



# SAN FRANCISCO PLANNING DEPARTMENT

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August 11, 2014

Ms. Angela Calvillo, Clerk  
Supervisor David Chiu  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: Transmittal of Board File No. 140381, Planning Case No. 2014.0707T  
Amendments Relating to Short-Term Rentals  
Planning Commission Recommendation: *Approval with modifications***

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

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**415.558.6409**

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**415.558.6377**

Dear Ms. Calvillo and Supervisor Chiu;

On August 7, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Chiu.

The proposed Ordinance would amend the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Department of Building Inspection, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; and amend the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential.

The proposed Ordinance would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c) and 15378 of the CEQA Guidelines.

At the August 7, 2014 hearing, the Commission adopted Resolution Number 19213 with a *recommendation of approval with modifications* to the Board of Supervisors for the proposed ordinance. The proposed recommended amendments are as follows:

1. Place short-term rental controls in the Planning Code so that the Planning Department is the agency responsible for enforcing on short-term rentals.
2. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.
3. Require any short-term rental platform or company doing business in San Francisco to provide information on the number of nights a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.
4. Identify units that are on the proposed short-term registry in the Department's Property Information Map.

5. Amend the Ordinance so that a posting on a short-term rental site without first registering with the City constitutes a violation that can be assessed a penalty, even if the unit was not rented.
6. Require the registration number from the City-run registry to accompany all short-term rental postings.
7. Grant citation authority to the Planning Department if it is chosen to be the enforcement agency for short-term rentals, and provide for increased penalties for repeat violators.
8. Limit hosted rentals by nights rented, similar to the restrictions placed on non-hosted rentals, or by limiting the number of rooms that can be rented at any one time.
9. Limit single-family homes to the same restrictions as multi-unit buildings.
10. Require the property owner's consent in tenant occupied units and/or a 30-day notification by the Department to the owner prior to listing a unit on the short-term rental registry.
11. Prohibit SROs from being used as short-term rentals.
12. If the Planning Department is chosen as the enforcement agency, provide increased funding to the Planning Department for more enforcement staff to monitor short-term rentals.
13. Consider placing limits on allowing BMR (Below Market Rate) units to be used as short-term rentals.
14. Require the Planning Department to maintain a list of registered hosting platforms.
15. Prohibit units with outstanding Planning or Building Code violations from being listed on the short-term rental registry until those violations have been abated.
16. Conduct further investigation into the insurance requirements for short-term rental hosts.

The Department recommends that the legislative sponsors advise the City Attorney at your earliest convenience if you wish to incorporate any changes recommended by the Commission. This electronic copy is our transmittal to the Board of Supervisors. Per instructions by the Clerk of the Board, no hard copies will be provided; however hardcopies will be provided upon request. Attached are documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr  
Acting Manager of Legislative Affairs

cc: Andrea Ausberry, Assistant Clerk  
Amy Chan, Aide to Supervisor Chiu  
Marlena G. Byrne, Deputy City Attorney

Attachments [one copy of each of the following]  
Planning Commission Resolution Number 19213  
Planning Commission Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 19213 HEARING DATE AUGUST 7, 2014

*Project Name:* **Amendments Relating to Short-Term Rentals**  
*Case Number:* 2014.0707T [Board File No. 140381]  
*Initiated by:* Supervisor David Chiu/ Introduced April 15, 2014  
*Staff Contact:* Aaron Starr, Acting Manager Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
anmarie.rodgers@sfgov.org, 415-558-6395  
*Recommendation:* **Recommend Approval with Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE CODE TO PROVIDE AN EXCEPTION FOR PERMANENT RESIDENTS TO THE PROHIBITION ON SHORT-TERM RESIDENTIAL RENTALS UNDER CERTAIN CONDITIONS; TO CREATE PROCEDURES, INCLUDING A REGISTRY ADMINISTERED BY THE DEPARTMENT OF BUILDING INSPECTION, FOR TRACKING SHORT-TERM RESIDENTIAL RENTALS AND COMPLIANCE; TO ESTABLISH AN APPLICATION FEE FOR THE REGISTRY; AMENDING THE PLANNING CODE TO CLARIFY THAT SHORT-TERM RESIDENTIAL RENTALS SHALL NOT CHANGE A UNIT'S TYPE AS RESIDENTIAL; AND MAKING ENVIRONMENTAL FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on April 15, 2014, Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140381, which would amend the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Department of Building Inspection, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; and amend the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential.

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on August 7, 2014; and,

WHEREAS, the proposed Ordinance has been determined not to be a project under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance.

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance.

The proposed modifications recommended by the Planning Commission include:

