



Short-Term Rentals in San Rafael

What's Out There, What's Here, and What's at Stake

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Contents

| | |
|---|----|
| Summary Recommendations..... | 3 |
| Introduction and Purpose | 3 |
| Background..... | 4 |
| Overview of Conditions in San Rafael | 5 |
| Short-Term Rental Activity in San Rafael | 5 |
| Complaints Regarding Short Term Rentals in San Rafael | 6 |
| Existing Codes and Regulations | 7 |
| Overview of STRs in Marin County Jurisdictions..... | 8 |
| Marin Jurisdictions that Unconditionally Allow STRs | 8 |
| Marin Jurisdictions that Prohibit STRs..... | 9 |
| Marin Jurisdictions that Permit and Regulate STRs | 9 |
| Opportunities | 10 |
| Risks and Challenges | 12 |
| Best Practices in Prohibiting STRs..... | 13 |
| Best Practices in Permitting and Regulating STRs | 14 |
| Definitions | 15 |
| Categories | 15 |
| Size Limitations..... | 16 |
| Concentration | 16 |
| Time Limitations | 16 |
| Owner Occupancy | 17 |
| Design Guidelines and Posted Requirements | 17 |
| Business Licenses, Permits, and Registration | 17 |
| Notice and Local Contacts | 18 |
| Taxes | 18 |
| Buildings Codes, Safety, and Inspections | 19 |
| Enforcement and Compliance..... | 20 |
| Considerations for Three Paths Forward in San Rafael | 22 |
| Summary Recommendations..... | 24 |
| Next Steps..... | 25 |
| Appendix..... | 26 |

List of Tables

| | |
|---|----|
| Table 1: San Rafael Housing and Short-Term Rental Statistics..... | 5 |
| Table 2: STR Activity in Select Marin Jurisdictions..... | 21 |
| Table 3: Costs and Benefits of continuing to unconditionally permit STRs..... | 22 |
| Table 4: Costs and Benefits to Permitting and Regulating STRs..... | 23 |
| Table 5: Costs and Benefits to Prohibiting STRs..... | 23 |
| Table 6: Types of STR Regulations by Issue Addressed..... | 26 |
| Table 7: Similar Cities to San Rafael..... | 27 |
| Table 8: STR Regulations in Marin Jurisdictions..... | 28 |

Summary Recommendations

1. Do not impose a blanket prohibition on short-term rentals in San Rafael, given difficulties and high costs associated with enforcement
2. Consider amending existing Transient Occupancy Tax ordinance to include residential short-term rentals, since preliminary evidence indicates that this could result in net revenues for the City over the costs of enforcement.

Introduction and Purpose

Increasing numbers of homeowners and leaseholders are renting all or part of their homes on a short-term basis using online platforms like Airbnb, Vacation Rentals by Owner (VRBO), and Homeaway. Though the City of San Rafael is generally not considered a vacation town, it is situated at the nexus of several major destinations: coastal areas of Marin County to the west, San Francisco to the south, Wine Country to the north, and quick trans-bay access to Contra Costa and Alameda Counties to the east. Given San Rafael’s ideal central location, mild weather, and lively downtown, it is likely that increasing numbers of San Rafael residents will list all or part of their homes using these online platforms in the coming years.

There are both opportunities and risks associated with the rise in popularity of Short-Term Rentals (STRs), with varying reactions from local government across the United States. In San Rafael, where over a third of home-owning households pay over a third of their income on mortgage payments, the biggest opportunities associated with STRs may be the ability for home owners to make passive income from renting all or part of their property on a flexible, short-term basis.¹ But these opportunities do not come without challenges and risks—namely to the long-term rental housing market and to neighborhood cohesion.

The purpose of this report is to assess whether San Rafael’s current policy of monitoring and otherwise unconditionally permitting STRs continues to be the best practice policy given the following:

- Current conditions in San Rafael’s STR market,
- opportunities and challenges posed by STRs to The City of San Rafael,
- emerging best practices in local STR regulations, and

¹ 28% of homeowners in San Rafael are housing cost-burdened and have a mortgage; 4% are housing cost burdened and do not have a mortgage according to 2016 American Community Survey estimates.

- experiences with STRs in other Marin County jurisdictions.

It then provides preliminary cost/benefit considerations for three possible paths forward:

- continuing to unconditionally permit residential STRs,²
- permitting and regulating residential STRs, and
- prohibiting residential STRs.

The report concludes with the following recommendations:

- Do not prohibit STRs entirely given the difficulties and high costs of enforcement, and
- Consider amending existing Transient Occupancy Tax (TOT) ordinance covering hotels, motels, and other traditional short-term rental accommodations, to include residential short-term rentals like Airbnbs.

Finally, the report recommends the following next steps moving forward.

- Track growth rates of more impactful STR types, like entire-home rentals
- Conduct a statistically rigorous policy analysis on a potential “tax and regulate” scenario (or range of scenarios) to determine whether expanding TOT ordinance to include STRs will result in net revenues over added costs of administration and enforcement. Table 6 in the Appendix provides a menu of regulations that various local governments have applied to STRs.
- Track best practices in STR regulations across comparable U.S. cities, using table 7 in the Appendix as a template

Background

Home owners and lease owners in residential areas now have an easy and economical way to rent all or part of their homes on a nightly basis at below prevailing hotel prices through online platforms like Airbnb. There are now over fifty home vacation rental platforms like Airbnb in operation.³ The ease by which prospective short-term tenants and prospective hosts can find, vet, and communicate with each other in real time through a website are what make these technologies “disruptive” to more traditional short-term rental markets like hotels, motels, inns, or boarding houses. The uniqueness of this nascent technology has thus far enabled firms like Airbnb as well as users to operate in relatively interstitial areas of the law. It is unclear, for example, if the relationship between a rental host and Airbnb represents a business partnership, or whether renting an Airbnb in one’s home constitutes a commercial rather than a residential use of the property. Many jurisdictions across the U.S. are beginning to address some of these questions in local laws and zoning codes, ubiquitously defining “Short-Term Rentals” as lasting less than thirty days, and outlining specific policies related to these types of rentals in residential neighborhoods.⁴

At the state level, the California Coastal Commission has endorsed STRs, stating that it “generally encourages short-term rentals for providing coastal access and affordable lodging that doesn’t require new development,” but that it “defer(s) to local governments to work out their own reasonable regulations.”⁵

Three counties in the nine-county Bay Area: Sonoma, San Mateo, and San Francisco have adopted ordinances that permit and regulate STRs in their unincorporated areas (or in the entire county in San Francisco’s case, since the County and the City are one and the same boundary). Contra Costa and Marin Counties are currently in the process of passing similar

² San Rafael does not regulate most short-term rentals in private homes; but it does regulate bed & breakfasts, boarding or rooming houses, and Accessory Dwelling Units (ADUs).

³ According to a representative of Host Compliance, a Short-Term Rental tracking and analysis platform

⁴ “Short Term Rental Zoning Advice for Community Leaders,” <https://www.useful-community-development.org/short-term-rental-zoning.html>.

⁵ Zachary Clark and Daily Journal staff, “Half Moon Bay Looks at Short-Term Rental Rules,” San Mateo Daily Journal. March 23, 2018.

ordinances for their unincorporated communities, and Solano County has had discussions regarding STRs in its primarily agricultural unincorporated areas.⁶

Overview of Conditions in San Rafael

Short-Term Rentals (STRs) like Airbnb make up less than one percent of San Rafael’s total housing stock, but the number of STR units has grown by 30% between 2016 and 2018: from 192 in June 2016 to 248 in June 2018. As market penetration deepens for these relatively recent web platforms, it is likely that the popularity of STRs will grow in the future, especially in a city as desirable and well-located as San Rafael.

The 2016 American Community Survey estimates that the City of San Rafael has 23,906 housing units total. Of these, 10,802 are occupied by renters (45% of the housing stock), and 12,129 are occupied by owners (51% of the housing stock). Though a larger portion of the housing stock is owned than rented, a slightly smaller portion of the population owns a home (49%) than rents a home (51%). This likely reflects that some rental units have more than one person per bedroom, which increases the number of renters without increasing the number of renter-occupied housing units. According to Zillow, the median home value in San Rafael is \$1,016,600 and the median gross monthly rent is \$1,628. Area median income (AMI) for a household is \$81,360.

977 housing units in San Rafael are unoccupied. Out of these, 284 are vacant units for rent, and only an estimated 26 units are for sale. This translates to an owner vacancy rate of 0.2% and a renter vacancy rate of 2.5%.⁷ 89 units are estimated to be sold but unoccupied, and 188 vacant units are owned and used seasonally.

Short-Term Rental Activity in San Rafael

In 2016, the City of San Rafael began contracting with the STR monitoring and enforcement software company Host Compliance to track and gather data on STR listings in the city. The most recent Host Compliance data indicates that about 87% of STR listings in San Rafael were on the Airbnb platform. The second largest platform used in San Rafael is Vacation Rentals by Owner (VRBO), with about 9% of total listings in San Rafael. Table 2 below summarizes recent STR activity in San Rafael as of August 2018. A copy of the most recent Host Compliance report on STRs in San Rafael is attached in the appendix.

Table 1: San Rafael Housing and Short-Term Rental Statistics

| | |
|---|--------|
| Total Housing Units | 23,906 |
| Single-family: | 13,331 |
| Multi-family: | 10,125 |
| Mobile-home, boat, RV, or van | 450 |
| Total Unique Short-Term Rental Units | 242 |
| Number of active STR listings* | 296 |
| Single-family | 71% |
| Multi-family | 28% |
| Partial home | 29% |
| Entire home | 71% |

*Active means the listing is up and has either been edited, updated, or rented in the past 12 months. The “listings” metric counts each listing for every unique STR unit. For example, if the same unit is listed on both Airbnb and HomeAway for rent, it is counted here as two listings.

⁶ “Short-Term Rental Regulations Being Weighed for Unincorporated Contra Costa County,” *East Bay Times* (blog), September 26, 2017; “Private ‘tourist Homes’ Subject of Solano Community Meetings,” *Daily Republic* (blog), March 18, 2017.

⁷ Owner vacancy rate is the proportion of total owned housing units that are vacant. Renter vacancy rate is the proportion of total rental units that are vacant

Most STR units in San Rafael are entire homes (71% depending on the time of year). Out of these (not shown in the table), roughly 7% are listed as studios, 33% have one bedroom, 17% have two bedrooms, 24% have three bedrooms, and 13% have four bedrooms available in the unit. Only 4% of San Rafael's entire home rental units are listed as having 5+ bedrooms.

