rent all or parts of their homes as alternative travel accommodations that provide homeowners or renters with extra income. These services may benefit homeowners, but there are concerns about the impacts on neighborhoods, including concerns about noise, safety, and traffic.

The Town's zoning code allows short term/vacation rentals (e.g., Airbnb and VRBO) with a conditional use permit (CUP). CUP's require approval by the Planning Commission and the process can be costly and very time consuming. In 2015, the Council discussed the issue of allowing short term rentals and referred the matter to the Planning Commission for recommendations. No date has been set yet for Planning Commission consideration.

Your response will aid the Town in the development of policies regarding short term/vacation rentals. For more info on the topic, please go to www.townoffairfax.org and refer to the agenda packet for the November 4, 2015 Council meeting.

Short Term and Vacation Rentals

What do you think about short term and vacation rentals in Fairfax?

As of April 18, 2016, 10:36 AM, this forum had:

Attendees: 214


On Forum Responses: 76

Hours of Public Comment: 7.0




This topic started on January 22, 2016, 11:48 AM.

Short Term and Vacation Rentals




What do you think about short term and vacation rentals in Fairfax?

| | | % | Count |
|------------|---|-------|-------|
| Yes |  | 55.3% | 42 |
| Don't know |  | 6.6% | 5 |




Would you be in support of the Town allowing owners to rent their entire home as short term rentals?

| | | % | Count |
|------------|---|-------|-------|
| No |  | 48.7% | 37 |
| Yes |  | 44.7% | 34 |
| Don't know |  | 6.6% | 5 |

If you do rent your home or room out as a short-term would you be willing to obtain a business license (base fee \$100)

| | | % | Count |
|------------|---|-------|-------|
| No |  | 15.3% | 9 |
| Yes |  | 50.8% | 30 |
| Don't know |  | 33.9% | 20 |

Would you be willing to collect and submit to the Town the 10% "hotel tax" on such short-term rentals?

| | | % | Count |
|------------|---|-------|-------|
| No |  | 19.0% | 12 |
| Yes |  | 54.0% | 34 |
| Don't know |  | 27.0% | 17 |

If you do not support short term rentals, please check the reasons why:

Short Term and Vacation Rentals

What do you think about short term and vacation rentals in Fairfax?

| | | % | Count |
|---|--|-------|-------|
| Parking impact | | 58.7% | 27 |
| Traffic impact | | 43.5% | 20 |
| Possibility of the home being rented as a "party house" for the weekend | | 60.9% | 28 |
| Strangers in the neighborhood (public safety concern) | | 52.2% | 24 |
| Would support the renting of rooms since the owner still live there, but not entire houses. | | 21.7% | 10 |
| n/a or don't know | | 2.2% | 1 |
| Other | | 32.6% | 15 |

Would you support the short term rental of legal second units (owners live in main home)?

| | | % | Count |
|------------|--|-------|-------|
| No | | 33.8% | 25 |
| Yes | | 55.4% | 41 |
| Don't know | | 10.8% | 8 |

Do you have any other comments about short term/vacation rentals in Fairfax?

Answered 52
Skipped 24




- **airbnb** community do don **fairfax** from had home homes housing like **live** make more neighborhood neighbors one **out** parking people place property rent rental rentals **residents** s **short** short-term so t **term** they think town visitors want what **who**

Short Term and Vacation Rentals

What do you think about short term and vacation rentals in Fairfax?

Responses




Do you currently or have you in the past (12 months) rented a room out of your residence for short term rentals (less than 30 days)?

| | | % | Count |
|-----|---|-------|-------|
| No |  | 86.8% | 66 |
| Yes |  | 10.5% | 8 |
| n/a |  | 2.6% | 2 |

Do you currently or have you in the past rented out your entire house out for short term rentals (less than 30 days)?

| | | % | Count |
|-----|---|-------|-------|
| No |  | 94.7% | 72 |
| Yes |  | 2.6% | 2 |
| n/a |  | 2.6% | 2 |

Did you know that the Town code currently prohibits the short term rentals of property such as Airbnb or VRBO?

| | | % | Count |
|------------|---|-------|-------|
| No |  | 67.1% | 51 |
| Yes |  | 17.1% | 13 |
| Don't know |  | 15.8% | 12 |

Would you be in support of the Town allowing owners to rent rooms out of the home as short term rentals?

| | | % | Count |
|----|---|-------|-------|
| No |  | 38.2% | 29 |