1. Place short-term rental controls in the Planning Code so that the Planning Department is the agency responsible for enforcing on short-term rentals.
2. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.
3. Require any short-term rental platform or company doing business in San Francisco to provide information on the number of nights a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.
4. Identify units that are on the proposed short-term registry in the Department's Property Information Map.
5. Amend the Ordinance so that a posting on a short-term rental site without first registering with the City constitutes a violation that can be assessed a penalty, even if the unit was not rented.
6. Require the registration number from the City-run registry to accompany all short-term rental postings.
7. Grant citation authority to the Planning Department if it is chosen to be the enforcement agency for short-term rentals, and provide for increased penalties for repeat violators.
8. Limit hosted rentals by nights rented, similar to the restrictions placed on non-hosted rentals, or by limiting the number of rooms that can be rented at any one time.
9. Limit single-family homes to the same restrictions as multi-unit buildings.
10. Require the property owner's consent in tenant occupied units and/or a 30-day notification by the Department to the owner prior to listing a unit on the short-term rental registry.
11. Prohibit SROs from being used as short-term rentals.
12. If the Planning Department is chosen as the enforcement agency, provide increased funding to the Planning Department for more enforcement staff to monitor short-term rentals.
13. Consider placing limits on allowing BMR (Below Market Rate) units to be used as short-term rentals.
14. Require the Planning Department to maintain a list of registered hosting platforms.
15. Prohibit units with outstanding Planning or Building Code violations from being listed on the short-term rental registry until those violations have been abated.
16. Conduct further investigation into the insurance requirements for short-term rental hosts.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission believes that short-term rentals need to be regulated in order to preserve the City's housing stock, reduce negative effects on affordable housing, and to protect the livability of residential neighborhoods. The City's current regulations are no longer sufficient to address this new technology and its associated effects, and if this industry remains unregulated, the Commission believes that the City will continue to lose permanent housing.
2. The Commission finds that the Planning Department should be the agency in charge of monitoring and enforcing on short-term rentals because this is essentially a land use issue and the Planning Department is the City agency responsible for regulating land use.
3. As drafted, the Commission finds that the proposed Ordinance does not have a meaningful enforcement mechanism. Currently to participate in the short-term rental program, permanent residents would be required to maintain records for at least two years to demonstrate compliance with City law. However, the ordinance provides no way for the enforcement agency to verify that these records are correct and accurate. To address this issue, the Commission recommends that the City start a centralized registry for all short-term rentals that tracks the properties that are being used as short-term rentals and the number of nights each property is rented. A central registry that tracks the number of days each property is rented is essential for any Department to effectively enforce the proposed short-term rental restriction, without it the new regulations are essentially ineffective. Without making these amendments to the proposed ordinance, the Department's enforcement difficulties would increase greatly. Creating a reasonable path to legalize some short-term usage is a laudable goal, but it must be paired with enforceable limits to prevent excessive conversion of the housing stock to transient use.
4. The Commission finds that the Ordinance should be amended so that a posting on a short-term rental site constitutes a violation. This will allow for quick and effective enforcement, and help act as a deterrent for would be scofflaws.
5. The Commission finds that requiring the registration number from the City-run registry to accompany all short-term rental postings will make it easier for the Planning Department's enforcement team to monitor short-term rental sites by providing a quick way to verify that a property was properly registered with the City.
6. The Commission finds that the Planning Department's enforcement process does not allow the Department to effectively respond to complaints and does not help deter would be violators. Granting citation authority to the Planning Department if the Department is chosen to be the enforcement agency for short-term rentals would allow the Department to issue a citation immediately.
7. The Commission finds that including all dwelling units in the short-term rental controls will help protect housing affordability, and it will also protect the character of our lowest intensity

residential districts, as most of the City's single-family homes are located in RH-1 (Residential, House, Single-Family) and RH-2 (Residential House, Two-Unit) zoning districts.

8. The Commission finds that hosted rentals should have some limitations, either on the number of nights that a permanent resident can conduct a hosted rental, or the number of rooms that can be rented in any one unit at one time.
9. The Commission finds that more investigation needs to be done into the types of insurance available for short-term renters, and the appropriate amount of such insurance.
10. The Commission finds that SRO units should not be allowed to be rented as short-term rentals under this program, and that further investigation should be made into whether or not BMR units should be allowed to be rented as short-term rentals.
11. The Commission finds that the Planning Department does not have adequate enforcement staff to monitor short-term rentals, and if the Planning Department is chosen as the enforcement agency for short-term rentals, additional resources for staffing should be added to the Department's budget.
12. The Commission finds that property owners should be made aware that their tenant is using his or her unit as a short-term rental prior to having that unit listed on the proposed short-term rental registry.
13. The Commission finds that buildings with Planning or Building Code violations should not be listed on the short-term rental registry until such violations are abated.
14. **General Plan Compliance.** The proposed amendments to the Planning Code are consistent with the following Objectives and Policies of the General Plan.

## **HOUSING ELEMENT**

### **OBJECTIVE 2**

**RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.**

*With the Commission's proposed amendments, the Ordinance would be consistent with Object two of the Housing Element because it would limit the number of days that a unit could be utilized as a short-term rental reducing the likelihood that permanent housing would be converted into transient housing.*

### **OBJECTIVE 3**

**PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.**

**POLICY 3.1**

Preserve rental units; especially rent controlled units, to meet the City's affordable housing needs.

*With the Commission's proposed amendments the Ordinance would help preserve rental units by ensure that they are not converted into full time short-term rentals.*

**OBJECTIVE 11**

**SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.**

**POLICY 11.8**

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

*While not an entirely new use, short-term rentals are proliferating within the City like never before and having a new and distinct effect on the City's residential neighborhoods. With the Commission's proposed amendments, the proposed Ordinance would help preserve the distinct residential character of the City's residential neighborhoods by limiting the number of nights a residential unit can be rented out as a short-term rental.*

**COMMERCE AND INDUSTRY ELEMENT**

**OBJECTIVE 2**

**MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.**

**POLICY 2.1**

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

*Short-term rentals are commercial activity and this Ordinance seeks to retain that commercial activity in the City while providing sufficient regulatory controls to ensure that any negative effects are addressed.*

**OBJECTIVE 3**

**PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED**

**Policy 3.4**

Assist newly emerging economic activities.