"Entire-home rentals" or "Whole-home rentals" mean the rental unit has a separate entrance, kitchen, and bathroom facilities available to the guest that are not shared with the host. This definition encompasses several different scenarios with varying levels of potential impacts. A whole-home rental could be someone's residence for most of the year, and only rented out while the owner is on vacation. This scenario would not adversely impact the long-term rental market, but it could negatively impact nearby neighbors since the host is not on the property while it is being rented. Alternatively, a whole-home rental could be an Accessory Dwelling Unit (ADU, or "granny flat"), where the host lives full-time in the property's primary residence. Using ADUs as STRs has adverse impacts on the long-term rental market, since these are whole-units that could be rented to a long-term tenant, but they are less impactful to surrounding neighbors since the host lives on the property. The most impactful type of whole-home rental, on both the long-term rental market and on nearby neighbors are investment properties with no full-time resident. These are whole dwelling units with no host on the property to respond to disturbances from guests or complaints from neighbors. Fortunately, data compiled by Host Compliance indicates that 94% of STR hosts have only one active rental unit under management, which is a good indication that very few if any hosts are operating STRs as absentee landlords on a commercial scale.

In a 2018 data report written for the City of San Rafael, Host Compliance describes San Rafael's rental activity as "dumbbell shaped," with "45% of the City's short-term rental units showing annualized rental activity for 30 or fewer nights per year while 31% of units show annualized rental activity for more than 90 nights per year."⁸ Thus, while 242 may seem like a sizeable number of STRs, almost half of San Rafael's listed STR units are rented for fewer than thirty calendar days out of the year. On the other hand, roughly a third of STRs are being rented for more than 90 nights per year, which could negatively impact nearby neighbors. Tiburon and other jurisdictions have cited "the constant churn" of transient residences as a major reason for prohibiting STRs.

The four largest neighborhoods in terms of Active Rental Units are (in order): Santa Venetia with 30 units (10%), Terra Linda with 29 units (10%), Gerstle Park with 27 units (9%), and Lincoln/San Rafael Hill with 20 units (7%). These figures suggest that STRs are spread almost evenly across these four San Rafael neighborhoods.

Some neighborhoods may feel the impacts of STRs more acutely than others. Lincoln Avenue/San Rafael Hill and parts of Montecito/Happy Valley, have narrow streets and little if any on-street parking. As of May 2018, these two neighborhoods have 20 and 12 active STR units, respectively. The Canal is another problem spot for parking: much of San Rafael's multifamily housing is concentrated in the Canal neighborhood, and many of the units there what the U.S. Census considers "overcrowded," meaning they house more than one person per room.⁹ Roughly nine STR units operate in the Canal neighborhood: seven are single family homes and two are boats moored in the San Rafael Yacht Harbor.

Complaints Regarding Short Term Rentals in San Rafael

Thus far, the City has received a total of eight complaints from neighbors regarding nearby STRs, all between 2016 and 2017. Two addresses: 98 Jewell Street in the Montecito/Happy Valley neighborhood and 6 San Mateo Court in Terra Linda, have been the subject of multiple complaints. Both properties are single family homes, with the host living full-time on the property. Each property has two separately available rooms for rent on Airbnb. Neither property has a complete dwelling unit available for short-term rental—kitchen amenities are shared with other guests and/or the host in all cases.

The 98 Jewell Street property has two separately available STRs, each with private entrances. One is a room attached to the primary residence, and the other is a detached cottage in the backyard. Neither rental has kitchen facilities, and the

⁸ "City of San Rafael: Short Term Market Rental Overview" (Host Compliance LLC, May 2018). Pp 7.

⁹ Excludes kitchens and bathrooms.

two rentals share an outdoor shower. The primary issue with this property is short-term tenant use of a shared driveway with neighbors at 94 Jewell Street. Jewell Street, in the Montecito/Happy valley neighborhood, is characteristically narrow with limited on-street parking. The Airbnb ads for both available rentals feature use of the shared driveway as an amenity. The owners of the property sharing the driveway cited privacy as a concern in addition to parking availability. Other potential issues, like garbage and noise, were not a problem according to the neighbors at 94 Jewell.

The property at 98 Jewell Street is hosted, meaning the primary residence is occupied by the host while the STR units are being rented. The responsiveness of the on-site host may be why noise and garbage have not been an issue for surrounding neighbors. On the other hand, parking and privacy issues arose *despite* the property being occupied full-time by the host. This issue is undoubtedly exacerbated by the fact that there is not one, but two separately available rentals on the property.

The second property with multiple complaints is 6 San Mateo Court in Terra Linda. This property also has two separately available rooms for rent on Airbnb that share a bathroom. Both rooms are inside the primary dwelling unit where the host lives full-time. Neither rental has separate kitchen amenities or a separate entrance. Complaints about this property came from neighbors down the street, rather than from any adjoining property. Their concerns primarily had to do with the fact that there was more than one rental unit on the street.

If regulated, two policies are useful for addressing the issues demonstrated by these two properties, both of which are discussed later in greater detail:

- Permit density caps that limit STR concentration within a certain radius, or within a street, block, or census tract, and
- minimum off-street parking requirements as part of a permitting process.¹⁰

Both policies are common and have been effective in jurisdictions that employ them, including both high density areas (like Chicago) and lower-density areas (like San Luis Obispo County).³¹ Additionally, both policies can be effectively enforced using either monitoring technology/ services, or enough staff time to sort through STR listings by hand. Contracting with a monitoring service like Host Compliance is generally more cost-effective unless the number of listings in a jurisdiction is low enough.¹¹ Of course, the benefits of any regulation would have to be weighed against the costs of creating and enforcing new policy. The limited number of STRs in these neighborhoods may or may not warrant action on the part of the City.

Existing Codes and Regulations

Rafael has several provisions in the City's municipal code that can be expanded or modified to address STRs, should the City choose to regulate them. These are:

- Chapter 3.20 – Uniform Transient Occupancy Tax
- Chapter 12.42-Apartment and Hotel Periodic Housing Inspection Program and Caretaker Requirements,
- Chapter 14.16.220 – Home Occupations, and
- Chapter 10.04—Business Licenses

The first provision, Uniform Transient Occupancy Tax, is already levied on existing transient lodging accommodations (hotels and motels) at 12% of the total rent charged by the operator. This chapter could easily be amended to explicitly include STRs among the list of transient lodging arrangements that must remit TOT.

¹⁰ See table 6 in the appendix for details on these and other common policies used to regulate STRs

¹¹ Jeffrey Goodman, "A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level," Host Compliance, accessed July 26, 2018, <http://hostcompliance.com/resources-gallery/a-practical-guide-to-effectively-regulating-short-term-rentals-on-the-local-government-level>.

The second provision, periodic inspection of hotels and apartments, could also be amended to include STRs. Planned inspections can cover design requirements (like posted signage), some safety requirements (like working smoke detectors), as well as some operational requirements, like limits on the number of rooms that can be rented. The property caretaker requirements outlined in section 12.42 could also be expanded to include STRs, where the “caretaker” is equivalent to a local contact or on-site host.

The Home Occupations provision can be amended to explicitly include STRs as home occupations. This provision already includes parking standards, design and signage requirements.

Finally, the Business License Chapter provides a detailed framework for requiring business licenses that could easily be amended to include STRs. It includes provisions for enforcement as well as tables listing different types of business licenses by industry and license cost.

Overview of STRs in Marin County Jurisdictions

This section provides an overview of STR policies in Marin County as of October 2018. See table 8 in the appendix for more detail on STR policies in every Marin County jurisdiction including the County.

Marin Jurisdictions that Unconditionally Allow STRs

San Rafael is one of three jurisdictions in Marin County that unconditionally permits STRs, along with the towns of San Anselmo and Ross.¹² Though San Rafael does not in any way regulate or limit STRs, the City does contract with Host Compliance, a Silicon Valley based short-term rental monitoring service, to gather data on STRs within City limits.¹³

Between 2015 and 2017, San Anselmo and Ross both disseminated surveys on STRs to residents and held multiple planning commission hearings on the subject. The two surveys are attached in the appendix of this report for reference.

San Anselmo

In 2015, San Anselmo planning staff mailed 400 notices regarding The Town’s Planning Commission meeting to San Anselmo Airbnb hosts and adjacent neighbors. The notice also included a link to a six-question online survey regarding STRs. The Town received just over 90 responses, which were evenly divided between those wanting to ban or impose strict regulations on STRs and those wanting no regulation whatsoever. Noise, parking, and safety emerged as the top three concerns San Anselmo residents had with STRs. The Town ultimately decided to continue unconditionally permitting STRs, taking a “wait-and-see” approach.

Ross

In 2017, planning staff at The Town of Ross sent a 12-question STR survey to the town-wide email list, which included 1,132 recipients. They received 165 responses total, all but five of which were from residential property owners in Ross. Out of these, 67 respondents (41%) stated they have no interest in renting any part of their home as an STR and would like the Town to ban them. 88 respondents did not support levying a Transient Occupancy Tax on STRs (Ross does not currently collect TOT) and 60 respondents did support TOT. Seventeen respondents were undecided or skipped the question. Like San Anselmo, the Town of Ross also decided to continue permitting STRs unconditionally, taking a “wait-and-see” approach, and otherwise addressing complaints about STRs on an individual basis.

¹² San Anselmo technically requires a business permit to operate an STR in a residential zone, but otherwise allows them by default if breakfast is not served.

¹³ Host Compliance also offers STR policy consultant and regulation enforcement services.

Marin Jurisdictions that Prohibit STRs

Communities that prohibit STRs in residential zones do so either by default in existing laws and zoning codes, or in a new ordinance that explicitly addresses peer-to-peer STRs. Tiburon is the only jurisdiction in Marin that has passed a specific ordinance prohibiting STRs in residential zones.

The following Marin cities and towns prohibit STRs in residential zones by default in existing zoning code:

- Belvedere
- Larkspur
- Corte Madera
- Sausalito
- Novato (prohibited unless property owner is approved for a special use permit)
- Fairfax (prohibited unless property owner is approved for a special use permit)

Belvedere and Corte Madera both have permissive zoning codes, which means that any use not explicitly allowed in the zoning code is prohibited by default. For these two communities, this includes transient occupancy uses in residential zones.

