



Sophie Hahn
Councilmember District 5

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: July 10, 2018

Item Number: 21

Item Description: Revisions to Ordinance No. 7,521-NS in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance

Submitted by: Councilmember Sophie Hahn

Thanks to Councilmember Worthington for seeking to close potential loopholes in the STR Ordinance, now that litigation in various jurisdictions has been resolved, allowing Berkeley to regulate in ways that previously might have invited costly and duplicative litigation.

Having worked closely with the Mayor and City Attorney (Cowan) to make the recently adopted, complex new STR ordinance work, I believe some of the amendments as proposed would benefit from better integration into the regulatory framework already in place. I propose to Continue this item until the July 24 Council meeting and if possible, given the Brown Act, will work with Councilmember Worthington and community advocates to achieve the goals of the proposed amendments in ways that more closely conform to the existing definitions and regulatory framework.

A few of the conforming changes I propose to work on include:

1. **Currently proposed:**

Only one Permanent Resident may be associated with a Residential Unit on the Registry, and it shall be unlawful for any other person, even if that person meets the qualifications of a "Permanent Resident," to offer a Residential Unit for Short-Term Residential Rental.

"**Permanent Resident**" is not a defined term for purposes of this ordinance. We have defined "**Host**" and a Host must prove that s/he is "**Resident**," but there is no such thing as a "Permanent Resident". With a few edits, it should be possible to achieve the intended outcome without introducing a new and undefined term.

2. Currently proposed:

A Permanent Resident offering a Residential Unit for Short-Term Residential Rental shall maintain a valid business registration certificate.

The STR ordinance already requires a business license to be presented in the permitting process:

BMC 23C.22.050(K) . . . The Host shall also provide both the Business License number, if required pursuant to Chapter 9.04, and Zoning certificate for the STR to the City and/or a vendor hired by the City to administer this Chapter . . .

The question of requiring a Business License for all STR's was discussed with the City Attorney at length when the STR ordinance was drafted. There are some instances where a Business License may not be required currently; to require a Business License of all STRs may require changes elsewhere to the BMC. This should be re-explored, as requiring the Business License of all STR's was specifically rejected by the City Attorney for technical reasons at the time the ordinance was drafted.

3. Currently Proposed:

No person shall provide or offer for rent any City approved home-sharing dwelling unit, in whole or in part, to any person(s) for exclusive transient use of thirty consecutive days or less. Exclusive transient use shall mean that none of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitor's stay. Any such use shall be considered vacation rental use and thus prohibited. This regulation shall not apply to rental of units within City approved hotels, motels and bed and breakfasts.

Short Terms Rentals are defined as 14 days or less. This proposed amendment creates a new category, 30 days, and is likely to impact rent and eviction control laws in unintended ways. Also, a 30 day rental is not a Short Term Rental by definition, so it would need to be regulated elsewhere in the code, not in the STR section.

4. **Vacation Rental** also is not a defined term in Berkeley's STR regulations. This part of the proposed amendment seems to be trying to address the situation where the Host is NOT present. The STR ordinance, as adopted, defines "**Host Present**," and when the Host is NOT present, these are the rules that apply currently:

When the Host is not present, the number of days that the unit can be used for Short-Term Rental purposes shall be limited to 90 days per calendar year.

Because a short term rental cannot take place for more than 14 days, the effect is that a total of 90 days cannot be exceeded in the aggregate when the Host is NOT present, and the short term rentals must be in increments of no more than 14 days at a time, to one Short-Term Rental Transient (this is also a term defined in the STR code – essentially, a guest).

There are other changes that would help the proposed amendments conform to the STR code as currently adopted, and reduce the possibility of introducing unintended conflicts and confusions. I hope to have the opportunity to work with the Author and advocates to bring these back as quickly as possible.