*Short-term rentals and short-term rental hosting platforms are an emerging economic activity; the proposed Ordinance would legalize this activity within San Francisco.*

15. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood-serving retail uses.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*With the Commission's proposed amendments, the Ordinance would minimize any effects that short-term rentals would have on existing housing and neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*With the Commission's proposed amendments, the Ordinance would help preserve the City's supply of affordable housing, by ensuring that long term housing for permanent residents is maintained as long-term housing. Further, the Commission recommends that SRO units not be allowed to be rented as short-term rentals under this program, and recommends further study into whether or not BMRs should be allowed to be rented as short-term rentals under this proposal.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an effect on the City's Landmarks and historic buildings.*



8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an effect on the City's parks and open space access to sunlight and vistas.*

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on August 7, 2014.

Jonas P. Ionin  
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, and Johnson

NOES: Commissioners Moore and Sugaya

ABSENT: Commissioner Wu

ADOPTED: August 7, 2014



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning and Administrative Code Text Change HEARING DATE: AUGUST 7, 2014

*Date:* July 31, 2014  
*Project Name:* **Amendments Relating to Short-Term Rentals**  
*Case Number:* 2014.0707T [Board File No. 140381]  
*Initiated by:* Supervisor David Chiu/ Introduced April 15, 2014  
*Staff Contact:* Aaron Starr, Acting Manager Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
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*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AND ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance would amend the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Department of Building Inspection, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

#### The Way It Is Now:

1. The Administrative Code prohibits residential units in buildings with four or more units from being rented out for less than 30 days.
2. The term Short-Term Residential Rental and Hosting Platform are not defined in the Planning or Administrative Code.
3. The Planning Code requires conditional use authorization to convert a residential unit to a hotel use (AKA bed and breakfast). Renting out a residential unit for less than 30 days is not permitted per the Planning Code.
4. Hotels are not permitted in RH-1(D), RH-1, and RH-1(S) zoning districts and are limited to 5 rooms or less in RH-2, RH-3, RM, and RTO Districts. Hotels are permitted to have more than 5 rooms in RC districts, and regardless of the number of rooms require Conditional Use approval.
5. Under the direction of the Zoning Administrator, the Planning Department's enforcement division enforces violations of the Planning Code, including the prohibition on renting residential units out as short-term rentals.

## The Way It Would Be:

### Administrative Code Changes:

1. The Administrative Code would be amended to permit permanent residents of residential units in buildings with two or more units to rent their unit as a Short-Term rental for up to 90-days a year. Single-family homes would not be subject to Chapter 41A and thus would be able to be used as short-term rentals for an unlimited number of days, and hosted rentals<sup>1</sup> would also be unlimited.
2. The Administrative Code would be amended to add the term Short-Term Residential Rentals, which would be defined as follows:

**Short-Term Residential Rental.** A tourist or transient use where all of the following conditions are met:

- (a) the residential unit is offered for tourist or transient use by the permanent resident<sup>2</sup> of the residential unit;
- (b) the permanent resident is a natural person; and,
- (c) the permanent resident has registered the unit and maintains good standing on the Department's<sup>3</sup> short-term residential rental registry

3. The Administrative Code would be amended to add the term Hosting Platform, which would be defined as follows:

**Hosting Platform.** A person or entity that provides a means through which an owner may offer a residential unit for tourist or transient use. This service is usually, though not necessarily, provided through an online platform and generally allows an owner to advertise the residential unit through a website provided by the hosting platform and provides a means for potential tourist or transient users to arrange tourist or transient use and payment, whether the tourist or transient pays rent directly to the owner or to the hosting platform.

4. In order to participate in the short-term rental program, the Ordinance requires the permanent resident to:
  - 1) Register their property with the City,
  - 2) Maintain residency in the unit for at least 275 days a year,
  - 3) Comply with all applicable laws, including remitting all required transient occupancy taxes;

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<sup>1</sup> For the purposes of this report, a "hosted rental" is one where the permanent resident is present during the guest's stay; a "non-hosted rental" is when the permanent resident is not there during the guests stay.

<sup>2</sup> "Permanent Resident" is defined in the Administrative Code as "A person who occupies a residential unit for at least 60 consecutive days with intent to establish that unit as his or her primary residence." The proposed Ordinance would clarify that "a permanent resident may be either an owner or a lessee."

<sup>3</sup> The Ordinance places the Department of Building Inspection in charge of short-term rentals; however the Planning Department's recommendation is to have Planning in charge of short-term rentals.

- 4) Maintain records for at least two years that demonstrate compliance with City law,
  - 5) Maintain a minimum of \$150,000 worth of property or casualty insurance, either personally or through the hosting platform, and
  - 6) Comply with prorated rent limitations for subtenants for units subject to rent control provisions of Section 37.3.
5. The Ordinance requires short-term rental platforms to collect and remit required City Transit Occupancy Tax.
  6. The Department of Building Inspection (hereinafter "DBI") would be charged with enforcing the rules for short-term rentals.
  7. Enforcement for any violation is through an administrative review hearing, consistent with the existing enforcement procedures of Chapter 41A<sup>4</sup>. . The proposed Ordinance would add a new enforcement provision that for a violation not corrected within the timeframe established by an administrative hearing officer, DBI may prohibit the an owner or lessee from listing the residential unit on any hosting platform for one year.
  8. The proposed legislation also amends Chapter 37.9 of the Administrative Code. Under the current provisions of Chapter 37.9, a landlord may evict a tenant if the tenant is using or permitting a rental unit to be used for any illegal purpose. The proposed legislation would carve out an exception to this where the "illegal purpose" does not include a first violation of Chapter 41A that has been cured within 30 days written notice to the tenant.
  9. The Ordinance requires hosting platforms to notify any host in San Francisco that:
    - 1) The San Francisco Administrative Code regulates short-term rentals.
    - 2) The Code includes requirements for permanent residency and registration of the unit, and
    - 3) They may be liable transient occupancy tax.