The City Councils of both Larkspur and Sausalito issued official statements in 2015 affirming that peer-to-peer STRs were included among prohibited uses of residentially-zoned properties.

The Town of Tiburon passed its ordinance banning residential STRs in November 2015. The biggest concern among Tiburon residents was that their primarily residential community would be turned into a “vacation town,” populated mostly by transients for at least part of the year if STRs continued to be permitted. Residents of Sausalito, which prohibits STRs by default, voiced similar concerns when the City was discussing whether to prohibit or regulate STRs in 2014. Both Tiburon and Sausalito are primarily populated by long term residents, while also being popular destinations for international tourists and Bay Area weekenders alike. Both have ferry terminals connecting to San Francisco, and lively downtowns lined with visitor-oriented businesses.

Other cities and towns in California that have specifically banned STRs in an ordinance include: The Town of Mammoth Lakes, the City of Monterey, the City of Ojai, the City of Hermosa Beach, and the City of Laguna Beach. Like Tiburon and Sausalito, most of these are popular visitor destinations that also have sizeable permanent resident bases. It would appear from these examples that cities with some tourism, but an even stronger permanent resident base are most likely to prohibit rather than regulate or unconditionally permit STRs.

Marin Jurisdictions that Permit and Regulate STRs

Mill Valley

As of August 2018, the only jurisdiction *within* Marin that permits and regulates STRs is Mill Valley, which it does according to existing municipal code governing all rental accommodations lasting less than 30 days—regardless if they are in a commercial or residential zone. Mill Valley requires a \$50 registration fee plus an annual \$16 business license to operate an STR. It collects Transient Occupancy Tax (TOT) from STRs at 10%—the same rate levied on all Mill Valley hotels. According to a 2018 staff report, Mill Valley is currently considering amending the following chapters in its existing code to include provisions specifically addressing neighborhood quality of life issues associated with STRs in residential zones:

- Section 20.16.020 “Single Family Residential Zoning Districts”
- Section 20.90 “Residential Second Units”

- Section 20.60.250 “Home Occupations”

According to Lisa Newman, Senior Planner at the City of Mill Valley, the City’s Finance Department processes all building permit applications, fees, and TOT receipts, including the annual \$50 STR registration fee. The Planning Department evaluates applications, and Code Enforcement is involved as needed to address issues on a complaint basis, though no penalties have been issued to date. Personal contact from Planning Department staff has been sufficient to correct issues arising from STRs.

Like the City of San Rafael, Mill Valley also contracts with Host Compliance to collect data. In Mill Valley’s case, Host Compliance also matches data collected on individual units to City registration records to identify non-compliant units. Mill Valley’s contract with Host Compliance is currently \$8,500 per year compared to about \$200,000 per year collected in TOT from STRs alone, suggesting that, at least for Mill Valley, TOT revenues from STRs outweigh the costs of enforcing the tax.

County of Marin

The County of Marin also requires STR hosts operating in unincorporated areas to purchase a business license and remit a 10% TOT to the County according to existing municipal code. As of August of 2018, the Marin County Board of Supervisors passed a third draft ordinance with provisions for stronger enforcement of TOT and business license requirements, including tax liens against noncompliant hosts.¹⁴ The ordinance also includes requirements for residential STRs meant to address negative impacts on the long-term rental market and on surrounding neighbors. These include:

- Mandatory notification to nearby neighbors when listing an STR, in the form of external signage or individually delivered letters/doorhangers. Notifications include contact information of the unit’s host, and the number for the County’s complaint hotline (see below).
- Mandatory in-unit brochure or sign explaining County-wide noise, trash, and parking ordinances

The County has thus far been contracting with Airbnb to remit TOT from hosts in unincorporated Marin. Airbnb collects roughly \$1.3 million per year in aggregate TOT for Marin.¹⁵ Hosts operating STR units through other platforms besides Airbnb are responsible for remitting TOT to the County Tax Collector independently. To estimate compliance rates and identify non-compliant units, the County has contracted with Host Compliance. In most respects, the services Host Compliance provides to Marin County are the same as those it provides to Mill Valley. However, in addition to monitoring STR activity, identifying addresses and non-compliant units, and administering tax collection letters to non-compliant hosts (which it does for both Mill Valley and the County), Host Compliance also operates a 24/7 STR complaint hotline service just for the County. Host Compliance provides the hotline service for \$9,680 per year as part of its total \$75,863 per-year contract with the County of Marin.

Opportunities

As mentioned in the previous above, San Rafael unconditionally permits STRs. Other jurisdictions in Marin, like Sausalito and Tiburon, prohibit them. There are a variety of reasons why a jurisdiction like San Rafael may want to continue permitting STRs:

They allow property owners and lease holders to make passive income with little to no red tape.

¹⁴ “Marin Supervisors Approve Short-Term Rental Ordinances,” *Marin Independent Journal* (blog), August 7, 2018, <http://www.marinij.com/business/20180807/marin-supervisors-approve-short-term-rental-ordinances>.

¹⁵ “Marin Supervisors Approve Short-Term Rental Ordinances,” *Marin Independent Journal* (blog), August 7, 2018, <http://www.marinij.com/business/20180807/marin-supervisors-approve-short-term-rental-ordinances>.

Roughly a third of home-owning households in San Rafael are “housing cost burdened” meaning they pay over a third of their income on housing. STRs can be an additional source of income for this sizeable portion of the population struggling to pay off their homes. Leaseholders can benefit too. Being able to rent an extra room can help new or transitioning residents overcome mismatches between what kind of housing they ultimately need/ can afford, and what is currently available on the market. A renter can lease a too large and/or otherwise unaffordable unit and temporarily list an extra room on Airbnb until they find a smaller, more affordable unit that fits their needs.

The ability to flexibly make passive income from renting additional units on a property can also help retirees “age in place” by supplementing fixed incomes. Over 17% of San Rafael’s population is 65 years or older. Another 28% is between 45 and 64, approaching retirement in the next 10 to 20 years.¹⁶ In addition to providing homeowners with a post-retirement income stream, hosting an STR unit can also help seniors living alone keep their brains active.¹⁷

They can help attract visitors to the area to boost local business revenues (and sales tax)

In addition to putting money directly in the pockets of residents, STRs can boost the local economy by allowing transient residents to live “as a local” in a more intimate residential setting than where hotels are typically located.¹⁸ This in turn provides better visitor access to local small businesses, and encourages more visits in the future.

They can be a lucrative source of Transient Occupancy Tax for the City

The most direct potential benefit to the City itself is the opportunity to collect taxes from STR hosts. Virtually all jurisdictions that permit and regulate STRs collect from them the same Transient Occupancy Tax (TOT) or Hotel Tax that they do from traditional hotels, motels, inns, and bed and breakfasts. These are either collected by the jurisdictions themselves, or by the online service providers on behalf of the jurisdiction, as Airbnb does for San Francisco and Marin County. Contracting with Airbnb for this service reduces the administrative burden of tax collection, but at the cost of forgoing the opportunity to collect data on individual properties. Airbnb aggregates the TOT it collects monthly before remitting it to the jurisdiction with which it has such an agreement, specifically omitting any data on individual properties.¹⁹ As mentioned previously, Airbnb provides this service to the County of Marin. Any hosts operating STRs in unincorporated Marin using platforms besides Airbnb are personally responsible for remitting TOT to the County Tax Collector (enforced with the help of Host Compliance).

Possibly the most compelling reason why San Rafael may want to collect taxes from STRs, is that it already collects TOT from hotels, motels, and traditional bed and breakfasts, so the legal and administrative frameworks are already in place. Currently, the City’s Municipal Code is ambiguous toward residential STRs, and does not explicitly include them in the list of short-term rental accommodations from which it collects the tax. The “Recommendations” section of this report provides an estimate of potential TOT the City could expect to collect annually from residential STRs.

They can incentivize property owners to add additional housing units to their property

Renting a room or accessory unit on a nightly or short-term basis is generally a much more lucrative and attractive option for a home owner or lease holder than renting or subletting a unit to a long-term tenant. Short term and nightly rents command a substantial premium over rents from monthly or annual leases, and hosts have the added flexibility of renting any time they feel like it for as long as they would like (rather than having to commit to a monthly or annual lease). Online platforms also have built-in rating and reporting mechanisms that maintain accountability and allow both renters and hosts to customize their preferences. The attractiveness of renting a room or accessory unit on a short-term basis in turn incentivizes home owners to renovate their properties to include more housing, which may be converted to long-term

¹⁶ American Community Survey, Table DP05, 2016.

¹⁷ Tapio Ikkala and Airi Lampinen, “Monetizing Network Hospitality: Hospitality and Sociability in the Context of Airbnb,” in *Proceedings of the 18th ACM Conference on Computer Supported Cooperative Work & Social Computing* (ACM, 2015).

¹⁸ Roberta A. Kaplan and Michael L. Nadler, “Airbnb: A Case Study in Occupancy Regulation and Taxation,” *U. Chi. L. Rev. Dialogue* 82 (2015): 103.

¹⁹ “Airbnb: To Tax or Not Tax a Rented Bed,” *Bloomberg.Com*, September 27, 2012.

rental housing later if the incentive exists and/or if the property changes hands. In the short term, homeowners are better able to pay off any debts incurred from renovations through STR profits.

Risks and Challenges

STRs clearly have the potential to benefit the community, but not without significant challenges. The following interrelated issues have prompted many communities across the U.S. and in Marin to prohibit or regulate STRs:

Conversion of long term housing stock to short term housing stock

STRs can reduce the number of units available on the long-term rental market, which is of significant concern in San Rafael, where gross median monthly rent is approximately \$1,628.²⁰ and most studio apartments rent for over \$1,200 per month. As previously mentioned, this more impactful when whole dwelling units with separate kitchens and bathroom facilities are used as short-term rentals, opposed to just a spare room. Host Compliance estimates 71% of San Rafael's short-term rentals are whole units.

The risk of converting long-term units into STRs will always be high while hosting a short-term rental is easier, more flexible, and generates more revenue than leasing a unit to a long-term tenant.²¹ The obvious personal advantages of converting long-term units to STRs also carry the risk of property owners turning residential properties *they don't live in* into essentially unlicensed hotels. This extreme scenario is what Dayne Lee (2016) calls "hotelization."²²

A recent paper published by researchers at the National Bureau of Economic Research, the University of California, Los Angeles (UCLA), and the University of Southern California concludes that "a 1% increase in Airbnb listings leads to a .018% increase in rents and a .026% increase in house prices." This relationship was found in what the authors call "the median owner-occupancy rate zip code," which are zip codes where 56% of residents own the homes they live in. The Authors also found that zip codes with lower percentages of home ownership had even higher impacts on home prices and rents.²³ In San Rafael, 49% of the population owns their home according to the U.S. Census, which translates to about 51% of the total housing stock.