**Planning Code Changes:**

The only changes to the Planning Code add the following language to Sections 102.7 "Dwelling Unit", 102.13 "Live Work Unit", 790.88 "Residential Use", 890.88 "Residential Use".

*Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a residential use.*

This change would allow any residential unit in the City to be rented out as a Short-Term Residential Rental provided the rental is in compliance with Administrative Code Section 41A.5. Single-family homes would not be limited to 90-days. Currently using a residential unit as a short-term rentals is prohibited by the Planning Code, unless the property owner applies for a conditional use application to operate a small inn or bed and breakfast.

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<sup>4</sup> Under existing Chapter 41A procedures, DBI first sends a notice of complaint within 15 days of the complaint, and then if a hearing is determined to be required, DBI sets the hearing date within 60 days of the complaint. Based on the outcome of the hearing, a decision is made as to whether or not the property owner is in violation.

## ISSUES AND CONSIDERATIONS

### Hosting Platforms

A short-term rental hosting platform is generally a web site that allows individuals to list their home or a room in their home for rent on a short-term basis. There are five main hosting platforms accounting for approximately 80% of the total listings in San Francisco, these include VRBO, Airbnb, HomeAway, Craigslist, and FlipKey. In most cases, the property owner either manages the listing, or has employed an agent to manage their property as a short-term rental. These sites take a certain percentage of the rental cost from the host, and some have recently started collecting the city's hotel tax from renters. Some of these platforms assert that the vast majority of its hosts are simply small-time "home sharers" who earn a few dollars here and there by occasionally renting out a spare room.<sup>5</sup> However, as the San Francisco Chronicle recently reports, close to 5,000 San Francisco homes, apartments, and private or shared rooms were for rent via Airbnb, and two-thirds were entire houses or apartments, "showing how far Airbnb has come from its couch-surfer origins, and contradicting its portrayal as a service for people who rent out a spare room..."<sup>6</sup> Further, the Department's enforcement staff has seen instances where real estate investors are buying new properties with short-term renting exclusively in mind.

### Housing Affordability

The Planning Department's paramount concern is the impact that short-term rentals have on the availability and affordability of the City's housing stock. This concern is derived from Objectives Two and Three in the City's Housing Element, which seek to "retain existing housing units" and "protect the affordability of the existing housing stock," respectively. Based on surveys that the Department conducted, staff's conservative estimate is that at any one time, anywhere from 4,000-5,000<sup>7</sup> entire units have been removed from San Francisco housing stock and are being advertised online as short-term rentals. This number accounts for nearly 1.3% of all housing units in the City. For comparison sake, there has been much public concern about the conversion of rental housing to condominiums. From 2009 to 2013, 2,669 units were converted into condominiums—about half the number of units that may currently be lost to tourist use<sup>8</sup>. To address that loss of rent controlled housing, the Board passed an Ordinance<sup>9</sup> that allowed condominium conversions currently in the queue to move forward, but halted all future condominium conversion for 10 years.

San Francisco is in a housing affordability crisis and is frequently described as among the worst in the nation.<sup>10 11 12 13</sup> Any decrease in residential space available for the City's permanent resident puts an

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<sup>5</sup> "Can we stop pretending the sharing economy is all about sharing?" (June 30, 2014) Retrieved from [www.time.com/money](http://www.time.com/money) on July 1, 2014.

<sup>6</sup> "Window into Airbnb's hidden impact on S.F." (June 16, 2014) Retrieved from [www.SFChronicle.com](http://www.SFChronicle.com) on July 1, 2014.

<sup>7</sup> This number represents the Department's best estimate of how many entire dwelling units are being listed on all five major short-term rental platforms in San Francisco. It does not include hosted rentals, where a room or a shared room is being offered while the permanent resident is present.

<sup>8</sup> San Francisco Housing Inventory (2013). Retrieved from [www.sfgov.org](http://www.sfgov.org) on July 1, 2014.

<sup>9</sup> Board File Number 120069, Enactment Number 117-13, passed 6/28/13

<sup>10</sup> Fortune Magazine. July 10, 2014. "Americas Housing Affordability Crisis is Getting Worse" Matthews, Chris. Retrieved at: <http://fortune.com/2014/07/10/us-housing-affordability/>

upward pressure on price, exacerbating an already untenable situation. Further, based on the trends that the Department has seen over the past three years, residential units being rented out as short-term rentals will continue to grow for the foreseeable future (see discussion below).