Erosion of community and neighborhood quality of life

Public comments on ordinances relating to STRs often describe concerns about behavior of transient residents. The prevailing belief is that vacationers are more likely to exhibit un-neighborly behavior either because they are ignorant of local rules and customs and/or because they know they are "just passing through," and therefore are unaccountable for their actions. Some of the more specific issues include:

- reduced on-street parking for permanent residents and their guests,
- excessive noise at inappropriate hours,
- improper waste disposal,
- Safety and privacy concerns stemming from high resident turnover (e.g. guests looking for their STR accidentally entering the wrong property), and

²⁰ American Community Survey, 2016.

²¹ "The Rise of the Sharing Economy," *The Economist*, March 9, 2013; Caroline Said, "Window into Airbnb's Hidden Impact on S.F.," *San Francisco Chronicle*, June 2014.

²² Dayne Lee, "How Airbnb Short-Term Rentals Exacerbate Los Angeles's Affordable Housing Crisis: Analysis and Policy Recommendations," *Harv. L. & Pol'y Rev.* 10 (2016): 229.

²³ Kyle Barron, Edward Kung, and Davide Proserpio, "The Sharing Economy and Housing Affordability: Evidence from Airbnb," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, March 29, 2018). Pp 6.

- unwillingness on the part of guests to correct offending behavior when asked by neighbors and/or disrespectful attitudes when confronted.

Areas with a lot of tourism can also experience a “hollowing out” of their communities during off-peak vacation seasons, which is less felt when tourists are concentrated in hotel districts and commercial centers rather than in residential neighborhoods.²⁴ This has been an issue raised in Aspen Colorado, Mammoth Lakes California, and coastal areas of Marin like Stinson Beach. It is unlikely to be as much of a concern in San Rafael where there is less tourism and more of a permanent resident base.

Absentee Owners

Almost all the issues outlined above are exacerbated when properties are “un-hosted,” meaning the owner of the property is not on the property while it or a portion of it is being rented to short term tenants. The owner could be the primary resident that only rents when they are out of town, the property could be a secondary vacation home, or the property might never be occupied by the owner, used instead for the sole purpose of making a profit from rents. In any of these cases, an absentee host makes it difficult to mediate issues between tenants and neighbors. This may be less of an issue in the latter two cases, however, where the owner is still a “neighbor” in the area for at least part of the year. San Francisco, Berkeley, and Redwood City have annual caps on the number of nights STR units can be rented un-hosted.

Many jurisdictions across the globe have begun to address these issues by either prohibiting residential STRs entirely, or by enacting policies to regulate them. The following sections summarize best practices in prohibiting or regulating STRs, with relevant examples in Marin County. See table 7 in the Appendix for a complete summary of STR regulations in Marin jurisdictions.

Best Practices in Prohibiting STRs

The issue of whether to permit STRs in residential zones is essentially an issue of whether STRs are defined as a residential or a commercial use. Jeffrey Goodman, a New Orleans-based planning and design consultant specializing in STR policies, argues that “STRs are fundamentally a commercial use, one that cities have regulated successfully in the past as bed-and-breakfasts, inns, motels, hotels, or SROs” and that “planners should simply hold a short-term rental unit to the same standards as any other similar business.”²⁵ For many jurisdictions, this means prohibiting them in residential zones. In others, STRs may be prohibited in residential-only zones but allowed in mixed-use zones.

The key to any new STR ordinance—whether it prohibits or regulates them—is the definition used for short-term rentals. Planning staff at the City of New Orleans conducted a study of STR policies in 17 cities across the U.S., and summarized the following three components common to most formal definitions of STR uses:

- The use is for transient occupancy,
- the use is within a residential dwelling unit, and
- that the temporary stay lasts for no longer than 30 days.²⁶

Tiburon’s 2015 ordinance includes an example of a definition with these three components:

“Rental of any dwelling unit, in whole or in part, within the Town of Tiburon to any person(s) for exclusive transient use of 30 consecutive calendar days or less, in instances where the unit is only approved for permanent residential occupancy and not approved for occupancy by transients...Rental of units within

²⁴ Lisa Wise, “Short-Term Rentals: A White Paper on Planning and Economic Considerations Prepared for Marin County, California” (Lisa Wise Consulting, Inc., May 8, 2017), 10.

²⁵ J. Goodman, “Could You Bnb My Neighbor? A Planner’s Take on the Sharing Economy,” *Planning*, 2016, 29–33.

²⁶ Nicholas Kindel et al., “Short Term Rental Study” (City of New Orleans, January 28, 2016). Pp 44.

Town-approved hotels, motels, and bed and breakfasts shall not be considered Vacation Rental, nor shall providing room and board for one guest in a single-family dwelling.”

Tiburon’s definition covers “seasonal rental units,” “short term rentals,” and “vacation rentals.”

If a jurisdiction wants to prohibit STRs, it is generally considered best practice to make even the advertisement of an unpermitted listing illegal. This way, the presence of a listing is prima facie evidence of illegal renting, which makes enforcement at least somewhat easier.²⁷ The City of Monterey did this in a 2017 ordinance, though it had explicitly prohibited residential STRs since 1991.

Best Practices in Permitting and Regulating STRs

Not all jurisdictions define STR uses as strictly commercial. In the New Orleans study, STRs are defined as “residential uses with commercial-type impacts, which should be permitted in commercial and mixed-use districts and only allowed in residential districts in limited circumstances.”²⁸ Many U.S. cities like New Orleans interpret STRs as a permitted residential use and attempt to minimize impacts on neighborhoods and long-term rental housing with regulations.

At the highest level, the New Orleans study concluded that cities who chose to regulate STRs were most successful when they “categorized short term rentals into different types based on their impacts, put standards in place to ensure guest safety, set appropriate fees and fines to incentivize compliance, and reevaluated and revised the short-term rental regulations after their implementation.”²⁹

New Orleans-based Planning consultant Jeffrey Goodman’s “Practical Guide to Regulating Short-Term Rentals on the Local Government Level” is another useful reference document if San Rafael chooses to regulate STRs. Goodman’s recommends the following guidelines for implementing STR regulations at the local level:

- Provide informational outreach (or “host-coaching”) services to STR hosts.
- Utilize an online “one-stop-shop” for STR permit applicants and TOT remission for hosts.
- Employ dedicated staff to work with those applying for an STR permit, and for enforcement.
- Use the same violation process for non-compliant STRs that is used for businesses. Goodman puts it: “Short-term renting is, fundamentally, a commercial activity yet many cities put violators through a housing-focused violation process, one that is more opaque, complex, and slower than that for business violations.”

These recommendations can improve compliance rates and cut down on complaints and enforcement costs. Notably, however, virtually all of Goodman’s recommendations require dedicated funding, which may not be feasible for smaller cities and towns with fewer resources.

The following sub-sections comprise a comprehensive list of local-level policy tools used to regulate STRs. Each sub-section includes a general description of the provision, different variations employed by cities and towns across the U.S., and a preliminary discussion of enforcement. Enforcement of STR regulation more broadly is discussed in the succeeding “Enforcement” section

By far the two most common regulations are requiring STR hosts to obtain a permit or business license and remit Transient Occupancy Tax to their local government.

²⁷ Jeffrey Goodman, “A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level,” Host Compliance, accessed July 26, 2018.

²⁸ Kindel et al., “Short Term Rental Study.” Pp iv.

²⁹ Kindel et al. Pp. iv.

The most common regulations meant specifically to address quality of life issues are: size limits (limiting guests per room and/or maximum number of allowable STR rooms per property), and limits on STR density within a given area (e.g. the block or census tract level), typically on a first-come-first-serve basis).

See table 6 in the appendix for a summary of these policy tools organized by type and what issues they address.

Definitions

The first component to any ordinance or code amendment regulating (or prohibiting) STRs includes a formal definition. The most recent iteration of a draft ordinance regulating STRs in unincorporated Marin County simply defines Short Term rentals as “a rental of residential property for a lease term of 30 days or less.” The county of San Mateo County, which is also piloting STR regulations in its unincorporated areas, provides a more extensive definition in their ordinance:

“Short-term rental” means a single-family dwelling unit or multifamily unit, or portion(s) thereof, rented for the purpose of overnight lodging for a period of less than thirty (30) consecutive days other than (a) ongoing month-to-month tenancy granted to the same renter for the same unit or (b) a house exchange for which there is no rental payment. “Short-term rental” does not include (1) non-habitable accessory structures as defined by the California Building Code; (2) second units as defined in Zoning Regulations Chapter 22.5; and (3) housing units subject to affordable housing covenants and/or income restrictions under County, state, or federal law.

Like the Town of Tiburon, San Mateo County’s definition includes the three components identified in the New Orleans study: transient use, in a residential unit, with each stay lasting less than 30 days.

Categories

The New Orleans study recommends imposing stricter regulations on STRs that are more impactful to surrounding neighbors (like entire house rentals), while allowing STRs that are small in scale, less impactful (like single-room rentals), and/or located in mixed-use/commercial areas to operate more freely. The study suggests the following categorization of STR types for this purpose:

“An **Accessory Short-Term Rental** is a rental where the operator is present onsite during the time of the rental. The principal use of the structure is a residential dwelling and the short-term rental is an accessory use. This is considered least impactful, because the host is available to respond to complaints.

A **Temporary Short-Term Rental** is a dwelling unit that is used as a permanent primary residence for most of the year” but that may be occasionally rented in part or in its entirety (e.g. while owner is on vacation).

“A **Principle Residential Short-Term Rental** is a whole dwelling unit in a residential district where the principle use is a short-term rental.” This is considered the most impactful type of STR, both on the long-term housing market and on neighborhood quality of life. Properties without a primary long-term resident are most likely to be owned by a professional and absentee landlord, with no personal investment in the community. This type of STR was ultimately prohibited in New Orleans’ STR regulations.

“A **Commercial Short-Term Rental** is a dwelling unit in a non-residential district where the principal use is a short-term rental.” This type of STR is considered less impactful since it is within a commercial zone.

Austin, TX and Nashville, TN both distinguish between STRs that are owner-occupied and STRs that are non-owner occupied, restricting non-owner-occupied units to 3% of all residential units in a census tract on a first-come-first-serve basis.

Typically, enforcement of any kind of categorization framework is part of a permitting or licensing process that includes an inspection of the unit for compliance. The Enforcement section provides more details on common practices in STR enforcement.

Size Limitations

Size limitations are also meant to address quality of life impacts on surrounding neighbors, by essentially prohibiting large “party houses.” Among the 17 cities surveyed in the New Orleans study, nearly all had limits on occupants per bedroom (usually two), and about half had limits on the number of rooms allowed in STR units (usually 4 or 5 bedrooms).

Portland, OR limits STR units to five rooms, with more lenient requirements for units with fewer than two rooms compared to units with over three rooms, which must have a conditional Use Permit. In San Louis Obispo County, maximum occupants are not to exceed the number of occupants accommodated by the county’s on-site parking requirements and shall not exceed two persons per bedroom plus two additional persons.

Limitations on number of guests are enforced typically by random inspection, but as the New Orleans study reported, it is often difficult for enforcement officers to distinguish between overnight guests (which are restricted) and day guests (which are usually unregulated).

Concentration

Geographically restricting concentrations of STRs is a very common method of preventing “clustering” of STRs and in some cases, the “hotelization” of entire multifamily buildings. Chicago, for example, limits vacation rentals to six per multifamily residential structure, and Portland OR prescribes a maximum of either one unit or less than 25% of all units within a multifamily structure. Concentration limits can come in a variety of forms for single-family lots too. The Town of Cambria in San Louis Obispo County prohibits residential STRs within 200 linear feet of a parcel on the same street as an existing STR, 200 linear feet of the parcel on the opposite side of the street from an existing STR, and within a 150-foot radius around an existing STR. The town of Avila Beach, also in SLO County, simply does not allow STRs within 50 feet of another parcel with an existing STR or visitor-serving accommodation.³⁰ Nashville and Austin limit non-owner occupied STRs to 3% of all housing units in a census tract. Nashville also limits STRs to 25% of units in commercial districts within a census tract.

Enforcing concentration limits is also usually built into a permitting and licensing process that includes an inspection. Austin uses a web-based mapping system to track the number of permits available in each census tract, that also features a public portal for residents to view how many available permits there are in their tract.

Time Limitations

Time limitations are less common because they are exceptionally difficult to enforce compared to size or concentration limitations. It is almost impossible for an enforcement officer to accurately determine the length of stay during a random site inspection, compared to the number of rooms or guests per room. For this reason, jurisdictions that have time limitations usually only limit the amount of time a unit can be rented while un-hosted, always on a per calendar year basis. Some examples are: Wisconsin State (30 days), San Francisco (90 days), Philadelphia (90 days without a permit and 180 days with a permit), and Santa Fe (17 times per year and no more than once per week).

A recent report presented to the City of San Rafael by Host Compliance STR monitoring services illuminates why annual caps are so difficult to set, especially if the goal is to preserve long-term rental units: cities must know the exact number of days to cap short term rentals so that renting to a long-term tenant becomes more profitable to the owners than renting the unit as an STR for part of the year. To complicate matters, this “break-even” point varies by neighborhood. The Host

³⁰ Wise, “Short-Term Rentals: A White Paper on Planning and Economic Considerations Prepared for Marin County, California.”

Compliance report concludes: “the complex logistics of enforcing this type of provision are therefore so daunting that most cities do not consider annual rental limits as a primary mechanism to alleviate short-term rental related housing affordability concerns.”³¹

Owner Occupancy

Many jurisdictions, including San Francisco, New Orleans, Austin, Nashville, Petaluma, and Santa Cruz County determine the extent of regulations based on whether an STR unit is owner-occupied or not. The New Orleans report found that almost half of the surveyed communities required occupancy of an owner or authorized lessee on the property where an STR is also located. Other jurisdictions, like Berkeley, entirely prohibit STR units that are un-hosted. In San Francisco, the owner or lease-holder must reside in the dwelling for 275 days out of the year.

Owner occupancy is typically enforced by site inspection as a preliminary requirement for permitting, and on a continuing random basis.

Design Guidelines and Posted Requirements

The New Orleans study found that most surveyed communities had some type of design standard included in their policies regulating STRs. Jersey City, Savannah, and Philadelphia, for example stipulate that there be no change to the (STR) structure that detracts from the structure’s residential appearance.

Many jurisdictions, like Santa Fe, Philadelphia, and Marin County (in a draft ordinance), require that garbage, noise, and/or water ordinances are made visible to guests at the time of their stay, either as a posted-in unit notice, or in the form of a guest brochure.

Business Licenses, Permits, and Registration

This is likely the most common regulation. Requiring that STR hosts obtain a permit and/or license helps jurisdictions keep track of the number and geographical distribution of STRs. Most cities, including San Rafael, have an existing business permit system that can be amended to include STRs. The challenge with incorporating STRs into such a system is setting the right permit fees, and enforcement. Ideally, fees should be high enough to cover the cost of enforcement. However, the higher the fee, the less likely hosts are to pay them, especially if hosts perceive enforcement to be passive or ineffective. Additionally, higher fees may skew the STR market towards more “professionalized” hosts with more resources, which are more likely to own impactful STR types like un-hosted, whole-home rentals. According to the New Orleans report, \$250 is the median annual permit fee nationwide. Nashville charges \$50 for a permit at the low-end. At the high-end, Saint Helena CA charges \$1,000 for a permit.

The second issue is effectively enforcing the permit requirement. This can represent something of a catch-22 for local law-makers: a city relies on permit fees to fund enforcement of the permit requirement, but if enforcement proves ineffective, new hosts will eventually stop bothering to acquire a permit, thus reducing the available resources for enforcement, which further reduces effectiveness of enforcement, and so on.³² More is said on this issue in the subsequent “Enforcement” section of this report.

In most cases, STR licenses or permits are issued for one to three years before they must be renewed. This is because “it is difficult to determine if the operator will be a good operator at the time of the application. It is only after the short-term rental is in operation for some time that it is apparent whether the operator is a good or bad actor.”³³ Permits are typically

³¹ “City of San Rafael: Short Term Market Rental Overview.” Pp 10.

³² “Overview of Leading Regulatory and Enforcement Approaches Used by Local Governments to Achieve Common Short-Term Rental Related Policy Objectives. Prepared for The City of San Rafael” (Host Compliance LLC, April 2018).

³³ Kindel et al., “Short Term Rental Study.” Pp. 64.

revoked after a certain number of violations within one year, and renewal fees are typically the same price as the initial fee. Savannah, GA is one exception: the 50\$ renewal fee is just a third of the initial permit fee of \$150.

Most jurisdictions require a prospective STR owner to pass an on-site inspection as part of the permit process. Officers conducting an inspection can simultaneously assess whether a unit is compliant with regulations surrounding safety and neighborhood quality of life.

The City of San Rafael has an existing business permit system that could incorporate STRs, which is discussed more in the Existing Conditions section.

Notice and Local Contacts

In the New Orleans study, four surveyed communities required notification to surrounding neighbors within a given distance: Santa Fe (200-foot radius), Austin (100-foot radius), Portland OR (all organizations sharing a boundary with the subject site), and Nashville (any residence sharing a common wall or driveway). Marin County's draft ordinance requires that STR operators either post an external sign (with specific design requirements) or notify neighbors within 300 feet of the property.

Neighbor notifications typically includes a description of use and any permit or license information. Four of the 17 cities surveyed in the New Orleans report required postage of a city-issued permit on any notification. Portland OR requires a description of how all safety and regulatory requirements will be met. Santa Fe requires that notices sent are first approved by land use director.

Another common feature of neighbor notification is contact information for a designated responsible party that respond to complaints and emergencies. For hosted units, this is usually the on-site property owner or permanent resident. Nashville requires that all STRs have a designated contact within 25 miles of the unit available 24 hours while the unit is being rented. In Charleston SC, the local contact must live within a two-hour drive. Key West FL and Nashville require that the designated contact is available 24 hours a day, 7 days a week.

Taxes

According to the New Orleans study, collecting Transient Occupancy Tax (TOT), otherwise known as hotel tax, is "almost universal" across jurisdictions with any form of STR regulation. Taxes are typically between 6% and 14.5% of the rent charged to guests. San Rafael currently levies TOT on hotels at 12%.

In most cases, Airbnb merely notifies hosts of local requirements and regulations, including remittance of TOT, but the platform has made agreements with a growing list of cities/counties (and some states) to collect TOT from hosts and remit them. These are:

- Malibu, CA
- Oakland, CA
- Palo Alto, CA
- San Diego, CA
- San Francisco, CA
- San Jose, CA
- Santa Clara, CA
- Santa Monica, CA
- Chicago, IL
- Florida
- Multnomah County and Portland, OR

- North Carolina
- Philadelphia, PA
- Phoenix, AZ
- Rhode Island
- Washington State
- Washington, D.C.³⁴
- Marin County, CA

So far, Airbnb has been collecting TOT mostly for larger cities or entire states. Contracting with Airbnb for this service may be beyond the staffing or financial capacity of smaller jurisdictions. Furthermore, as previously mentioned, Airbnb aggregates TOT before remitting it, so jurisdictions forgo the ability to collect rental income data on individual properties when they contract with Airbnb for this service.

Most local jurisdictions do not earmark TOT for any specific purpose. A few, however, either dedicate some portion of TOT or levy a separate lump sum fee on residential STRs that specifically funds affordable housing. These are: Oakland,³⁵ New Orleans, Seattle, Miami, and Chicago. The state of Massachusetts is discussing doing the same statewide.³⁶

Buildings Codes, Safety, and Inspections

Much of the debate surrounding residential STRs policy centers around unfair advantages STRs have over traditional hospitality operators in terms of building and safety requirements. Hotels, motels, inns, and traditional bed and breakfasts are almost always designated as commercial uses, which face much stricter building and safety codes compared to residential properties in most communities. ADA access, Fire-retardant bedding and automatic sprinkler systems are a few examples of safety features required in most hotels. The state of Wisconsin is one of few jurisdictions that specifically require residential STRs to meet commercial building codes to operate. In most cases, these concerns are addressed by allowing hotels, motels, inns, and traditional Bed and Breakfasts to operate at higher capacities and to offer more services (like breakfast and/or alcoholic beverage service) than are allowed in residential “peer-to-peer” STRs. Another way to address this concern is only allowing full-time or un-hosted STRs in residential zones as a conditional use, pending review by the zoning commission. These provisions can help offset the added costs of increased building and safety requirements for traditional hotels and bed-and-breakfast inns.