Taking a unit or even a bedroom out of the long-term rental market and putting it into the short-term rental market also increases the value of the unit. This commercialization of residential units may inflate the market and keep rents artificially higher than the market would otherwise support. For instance, based on research the Department conducted in January of this year, a typical studios apartment in the City's Lower Haight neighborhood rents for about \$1,900 per month<sup>14</sup>. A short-term rental in the Lower Haight for a similar studio apartment rents for about \$180.00 per night for a total of \$5,400 per month<sup>15</sup>. In another example, the Department found a six-bedroom, five-bath home in the City' Marina District that rents for about \$11,000<sup>16</sup> per month. A similar six-bedroom, five-bath home in the same neighborhood rents for \$1,300 per night for a total of \$39,000 per month<sup>17</sup>. The income that can be generated from short-term rentals could encourage speculators to pay more for a unit knowing that they could reap a larger return on their investment; could encourage landlords to seek legal means for eviction of rent control protected units so that the unit may be offered at higher prices; and it could also encourage permanent residents to offer to pay higher rents because they could supplement their income with short-term rentals.

### **Neighborhood Character**

The Department is also concerned about how short-term rentals are impacting neighborhood character and the quality of life for San Francisco residents. A neighborhood made up of permanent residents has a very different character than a neighborhood where everyone is a transient visitor. While tourists are important for this City's economy and its cultural identity, it's primarily the residents of San Francisco that make it a unique and interesting place to visit. Permanent residents have a vested interest in maintaining the unique quality of life in San Francisco. They build community by developing longstanding relationships; help ensure that trash doesn't accumulate on the sidewalks, and are inherently motivated to be respectful of their neighbors. Many of the complaints that the Department receives about short-term rentals have to do with the hours of activity tourists keep compared to long-term residents with regular nine to five work schedules. Further, having short-term rentals unregulated

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<sup>11</sup> A June 21, 2014 article in the NextCity, a city planning nonprofit wrote: "Mayor Lee has called the lack of affordable housing a "crisis" that "threatens to choke off [the city's] economic growth and prosperity for the future". Retrieved from: <http://nextcity.org/daily/entry/san-francisco-apartment-cost-affordable-housing>

<sup>12</sup> New York Times. April 14, 2014. "In Many Cities, Rent Is Rising Out of Reach of Middle Class". Dewan, Shaila. Retrieved from: <http://www.nytimes.com/2014/04/15/business/more-renters-find-30-affordability-ratio-unattainable.html>

<sup>13</sup> The Economist. April 16, 2014. "The Spectre Haunting San Francisco". London, R.A. Retrieved from: <http://www.economist.com/blogs/freeexchange/2014/04/housing-markets>

<sup>14</sup> Craigslist.org listing, retrieved January, 2014

<sup>15</sup> Airbnb.com listing, retrieved January, 2014

<sup>16</sup> Craigslist.org listing, retrieved January, 2014

<sup>17</sup> Home2sanfrancisco.com listing, retrieved January 2014.

in residential districts is akin to allowing an unregulated number of hotels in a residential district, something which is either prohibited or at a minimum requires conditional use authorization.

### **A Growing Issue**

Short-term rentals have probably been happening in San Francisco for some time, and internet based short-term rental platforms, such as VRBO (Vacation Rentals By Owner), have been around since the mid 1990's. However, it wasn't until the last few years that hosting platforms started to become more prevalent. This issue first came to the Department's attention in a significant way in 2011, when staff started to see an increase in the number of complaints from neighbors regarding short-term rentals. Since then, Department records show a dramatic increase in the number of listings posted online in San Francisco. In 2011, the Department counted 1,595 rental listings on one short-term rental site. In 2012, that number increased to 2,533 and in January of this year that number increased to 6,960. Approximately 70% of listings from one site were for an entire unit. Other research has found 5,000 listings on one short-term rental platform alone, including both hosted and non-hosted rentals<sup>18</sup>. In 2012, the Department's enforcement team started to track short-term rentals with a separate tracking code. That year the Department received 25 complaints related to short-term rental use. In 2013 the number of complaints increased to 40, and as of June 27th of this year we have received approximately 95 complaints.

### **Planning Department's Enforcement Efforts**

The Department's Zoning and Compliance Division has worked diligently to bring short-term rental violations into compliance with the Planning Code using current enforcement tools. Despite limited resources (currently, the Department has seven full-time planners for enforcement of all Planning Code provisions citywide). For this reason, the Department's enforcement program is generally complaint based and does not involve active monitoring or patrols for violations. While staff prioritizes short-term rental cases because they represent a loss of housing, the Department does not currently have the resources to actively monitor short-term rental sites nor do these sites necessarily include all the information necessary to open an enforcement case for a specific property. The current enforcement process typically takes 11 weeks before penalties can be assessed. Prior to fiscal penalties, staff must send required notices to the property owner and tenant, giving alleged violators due process and the opportunity to comply with the law. Additionally, these cases can be difficult to prove as ongoing violations, which are required to assess a penalty, due to the transient nature of the use. Profits from short-term rentals are also so lucrative that even after a violation hosts may attempt to re-list their unit on a different website.

### **Hotels, Inns and Bed & Breakfast Uses in Residential Districts**

The Planning Code currently allows short-term rentals in Residential Districts, but they have historically been known as bed and breakfast inns or small hotels<sup>19</sup>. To add a small hotel use in a residential neighborhood the law requires conditional use authorization by the Planning Commission. Further, such uses are typically limited to 5 rooms, and even then are not permitted in all residential districts. Conditional Use requires a notice to property owners within 300' of the property, a posted notice on the property, and a public hearing before the Planning Commission. Principally permitting short-term rentals across the City without sufficient restrictions would allow hotel-like uses in a residential neighborhood without any public process or oversight. The Department recognizes the difference

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<sup>18</sup> "Window into Airbnb's hidden impact on S.F." (June 16, 2014) Retrieved from [www.SFChronicle.com](http://www.SFChronicle.com) on July 1, 2014.

<sup>19</sup> Large hotels are generally prohibited.

between renting out a home while on vacation versus a fulltime bed and breakfast; however, as the Department's enforcement team has found, and as the SF Chronicle's own investigation affirmed<sup>20</sup>, a significant number of people are using short-term rental sites to circumvent traditional oversight processes and are effectively adding a hotel-like use in a residential neighborhood.

### **Overview of Other Jurisdictions**

Various cities across the nation are searching for the best regulatory tools to regulate and accommodate short-term rentals in a manner consistent with community values. In general, cities that have adopted overly prescribed operating conditions and a highly regulated permitting process for short-term rentals, such as Chicago, have seen low participation rates. Other cities, including Austin, seemingly have successfully implemented streamlined regulations that are more effective at maintaining livable and vibrant neighborhoods, while also allowing an emerging business sector to flourish. Chicago and Austin represent two ends of the spectrum and will be explore in detail below. In addition, New York City's dense housing stock and struggles with affordability make for an interesting comparison with San Francisco. Further, New York State's Attorney General succeeded in getting critical information for enforcement. For these reasons, this report takes a closer look at these three responses to address this emerging issue<sup>21</sup>:

**Chicago.** Chicago defines "vacation rental" as a dwelling unit with up to six sleeping rooms that are available for rent to transients. This definition applies to properties that are either tenant occupied or owner occupied as long as the unit will not be occupied by the tenant or owner during the time of the stay. Offering just a room while the tenant or owner is present is allowed by right. Vacation rentals, however, require a license at a cost of \$500, renewable every two years. The license requires the owner to obtain liability insurance policy, sets a maximum number of guests allowed by square footage, requires hosts to keep a registry to be maintained for three years, and requires the license number to be posted on all advertisements. Further, vacation rental operators are required to provide all guests with soap, clean individual bath towels and linens, clean the unit between guests, and provide the guests with the number of a local contact person and post the license number and evacuation diagram within the unit. Operating without a license is a violation punishable by anywhere from \$500-\$1,000 for every day in operation, and all vacation rentals are required to remit the full hotel tax. This law does not apply to owner occupied units. This use is limited to specific zoning districts and sets a cap on the number of permits that will be issued at any given time.

This ordinance has been criticized for its onerous operating requirements and although it was enacted in 2011, it has experienced extremely low registration numbers likely because of those high standards. The main difference between Chicago's regulations and the proposed Ordinance is that Chicago only regulates rentals where the owner is not present, while the proposed Ordinance seeks to address both hosted and non-hosted short-term rentals. Chicago's regulations also sets strict operating procedures, such as supplying fresh linens and soap, and has no limit on the number of days the unit can be rented. The proposed Ordinance does not set strict operation procedures and limits the number of days a unit can be rented to 90 days.

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<sup>20</sup> "Window into Airbnb's hidden impact on S.F." (June 16, 2014) Retrieved from [www.SFChronicle.com](http://www.SFChronicle.com) on July 1, 2014.

<sup>21</sup> For a more comprehensive comparison between what other cities are doing and what the proposed Ordinance is proposing, please see the matrix in Exhibit C



**Austin.** Austin passed an ordinance in 2012 regulating short-term rentals and requiring a license for every unit being offered for stays of less than 30 days. The license is obtained by submitting an application and paying a \$285 registration fee. The license is good for one year and requires neighborhood notification at initial establishment. Short-term rentals are also required to remit the full 9% hotel tax. Eligible properties are categorized into three types: those that are owner occupied and are renting either a portion or the entire unit, those that are not owner occupied and are a single or two-family property, and those that are a dwelling unit within a multi-family unit. Certain types are restricted by geographic or census tract caps and all properties are subject to building inspections at the initial period of application. These licenses are issued and monitored through the Code Compliance Department by two full-time inspectors and one full-time administrative personnel who solely handle short-term rental registrations, respond to complaints and violations, and proactively seeking out violators through online advertisements. The program is funded through a fee on Austin utility bills.

In comparison to the proposed Ordinance, Austin limits the number of permits it issues for short-term rentals, requires neighborhood notification to establish a short-term rental and limits which districts and what types of housing are eligible for short-term rentals. The proposed Ordinance, inclusive of Staff's recommendations does none of these. Also, Austin does not limit the number of days a unit can be rented, while the proposed Ordinance limits the number of days a unit can be rented to 90 days.

**New York State.** New York State passed a law in 2010 making it illegal to rent out apartments in residential buildings for less than 30 days. Owners of an apartment or a town house may only rent out one or two rooms and must be present in the home during the time of guests' stays. Additionally, each guest must have access to common areas of the home. In New York City enforcement is both reactive and proactive and handled by the Mayor's Office of Special Enforcement. Enforcement officers conduct random inspections of properties they believe to be operating as illegal hotels, gathering this information from monitoring online hosting platforms. Penalties range but can cost up to \$2,500 per day (The proposed Ordinance includes a \$1000.00 a day fine). New York's current regulations are similar to the existing ban on short-term rentals in San Francisco; however New York allows residents to rent out rooms in their homes on a short-term basis with no limit on the number of days. San Francisco does not. Recently, New York State's Attorney General came to an agreement with one specific host platform, Airbnb, in which the company has agreed to provide anonymized data about hosts in New York. No such arrangement has been made with California's State Attorney General, or the San Francisco City Attorney. This data will not include names, addresses or other personally-identifiable information. The Attorney General's Office will have one year to review the anonymized data and then request information about individual hosts who may be subject to further investigation. Both the Attorney General and the Mayor's Office of Special Enforcement have stated their aim is to bring down hosts running illegal hotels out of many units or entire buildings, rather than individuals who rent their single apartment while occasionally out of town.