Most jurisdictions simply apply existing residential safety codes to STRs. Wisconsin State, Portland OR, Austin, Savannah, San Francisco, Key West, and Chicago all require that prospective STR operators pass a safety and building code inspection as part of the permitting process. In San Francisco and Savannah, inspections are required annually, and include zoning, building, safety, and fire code inspections. In some cases, safety regulations are enforced by “self-reporting,” where hosts must self-certify that they have mandated equipment (like smoke detectors) in their permit application. Jeffrey Goodman recommends against using self-reporting mechanisms for safety requirements in lieu of an in-person safety inspection since self-reporting does not guarantee compliance. Hosts can lie in their application or install equipment improperly. In the same article, Goodman suggests that jurisdictions require STR guests to carry appropriate insurance that covers their activity and level of risk as a safety measure, in addition to hosts.³⁷

³⁴ Jeffrey Goodman, “Could You Bnb My Neighbor? - A Planner’s Take on the Sharing Economy,” Host Compliance, February 2016.

³⁵ Dessi Mia Carbajal, “The Impact of Short Term Rentals on Affordable Housing in Oakland” (Community Economics, Inc., December 2015), <https://www.naceda.org/assets/EBHO%20Short%20Term%20Rental%20Impact%20Report.pdf>.

³⁶ Liz Farmer, “Does Taxing Airbnb Actually Help the Affordable Housing Crisis?,” *Governing The States and Localities*, August 3, 2018, <http://www.governing.com/week-in-finance/gov-massachusetts-airbnb-tax-affordable-housing.html>.

³⁷ Goodman, “Could You Bnb My Neighbor?,” February 2016.

Enforcement and Compliance

Enforcement stands out as the biggest challenge for communities attempting to either prohibit or regulate STRs. Even with explicit enforcement policies and dedicated staff, compliance can be low. The Host Compliance report conducted for the City of San Rafael concludes that “the average city in America has virtually no compliance, while a few early adopter cities like Portland or San Francisco hit less than 25% (compliant units out of all units listed) within six months of passing regulations.”³⁸

Enforcing STR regulations is particularly challenging for three reasons:

- short-term rentals are difficult to detect,
- neighborhood issues with STRs tend to happen at night and on weekends when enforcement officers are not on duty, and
- short-term rental activities are difficult to prove.³⁹

Short-term rentals are difficult to detect because platforms like Airbnb do not require hosts to post addresses or any personally identifying information, which frustrates the ability for local regulators to identify noncompliant units. Several cities, like Petaluma, San Francisco, Portland OR, New Orleans and Chicago have attempted to legally compel platforms like VRBO and Airbnb to either share identifying information, or aid in compliance by refusing to list properties without a city-issued permit on their platforms. None of these cases ruled in favor of the cities, however. Home-sharing firms have claimed, convincingly, that adjusting their software to comply with local regulations in every city in which they operate would be too onerous.⁴⁰

Airbnb did publish a “Community Compact” in response to these efforts in 2015, stating that the company would help cities collect TOT, and work harder to help cities enforce regulations. For most cities, this commitment comes in the form of a page on the Airbnb website with a list of policies, requirements, and regulations in the city where the unit is listed.

The second issue having to do with timing of violations is easier to address. Most jurisdictions that regulate STRs require that every STR unit has a local contact that can respond within some time limit to complaints or issues as they arise. In many cases, this local contact (often the property owner for hosted units), must be available 24/7. Host Compliance also offers a 24/7 STR complaint hotline service to help solve neighborhood issues in real time. The County of San Louis Obispo contracted Host Compliance for this hotline service, and Marin is considering doing the same thing as part of County’s draft STR ordinance.

The third bullet is not as easy to overcome: the only way to actively pursue hosts suspected of operating illegal STR units is to physically book a rental, acting as a guest. For most jurisdictions, this sort of “sting operation” is not a not cost-effective method of enforcement. For this reason, almost all jurisdictions that prohibit or regulate STRs (including those in Marin) enforce their policies on a complaint-driven basis, typically using existing code enforcement staff. Sausalito is one exception: though the enforcement of the City’s prohibition on STRs is complaint based, in 2015 Sausalito voted to appropriate funds for a full-time salaried enforcement officer dedicated solely to STRs. Table 1 below further illustrates issues with enforcement in Marin:⁴¹

³⁸ “Overview of Leading Regulatory and Enforcement Approaches Used by Local Governments to Achieve Common Short-Term Rental Related Policy Objectives. Prepared for The City of San Rafael.” Pp 20.

³⁹ Kindel et al., “Short Term Rental Study.” Pp 40.

⁴⁰ Rob Walker, “Airbnb Pits Neighbor Against Neighbor in Tourist-Friendly New Orleans,” *The New York Times*, December 21, 2017, sec. Business Day, <https://www.nytimes.com/2016/03/06/business/airbnb-pits-neighbor-against-neighbor-in-tourist-friendly-new-orleans.html>.

⁴¹ Sources: Land area estimates from Wikipedia, population estimates from 2012-2016 American Community Survey. All other data, including average nightly rates are from Airbnb’s proprietary data analytics website AirDNA, and does not include other STR platforms like Homeaway, etc.

Table 2: Airbnb Activity in Select Marin Jurisdictions

| Marin City or Town | STR Policy | Land Area (square miles) | Population per sq. mile | Airbnb Units as of July 2018 | Average Airbnb units per sq. mile | Airbnbs per person | Average nightly Airbnb rate* |
|--------------------|---------------------------------------|--------------------------|-------------------------|------------------------------|-----------------------------------|--------------------|------------------------------|
| San Rafael | Permit unconditionally | 16.57 | 3,558 | 242 | 15 | .004 | \$177 |
| Mill Valley | Permit and regulate per existing code | 4.76 | 3,008 | 311 | 65 | .022 | \$239 |
| Sausalito | Prohibit per existing code | 1.77 | 4,020 | 147 | 83 | .021 | \$277 |
| Tiburon | Prohibit in 2015 ordinance | 4.48 | 2,047 | 49 | 11 | .005 | \$302 |

Sausalito is 13% denser than San Rafael (about 460 more people per square mile), and much smaller geographically, at just over a ninth of San Rafael’s land area. Despite Sausalito having a full-time STR prohibition enforcement officer, there are more than five times the number of STRs per square mile (and per person) in Sausalito than in San Rafael, where they are unconditionally permitted. This likely reflects Sausalito’s status as a major tourist destination compared to San Rafael. Indeed, prices indicate a higher demand for short-term accommodations in Sausalito: The average nightly rate for an Airbnb in Sausalito is \$277, almost 60% more than the average nightly rate of \$177 for an Airbnb in San Rafael.⁴²

Mill Valley, which is roughly three-fourths the population density of Sausalito and almost twice the land area, has close to the same ratio of STRs per person as Sausalito. The ratio of STRs to people is similar for Sausalito and Mill Valley at .021 and .022 respectively, which is five times higher than the ratio for San Rafael. Two relevant conclusions emerge from these figures. First, Mill valley has a much larger ratio of STRs per person and STRs per square mile compared to San Rafael, though Mill Valley has stricter and more costly requirements for STR owners in the form of registration and TOT remittance. The relative density of STRs in Mill Valley compared to San Rafael may also reflect (like Sausalito), the higher demand for visitor accommodations in Mill Valley compared to San Rafael. Indeed, the average nightly rate for an Airbnb in Mill Valley is higher than that of San Rafael at \$239.

The second and perhaps most significant conclusion from this table is the fact that Sausalito has a slightly higher ratio of STRs per person and almost 20 more STRs per square mile than Mill Valley, despite explicitly prohibiting them while Mill Valley explicitly permits them. The average nightly rate in Mill Valley is just \$40 less than Sausalito, indicating that the Short-Term Rental market is almost as lucrative there as it is in Sausalito. The revenue incentive to host an illegal STR unit in Sausalito appears to outweigh the potential costs of receiving a citation for many property owners (and likely some lease holders).

Unfortunately, if STR platforms continue withholding data on individual units, enforcement of STR regulations will be less than 100% effective. In turn, ineffective or insufficient enforcement is the primary reason why many jurisdictions have low compliance rates (in addition to ignorance of regulation on the part of hosts, and perceptions that regulations are too burdensome).

⁴² From AirDNA: Airbnb’s data analytics website. <https://www.airdna.co/>

Other reasons for low compliance include lack of knowledge about regulations. In addition to fines and penalties set high enough to incentivize compliance, enforcement must be constant “as hosts return to illegal renting as soon as they perceive that the city is scaling back on enforcement efforts.”⁴³

Some jurisdictions, like Denver CO, have complex web-based monitoring and compliance software programs. Host Compliance, which San Rafael currently contracts to monitor STRs, also offers a range of compliance services to jurisdictions hoping to enact STR policy, including:

- Tracking, monitoring, and compiling data
- Managing and processing STR registration or permit applications (online and offline)
- Identifying non-compliant STRs
- Automated outreach services to bring non-compliant units into compliance
- 24/7 hotline service for neighbors and other stakeholders to report, document, and resolve STR issues in real time (this is being discussed as a provision in the draft County of Marin ordinance).
- Collecting STR-related taxes and identifying tax underreporting across all STR platforms

Most cities rely on complaint-based enforcement using existing code enforcement staff. The logic here is that scarce enforcement resources are targeted toward “problem units” or hosts with repeat violations. The downside of course is that non-compliant units can remain operating while there are no complaints from neighbors, which can render regulation ineffective if the goal is to preserve long-term rental units or ensure safety of occupants.

Considerations for Three Paths Forward in San Rafael

Short-term rental units make up less than one percent of San Rafael’s total housing stock, but the number of STR units has grown by 30% between 2016 and 2018. Research suggests that as market penetration deepens for these relatively recent web platforms, is likely that the popularity of STRs will grow in the future, especially in a city as desirable and well-located as San Rafael. As the popularity of short-term rentals continues to grow, the City may choose to take one of three paths forward: continue to monitor and unconditionally permit STRs, permit and regulate STRs, or prohibit STRs.

The following three tables outline a preliminary framework for assessing the costs and benefits for each of these potential scenarios.