## **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors

## **RECOMMENDATION**

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Recommend that the Ordinance is amended as follows:

1. Place short-term rental controls in the Planning Code so that the Planning Department is the agency responsible for enforcing on short-term rentals.
2. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.
3. Require any short-term rental platform or company doing business in San Francisco to provide information on the number of days a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.
4. Identify units that are on the Short-Term Registry in the Department's Property Information Map<sup>22</sup>.
5. Amend the Ordinance so that a posting on a short-term rental site without first registering with the City constitutes a violation that can be assessed a penalty, even if the unit was not rented.
6. Require the registration number from the City-run registry to accompany all short-term rental postings.
7. Grant citation authority<sup>23</sup> to the Planning Department if we are chosen to be the enforcement agency for short-term rentals and provide for increased penalties for repeat violators.
8. Subject hosted rentals to the same 90-night limit as non-hosted rentals.
9. Limit single-family homes to the same restrictions as multi-unit buildings.

## **BASIS FOR RECOMMENDATION**

The Department believes that short-term rentals need to be regulated in order to preserve the City's housing stock, reduce impacts on affordable housing, and to protect the livability of residential neighborhoods. The City's current regulations are no longer sufficient to address this new technology and its associated impacts, and if this industry remains unregulated, the Department believes that the City will continue to lose permanent housing. In crafting its recommendation, the Department sought to create a legal avenue for hosts who want to occasionally rent their primary residence on a short-term basis, while balancing concerns over housing affordability and neighborhood character. The recommendations below mainly focus on improving the enforcement and monitoring of short-term rentals; however the Department believes that the Ordinance also needs to be expanded to include both hosted and non-hosted rentals and that all of the City's dwelling units should be treated the same under the new restrictions.

### **Recommendations 1: Place short-term rental controls in the Planning Code so that the Planning Department is the agency responsible for enforcing on short-term rentals.**

As the City agency responsible for regulating land use, the Department should be the agency in charge of for monitoring and enforcing on short-term rentals because this is essentially a land use issue. While the Department of Building Inspection has a more robust enforcement division, the Planning Department

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<sup>22</sup> Follow this link to view the Department's Property Information Map, <http://ec2-50-17-237-182.compute-1.amazonaws.com/PIM/>

<sup>23</sup> Citation authority allows an agency to issue a citation and fines immediately when they see a violation, in contrast to our current enforcement efforts, which requires the Department to provide the offender the opportunity to correct the violation before any fines are levied.

believes that *if the enforcement measures outlined in our recommendations are adopted*, we will have the tools to effectively enforce the proposed short-term rental restrictions.

**Recommendation 2-3:**

- 2. Modify the Ordinance so that the proposed city-run registry tracks the number of nights a unit has been rented.**
- 3. Require any short-term rental platform or company doing business in San Francisco to provide information on the number of days a property was rented. Information should be reported back to the city on a quarterly basis at a minimum.**

The Department believes that these recommendations are imperative to ensure that housing affordability is maintained and that the ordinance can be effectively enforced. As drafted, the Ordinance does not provide a meaningful enforcement mechanism. Under the legislation as currently proposed, to participate in the short-term rental program, the permanent resident is required to register their property with the City and maintain records for at least two years to demonstrate compliance with City law. However, the ordinance provides no way for the enforcement agency to verify that these records are correct and accurate. To address this issue, the Department proposes a centralized city-run registry that tracks the number of nights a unit has been rented. Anyone that wants to rent out their units on a short-term basis would need to register their property with the City, and any hosting platform doing business in the City would be required to submit data about how many nights each property was rented on at least a quarterly basis.

Some short-term rental sites, such as Craig's List, only act as bulletin boards and aren't involved with booking the room or the financial transaction between the permanent resident and the renter. These services are not currently collecting data on how often a unit is rented; however, the Department strongly believes that it is the hosting platforms responsibility to provide this information to the City so that we can effectively enforce these new regulations. That being said, if the City cannot require all short-term rental sites to report this information, an alternative would be to require the permanent resident to report the dates a unit is to be rented to the City prior to the rental. While this would still rely on the permanent resident to self-report how many nights their unit is rented, it would provide the City a running tally, which is more difficult to forge than personal records kept in the possession of the permanent resident. Further, if a complaint is made and the permanent resident has not reported to the City that their unit is being rented this would qualify as proof of a violation. If this option is chosen, the Department believes there needs to be strong penalties for noncompliance, such as stiff fines and the revocation of the short-term rental permit for a period of five years or more. Further, the Department believes that only one of these reporting mechanisms should be used. Having a two tiered system is unfair to the hosting platforms and complicates the Department's record keeping and enforcement efforts.

*A central registry that tracks the number of days each property is rented is essential for any Department to effectively enforce the proposed short-term rental restriction, without it the new regulations are essentially ineffective.* Without making these amendments to the proposed ordinance, our enforcement difficulties would increase greatly. Creating a reasonable path to legalize some short-term usage is a laudable goal, but it must be paired with enforceable limits to prevent excessive conversion of the housing stock to transient use.

**Recommendation 4: Identify units that are on the Short-Term Registry in the Department's Property Information Map.**

The Department believes it is important for neighbors to know which properties in their neighborhood are registered as short term rental, and placing this information on the Department's Property Information map will make that information accessible to them. In addition, this will also allow neighbors to see if a property is properly registered with the City prior to making a complaint, possibly reducing the number of false complaints filed with the Department. The Department originally considered having a separate web site that listed all short term rentals in the city; however, in the end we felt that it was more practical to use an existing data base to make this information available to the public.

**Recommendations 5: Amend the Ordinance so that a posting on a short-term rental site without first registering with the City constitutes a violation that can be assessed a penalty, even if the unit was not rented.**

The Department recommends amending the legislation so that listing a unit on a short-term rental site when the property has not been registered on the City's short-term rental registry would stand as proof of a violation. This will allow for quick and effective enforcement, and help act as a deterrent for would be scofflaws. Proving that someone has rented the property as a short-term rental is a major impediment to the Department's enforcement efforts. Currently, to prove a violation the Department's enforcement team has to do a site visit and actually see the short-term renter occupying the unit. Listing your property on a short term rental site without registering it shows that you are not in compliance with the city law that requires the property to be registered, and it also shows intent to rent the apartment as a short-term rental.

**Recommendation 6: Require the registration number from the City-run registry to accompany all short-term rental postings.**

This recommendation is similar to the Department's existing requirement that all general advertising signs must display their building permit number on the sign. This requirement would make it easier for the Department's enforcement team to monitor short-term rental sites by providing a quick way to verify that a property was properly registered with the City. If this provision is not added to the Ordinance, Department enforcement staff would have to spend time determining if a property is registered on the site before any enforcement action could occur. Further, if the property is registered Department staff would have diverted time and resources away from other enforcement activities just to find out that the property was in compliance.

**Recommendation 7: Grant citation authority to the Planning Department if we are chosen to be the enforcement agency for short-term rentals and provide for increased penalties for repeat violators.**

In order for the Planning Department to be able to effectively and quickly enforce these new regulations we would need to have citation authority. Our current enforcement process does not allow us to effectively respond to complaints and does not help deter would be violators. Currently our enforcement team sends out a letter of abatement to initiate an enforcement action. This process involves several letters and notices to the property owner and takes about 11 weeks before we can start assessing penalties. Granting citation authority would allow the Department to issue a citation immediately, upon verification of a violation. These citations could be abated, but fines and penalties could be assessed immediately helping to act as a deterrent for would be violators. Without this provision potential violators may be encouraged to flout the law knowing that they could ignore the first 2-3 letters without fiscal impact.

**Recommendation 8: Subject hosted rentals to the same 90-day limit as non-hosted rentals.**

As drafted, the proposed Ordinance does not limit the number of nights someone can rent out a room in their unit, creating a loophole that will allow someone to operate a bed and breakfast type use in their home without Conditional Use authorization. The Ordinance should be amended to also limit the number of days that someone can rent out a room in their unit (hosted rental) in the same way non-hosted rentals are limited.

**Recommendation 9: Limit single-family homes to the same restrictions as multi-unit buildings.**

As currently drafted, the Ordinance exempts single-family homes from the short-term rental controls, allowing entire homes to be converted into a hotel use without any public process or noticing. Including all dwelling units in the short-term rental controls will help protect housing affordability, and it will also protect the character of our lowest intensity residential districts, as most of the City's single-family homes are located in RH-1 (Residential, House, Single-Family) and RH-2 (Residential House, Two-Unit) zoning districts.

## **ENVIRONMENTAL REVIEW**

The proposed Ordinance would result in no direct or indirect physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c) and 15378 of the CEQA Guidelines.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received several inquiries about the proposed Ordinance. The Department also received several letters both in support and opposition to the proposed Ordinance, which are included as Exhibit D in this report. In general those that are in support of the proposed Ordinance are people who use short-term rental sites and want to be able to keep using these services to supplement their income or rent out additional units in their building. Those opposed to this Ordinance are concerned about the impacts short-term rentals have on neighborhood livability and housing affordability.

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval with Modifications</b>
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**Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 140381
- Exhibit C: Chart Comparing Other City's Short-Term Rental Regulations
- Exhibit D: Letters of Opposition and Support.



# SAN FRANCISCO PLANNING DEPARTMENT

CITY	REGULATION TYPE										ENFORCEMENT				
	100% BAN	SET # OF CU's/ LICENSES	LIMIT BY ZONING DISTRICT	RENEWABLE LICENSE	HIGH ANNUAL FEE	LOW ANNUAL FEE	SIMPLE REGISTRATION	LIMIT # OF DAYS ALLOWED TO RENT PER YEAR	PAY FULL HOTEL TAXES	UNREGULATED (100% LEGAL, BY RIGHT)	PROACTIVE	REACTIVE ONLY	HIGH FEES (\$500+ per day)	LOW FEES (less than \$500 per day)	NOT ENFORCED
San Francisco (current)		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a						
New York City		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a			X			
Chicago															
Austin		X	X				*Though it should be noted airbnb has told our dept Austin is dealing with a major registration backlog				X				
Chiu's Leg										de facto....yes. Technically speaking....no		?			not enforceable
X = Best practices for San Francisco															
LEGEND: Orange block signifies this regulation or enforcement measure applies to that city's ordinance and practices															