Table 3: Costs and Benefits of continuing to unconditionally permit STRs

| Potential costs | Potential benefits |
|--|---|
| <ul style="list-style-type: none"> • Opportunity cost of not collecting TOT • Quality of life issues associated with STRs may worsen as STR listings increase • Conversion of long-term rental units to STRs can potentially exacerbate affordability issues in the long-term rental market | <ul style="list-style-type: none"> • Only 1% of housing units are STRs: the cost of enforcing regulation or prohibition may outweigh benefits • Economic benefits to individual hosts and local businesses • STR profits incentivize property owners to add additional units, which may become long-term housing in the future |

⁴³ “Overview of Leading Regulatory and Enforcement Approaches Used by Local Governments to Achieve Common Short-Term Rental Related Policy Objectives. Prepared for The City of San Rafael.” Pp 4.

The biggest reason why San Rafael may wish to continue unconditionally permitting STRs rather than regulating or prohibiting them, is that they make up a very small portion of San Rafael’s housing stock and that few if any hosts are operating on a commercial scale according to Host Compliance data. The costs of enforcing such a TOT policy could therefore outweigh any collected revenues.

The \$200,000 in annual revenues that Mill Valley collects from residential short-term rentals alone equal roughly twenty-four times what the City pays Host Compliance to monitor and help enforce the program (\$8,500 annually), but table 2 in the previous section illustrates a crucial difference between San Rafael and Mill Valley that precludes any direct comparisons: Mill Valley, has one fourth the land area of San Rafael and slightly less than one fourth of San Rafael’s population, but it *still has about 50 more STRs total than San Rafael*. Put differently, Mill Valley has about six times as many STRs per person and four times as many STRs per square mile compared to San Rafael. Thus, the scale of STRs operating in San Rafael may not warrant the cost of enforcing regulations. San Rafael could conduct a statistically rigorous policy analysis of expected revenues over expected enforcement costs to determine whether such a policy would result in net revenues or net costs for the City. A preliminary estimate is provided in the following section.

Table 4: Costs and Benefits to Permitting and Regulating STRs

| Potential costs | Potential benefits |
|--|--|
| <ul style="list-style-type: none"> • Requires a new ordinance • Regulation can be costly to enforce: STR web platforms do not require identifying information to be made public by host • Potential political backlash from STR hosts | <ul style="list-style-type: none"> • City already collects TOT, so regulatory framework is in place • TOT could potentially provide new revenue to the City, provided TOT revenues from STRs exceed costs of enforcement • Quality of life and/or housing affordability issues can at least partly be mitigated |

Should San Rafael choose to either regulate or prohibit STRs, the biggest costs in both cases would be drafting or amending existing ordinances, and enforcement. Evidence from other jurisdictions, including Marin County, indicate that the risk of potential backlash or even legal challenges from existing hosts would likely be minimal.

Most notably on the potential benefits side, is the fact that San Rafael already collects TOT from hotels, motels, and inns, so the legal and regulatory framework already exists and can be amended to include residential STRs. The lack of existing TOT framework is a big reason why the towns of San Anselmo and Ross ultimately did not pass STR ordinances after surveying residents. Both would have had to draft new ordinances from scratch just to address residential STRs.

Table 5: Costs and Benefits to Prohibiting STRs

| Potential costs | Potential benefits |
|--|--|
| <ul style="list-style-type: none"> • Requires a new ordinance • Prohibition can be costly to enforce: STR web platforms do not require identifying information to be made public by host • Potential political backlash from STR hosts • Loss of economic opportunity for would-be hosts and local business. | <ul style="list-style-type: none"> • Quality of life and/or housing affordability issues are fully or close to fully mitigated, as long enforcement is adequate to ensure full or close to full compliance. |

Evidence from Tiburon and Sausalito’s experiences with prohibiting STRs indicate serious challenges with enforcement, to the extent that enforcement costs appear to significantly outweigh any community benefits gained from prohibiting STRs. In addition to foregoing the opportunity to collect TOT, prohibiting STRs entirely is almost impossible to enforce effectively. Table 2 in the previous section shows that that between 50 and 150 STRs continue to operate illegally in Tiburon and Sausalito respectively, despite that both communities explicitly ban them.

Summary Recommendations

Evidence gathered by Host Compliance indicates that STRs have not been a major issue in San Rafael to date, especially relative to Marin County jurisdictions that are better known for being ‘vacation destinations,’ like Sausalito and the County’s unincorporated coastal areas. On the other hand, the number of STRs in San Rafael have been steadily increasing over time. According to Host Compliance, there are 249 active STR units in San Rafael as of June 2018. This represents an 84% increase from 135 in June 2016, when Host Compliance began monitoring San Rafael STR activity. Taken together with evidence and best practices from other jurisdictions in Marin and the U.S., this report preliminarily recommends the following:

Do not Prohibit STRs entirely

This report recommends against a complete prohibition of STRs in San Rafael, primarily because blanket prohibitions have been shown to be costly and almost impossible to adequately enforce, especially while STR platforms like Airbnb continue to withhold identifying information about hosts from local regulators.

The town of Tiburon employs a more passive “complaint-based” enforcement strategy for its STR prohibition while Sausalito has a much more robust, “active” enforcement strategy, yet significant numbers of Airbnbs continue to operate in both jurisdictions.

Finally, enacting a prohibition on STRs would require the City to draft a new ordinance: a cumbersome, expensive, and time-consuming process for a policy that would only impose costs without adding any off-setting new revenue streams.

Consider expanding existing TOT ordinance to include Residential STRs

This report also recommends that the City consider expanding its existing TOT policy to include residential STRs for two reasons. First, San Rafael already collects TOT from other short-term rental accommodations, and already contracts with Host Compliance to monitor STR activity. Amending the City’s existing TOT policy is straightforward compared to drafting an entirely new TOT policy and ordinance from scratch. The same reasoning applies to San Rafael’s existing contract with Host Compliance: amending the agreement with Host Compliance to include identifying non-compliant units is

straightforward compared to drafting a new contract with Host Compliance. In other words, barriers to enacting a policy requiring TOT remission on the part of STR hosts are minimal in San Rafael.

Secondly, given Mill Valley's success generating net revenue from the TOT it levies on STRs, San Rafael may also stand to gain from a similar policy net the costs of enforcement, but this warrants further policy analysis since STRs in San Rafael operate at a much smaller scale compared to Mill Valley. Host Compliance data show that 95% of individual stays in San Rafael last between 1 and 7 nights, most units are only rented for an average of 7 nights per calendar year,⁴⁴ and that the average nightly rate for an STR in San Rafael is \$177. Assuming all 249 STR units in San Rafael are rented for just seven nights per year at the average nightly rate, San Rafael would collect a total of **\$36,812** in annual TOT from these units at the current 12% TOT levy on nightly rates. Although this figure is well below the \$200,000 that Mill Valley collects from STRs (STRs are likely rented for more calendar days per year and at higher rates in Mill Valley), it is still over four times what Mill Valley pays Host Compliance annually to help administer and enforce their STR policy (\$8,500). Although this estimate is not statistically rigorous, it captures a representative figure for about 90% of STRs in San Rafael.

Next Steps

This final section outlines recommended next steps the City could take to address the growing prevalence of STRs given the recommendations from the previous section, regardless of which path forward the City decides to take:

1. Track Growth Rates of Impactful STR Types

As part of the work already being done to track and gather data on STR activity, this report recommends that specific attention be paid to the rate of growth for more impactful STR types, like whole-home rentals⁴⁵ that could otherwise be used as long-term housing.

2. Conduct Policy Analysis on a tax and regulate alternative or range of alternatives

Even if San Rafael chooses to continue unconditionally permitting STRs without imposing any taxes or regulations, it is still useful to assess whether a tax and regulate policy would result in a net revenue stream, if only to ascertain the opportunity cost of not adopting such a policy. More importantly, if analysts find that a tax and regulate policy would likely produce a net revenue stream, such a policy could remain an option for the future if STR-related issues do become a significant problem and/or if the City experiences a period of significant budget shortfalls. Given the growing popularity of STR hosting as a secondary source of income for property owners and leaseholders, and that STRs have grown steadily over time in San Rafael,⁴⁶ it is unlikely that the City will see a decrease in total STR activity in the future (excluding seasonal fluctuations). Thus, a policy analysis conducted using current STR data could serve as a baseline estimate of what the City could generate in TOT, likely growing over time. Table 6 in the appendix provides a complete menu of all STR regulations that have been implemented in various jurisdictions across the U.S. to date. The City can choose which of these regulations to include in a tax and regulate policy analysis or range of analyses.

3. Track best practices in STR regulations across comparable U.S. Cities

The final recommendation is to track similar cities in the United States for emerging best practices in STR policy. Table 7 in the appendix lists "similar cities" to San Rafael, along with relevant metrics of similarity and a summary of what these jurisdictions have done regarding STRs to date. The City could use this table as a template to continue monitoring policies from other jurisdictions that may transfer well to San Rafael.

⁴⁴ About 90% of San Rafael's STR units are rented for fewer than 10 nights per calendar year.

⁴⁵ Rental units with a separate entrance, kitchen, and full bathroom, which include any apartments, single family homes, and some ADUs.

⁴⁶ See attached Host Compliance summary data in the appendix

Appendix

Table 6: Types of STR Regulations by Issue Addressed

| | Regulation | Issues addressed | Jurisdictions with regulation |
|---------------------------------|---|---|---|
| Limits and Restrictions | Permit density cap on STRs within a certain distance of each other (first come first serve), or as a % of units in a census tract | Loss of long-term rental housing, quality of life issues: clustering and hotelization | Towns of Cambria and Avila Beach in San Louis Obispo (SLO) County, Pacific Grove CA, Durango CO, Nashville TN, Austin TX, New Orleans LA |
| | Calendar-year cap on the number of days an STR can be rented, or rented <i>un-hosted</i> | Quality of life issues, absentee owners, loss of long-term rental housing | Petaluma, San Francisco, San Mateo County, Redwood City, Pacific Grove, CA, Montgomery County MD, SLO County, Wisconsin, Philadelphia PA, Santa Fe NM, Nashville |
| | Prohibiting or restricting use of Accessory Dwelling Units (ADUs) to long-term rentals only (allowing only guest rooms or units without food prep facilities to be used as STRs) | Loss of long-term rental housing | Berkeley (if ADU is built after Apr '17), Mill Valley (if ADU is built after January '17) Portland OR (one ADU used as STR per property), New Orleans (if built <5 years prior to use as STR) |
| | Size Limitations: max number of rooms, max number of guests allowed per bedroom (most common), or minimum amount of space per guest ⁴⁷ | Quality of life issues | Petaluma, Laguna Beach, San Mateo County, SLO County, Portland OR, Santa Fe NM, Savannah GA, Chattanooga TN, Nashville |
| | Prohibiting large events like weddings or corporate retreats | Quality of life issues | Redwood City |
| | Minimum stay requirements (e.g. 7 days) | Quality of Life issues | City of Solana Beach in SLO County, Nashville (minimum 24 hours) |
| Operational Requirements | Owner occupancy requirements for property w/ STR unit (primary or secondary residence) | Absentee Owners, loss of long-term rental housing | Montgomery County MD, Berkeley, San Francisco, Mammoth Lakes, Pasadena CA, New Orleans, Nashville, Austin, Petaluma, Santa Cruz County, Kansas City MO |
| | Notification given to neighbors within a given distance of new STR unit. Notification includes designated local contact information. | Absentee Owners, Quality of life issues | Petaluma, Marin County, Berkeley, Sonoma County, San Mateo County, Redwood City, San Louis Obispo County, Portland OR, Montgomery County MD, South Lake Tahoe, Santa Fe, New Orleans |
| | Postage of Relevant local ordinances and other “good neighbor rules” in-unit to inform guests | Noise, other quality of life issues | Marin County, Berkeley, San Mateo County, South Lake Tahoe, Nashville, New Orleans |

⁴⁷ Chicago prescribes 125 square feet of floor area per guest as a vacation rental license requirement (From New Orleans Study).

| | | | |
|-----------------------------------|--|---|--|
| | Minimum off-street parking requirements for STR units, usually included as part of a permitting process | Parking | Marin County, Petaluma, San Mateo County, Redwood City, Sonoma County, SLO County, Santa Cruz County, New Orleans |
| | Design Guidelines: prohibiting (or requiring) exterior marketing (notification), prohibiting modifications to exterior that detract from residential character | Neighborhood Character | South Lake Tahoe, Dana Point CA, Portland OR, Jersey City NJ, Savannah GA, Philadelphia, New Orleans, Nashville, Dania Beach FL |
| Taxing and Registration | hotel tax remittance: typically 6%-15% of rental cost | Ambiguous: funds can go towards affordable housing | Mill Valley, Marin County, Petaluma, Berkeley, San Francisco, San Mateo County, Redwood City, San Jose, City of Santa Clara, San Diego, Santa Monica CA, Truckee CA, South Lake Tahoe NV, Chicago, Multnomah County OR, Montgomery County MD, Philadelphia PA, Rhode Island State, Washington State, Washington D.C. |
| | Requiring registration, permit, and/or license (whether unit is hosted or un-hosted), typically includes safety inspection of the STR unit. | Addresses all issues by allowing cities to track STRs | Almost all jurisdictions that collect TOT also require a permit, license or registration to operate an STR. In a few cases, Airbnb collects TOT from hosts without requiring registration with the city. ⁴⁸ |
| Community Support Services | Provide 24-hour city complaint hotline | Quality of life issues | Marin County, Draft Monterey County ordinance |
| | Incentives to turn STRs into long term housing in the future (e.g. remittance of TOT collected while the unit was STR, or a cap on number of years a new unit can be used as an STR) | Loss of long-term rental housing | No jurisdictions do this |

Table 7: Similar Cities to San Rafael

| City | HH AMI | Land Area (sq. miles) | Pop density (per sq. mile) | Housing density (per sq. mile) | Housing Tenure | Vacancy Rates | Median Gross Rent | STR Policies |
|-----------------------|----------|-----------------------|----------------------------|--------------------------------|---------------------|-----------------------------|-------------------|---|
| San Rafael | \$81,360 | 17.52 | 3,558 | 1,071 | 52% own 48% rent | Owner: 0.2% Renter: 2.5% | \$1,628 | Unconditionally permit |
| San Mateo City | \$95,667 | 12.13 | 8,014 | 3,300 | 54% own 46% rent | Owner: 52% Renter: 48% | \$1,871 | Unconditionally permit |
| Redwood City* | \$90,461 | 19.42 | 3,955 | 1,502 | 51% own 49% rent | Owner: 51% Renter: 49% | \$1,807 | Currently prohibited, Regulations under consideration in 2018 |

⁴⁸ Some examples are: the City of Malibu (though other STR regulations are currently being discussed, and non-Airbnb operators must register with the City), Florida State, North Carolina State, and Phoenix AZ (for hosted units, un-hosted units must register). Philadelphia allows rentals up to 90 days per year without a permit (while still requiring TOT), and up to 180 days with a permit.

| | | | | | | | | |
|--------------------------|-----------|-------|-------|-------|---------------------|-----------------------------|---------|---|
| Mountain View | \$109,249 | 12.00 | 6,175 | 2,761 | 41% own 59% rent | Owner: 42% Renter: 58% | \$1,912 | Regulations currently under consideration in Fall 2018 |
| Walnut Creek | \$82,848 | 19.76 | 3,248 | 1,653 | 64% own 46% rent | Owner: 67% Renter: 33% | \$1,721 | Regulations currently under consideration in 2018 |
| Pleasanton | \$130,170 | 24.11 | 2,915 | 1,074 | 69% own 31% rent | Owner: 71% Renter: 29% | \$1,949 | STRs prohibited unless a special Use Permit is granted |
| Petaluma | \$80,907 | 14.38 | 4,029 | 1,570 | 65% own 35% rent | Owner: 65% Renter: 35% | \$1,548 | Ordinance regulating STRs passed in 2015 |
| Santa Cruz City* | \$62,471 | 12.74 | 4,705 | 1,473 | 44% own 56% rent | Owner: 43% Renter: 57% | \$1,576 | Ordinance regulating STRs passed in May 2018 |
| Encinitas, CA | \$100,698 | 18.81 | 3,164 | 1,288 | 64% own 46% rent | Owner: 63% Renter: 37% | \$1,791 | Ordinance regulating STRs passed in 2006 |
| Rockville, MD* | \$101,774 | 13.50 | 4,500 | 1,862 | 58% own 42% rent | Owner: 0.4% Renter: 3.8% | \$1,802 | Unconditionally permitted, but regulated in rest of Montgomery County, MD |
| White Plains, NY* | \$82,460 | 9.89 | 5,962 | 2,201 | 52% own 48% rent | Owner: 2.0% Renter: 2.0% | \$1,607 | NY State law prohibits STRs in multifamily dwellings, otherwise unconditionally permitted |

*Indicates County Seat

Blue-shaded cells indicate jurisdictions within the 9-county Bay Area

Table 8: STR Regulations in Marin Jurisdictions

This is an updated version of table in the San Rafael Chamber of Commerce Leadership Institute 2017 Mock City Council Hearing, pg. 3. Active rentals are calculated from AirDNA—Airbnb’s data analytics platform. Estimate of Housing units are from most recent American Community Survey Data. *Indicates the jurisdiction collects Transient Occupancy Tax

| Jurisdiction | Active Listings | Housing Units | Percent | Current Regulations |
|---------------------------|---|---------------|---------|---|
| City of Sausalito* | 150 (Includes Marin Headlands and Muir Beach) | 4,676 | 3.05% | <ul style="list-style-type: none"> Prohibits STRs based on existing regulations. City voted to appropriate funds for a full-time enforcement officer dedicated only to STRs (complaint-driven) STR permit and regulate pilot program proposal rejected by the city (Feb 2017). Issue is to be discussed in Sausalito General Plan update according to city’s website. |
| Town of Tiburon* | 51 (includes Belvedere) | 4,207 | 1.21% | <ul style="list-style-type: none"> Explicitly bans STRs in 2015 ordinance. Complaint driven enforcement. |
| City of Belvedere | (see above) | 1,079 | N/A | <ul style="list-style-type: none"> Prohibits STRs by default in existing permissive zoning code. Complaint driven enforcement. City does not collect Transient Occupancy Tax (TOT) and has no plans to do so in the future. |

| | | | | |
|------------------------------|-----------------------|---------|-------|---|
| City of Mill Valley* | 267 | 6,298 | 4.23% | <ul style="list-style-type: none"> • Permits and regulates residential STRs based on existing code: requires business license, collects TOT • Does not allow accessory dwelling units built after Jan 2017 to be used as STRs. • Complaint driven enforcement with using existing staff and Host Compliance STR monitoring services |
| City of Corte Madera* | 30 | 4,081 | 0.73% | <ul style="list-style-type: none"> • Prohibits STRs by default in existing permissive zoning code • Complaint driven enforcement • As of a June 4th 2018 Town Council directed city staff to address Short Term Rentals in a draft ordinance |
| City of Larkspur* | 25 | 6,093 | 0.41% | Prohibits STRs in residential zoning districts as an official interpretation of existing zoning code (Oct 2015) Complaint driven code enforcement Currently considering defining STRs and prohibiting advertisement of them in omnibus zoning update (2018-2019) |
| Town of Ross | 6 | 876 | 0.68% | No explicit STR regulations, any complaints are addressed on an individual basis through code enforcement Town Council voted to continue taking a “Wait and See” approach after a fall 2016 community survey indicated that the town was divided on whether to prohibit, permit and regulate, or continue unconditionally permitting STRs. Town does not collect TOT, would require major voter approval to do so |
| Town of San Anselmo | 80 | 5,464 | 1.46% | No explicit STR regulations, other than requiring a business permit Ambiguous in town code whether STRs are considered a residential or commercial use: STRs generally permitted as a residential use as long breakfast is not served. No TOT collected. This was put on local ballot in 2009 and voted down because it was thought to single the only hotel in San Anselmo: The San Anselmo Inn |
| Town of Fairfax* | 70 | 3,564 | 1.96% | Prohibits STRs by default in zoning code unless a Special Use permit is obtained Planning Staff is currently in the process of updating zoning ordinance to conditionally allow STRs and collect TOT (as of 2017). A community survey indicated that 55% of residents are in favor of allowing accessory dwelling units to be used as STRs |
| City of San Rafael* | 230 | 23,906 | 0.96% | Does not currently regulate STRs but monitors them using Host Compliance |
| City of Novato* | 107 | 22,457 | 0.47% | Prohibits STRs unless issued a special use permit as a boarding house or bed and breakfast Complaint driven code enforcement |
| County of Marin* | Unavailable on AirDNA | 112,259 | N/A | Currently, STRs are unconditionally allowed in unincorporated areas of Marin County. County planning staff is currently in the process of drafting a third version of a proposed ordinance to regulate STRs in unincorporated Marin |