

10/08/2019


## Joint Study Session: Zoning Code Update



**City Council Meeting**

**Joint Study Session:  
Zoning Code Update  
Single-Family Districts and  
Short-Term Rental  
Regulations**

**October 8, 2019**



**City of  
Santa Clara**  
The Center of What's Possible

## **Zoning Code Update**

### **Study Session Agenda**

- Uses in Single Family Districts
- Short-Term Rental Regulations

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**POST MEETING MATERIAL**



## **Zoning Code Update**

### **Goals Regarding Uses in Single Family Districts**

- City Council & Planning Commission feedback on:
  - Changes to Zoning Code definitions for boarding house and single-housekeeping unit
  - Caps on the number of individuals that can occupy a residence in addition to a single housekeeping unit
  - A common habitable area standard applicable to new construction

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## **Legal Ground Rules**

- California courts have issued rulings that limit the power of cities in:
  - Defining Single Family Uses
  - Establishing local occupancy standards

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## **City of Santa Barbara v. Adamson (1980)**

- Santa Barbara ordinance's definition of family as either related persons living together as a single household unit in a dwelling unit or as a group of not to exceed five persons, living together as single housekeeping unit in a dwelling unit violated State Constitution.
- Santa Clara cannot place numerical limits on groups of unrelated people living as single housekeeping units that are different from limits on related households.

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## **Briseno v. City of Santa Ana (1992)**

- Santa Ana's ordinance attempting to create a more restrictive occupancy standard than the State Housing Code was pre-empted.
- Court noted in a footnote: "While the ordinance appears to be facially neutral, amici contend that its effect is to discriminate against large Hispanic families. If the City attempts to pass another ordinance under the guise of 'local climatic, geological, or topographical conditions,' these issues are almost certain to be raised again."
- Santa Clara cannot create occupancy standards that are more restrictive than the State Housing Code.

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## **Single Family Districts**

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## **Single Family Districts**

### **Uses in Single Family Districts**

- Issues of high occupancy in single-family residences have been raised extensively through the development review public hearing process and code enforcement complaints
- Current zoning regulations do not address the number of individuals who can occupy a residence on a long term basis (30 or more days)
- Current zoning regulations do not require a common area to support a household's interaction within single-family residence or duplex (ex. dining room, living room, areas open to all to gather & use)

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## Single Family Districts

### Regulatory Framework

- All City laws must be consistent with Federal Fair Housing Laws
  - Cannot create laws that discriminate
  - Cannot define family



EQUAL HOUSING  
OPPORTUNITY

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## Single Family Districts

### Current Zoning Definitions

- **“Boarding house or rooming house”** means a dwelling, other than a hotel, where lodging or lodging and meals for two or more persons is provided for compensation. 18.06.010(b)
- **“Housekeeping unit”** means an individual or group of persons occupying a dwelling unit that has a single kitchen. 18.06.010(h)

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## Single Family Districts

### Proposed Changes to the Definitions

- **Revise** definition of “**Single Housekeeping unit.**” Means an individual or group of persons occupying a dwelling unit used as a common living arrangement. Evidence of a common living arrangement may include some or all of the following: sharing living expenses, such as rent or mortgage payments, food and utility costs, a single lease, or shared chores. ~~that has a single kitchen.~~
- The primary single housekeeping unit can either be renters or owners of the unit/house

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## Single Family Districts

### Proposed Changes to the Definitions

- **Challenges with “Boarding House or Rooming House”**
  - Any rental to two or more persons is defined as a boarding house
  - Current definition prevents consistent enforcement
    - Today, leasing a single-family residence to two persons is considered consistent with uses anticipated in single-family districts
    - 10 persons that are not sharing a household may not be consistent with a single-family district

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## Single Family Districts

### Potential Approaches

- **Replace** the Zoning Code term 'boarding house' with more precise regulations that allow for effective enforcement:
  - Establish a maximum number of individuals who can occupy a residence in addition to the single housekeeping unit/single household
  - Add standards requiring "common habitable area" in single-family residences

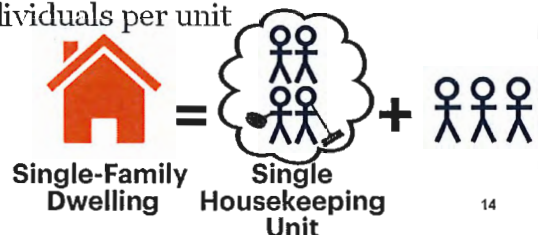
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## Single Family Districts

### Occupancy in a Residence

- Create a cap on the number of individuals who may reside long-term based on unit type (in addition to the single housekeeping unit/single household):
  - Single-Family Dwelling = three additional individuals
  - Duplex = two additional individuals per unit
  - Multiple Dwelling Unit = two additional individuals per unit
- Number of individuals within a single household/housekeeping unit would **not** be regulated/limited



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## Single Family Districts

### Common Habitable Area

- Applicable to new construction Single-Family Residences and Duplexes
- Creating a minimum percentage (%) of habitable floor area available to all for common use (ex: dining room, living room, kitchen)
  - Garages and hallways are not considered common use areas
- Minimum common habitable area must be **25%** of total habitable area for single-family residences

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## Single Family Districts

### Enforcement of New Standards

- Enforcement new regulations will be complaint based and adequate time will be provided to inform property owners
- All property owners will be encouraged to discontinue nonconforming practice as individuals move out

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## Single Family Districts

### Community Feedback

- Several outreach meetings have been held specifically with the Old Quad neighborhood and through the Neighborhood University Relations Committee (NURC)
  - Definition of “**single housekeeping unit**” too vague. Some would like single lease to be required for all rental occupants.
  - Impacts to street-parking

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## Short Term Rentals

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## **Zoning Code Update**

### **Goals Regarding Short-Term Rental Regulations**

- City Council & Planning Commission feedback on:
  - Limits on number of days a property can be utilized for hosted and unhosted short-term rental use
  - Caps on the number of short-term renters
  - An administrative approval and annual review process with cost-recovery fee



## **Short Term Rentals**

- Short-term rentals are stays of fewer than 30 days
- Popularized in recent years through online platforms such as Airbnb and Vacation Rental By Owner (VRBO)
- Neighboring cities have adopted short-term rental regulations that provide limitations on number of days depending on whether or not a host is present and number of short-term rental occupants allowed



## Short Term Rentals

### Current Short-Term Rental Regulations

- Currently, the City has no zoning regulations on short-term rentals
- Short-term rental properties are required to collect and remit Transit Oriented Tax (TOT) to the City
- Existing Memorandum of Understanding with Airbnb

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## Short Term Rentals

### Proposed Short-Term Rental Regulations

- Limit number of days properties are available for short-term rental, without a permanent host present, to a maximum of **90** calendar days per year.
- No limit on number of days property can be made available for short-term rental with the presence of a permanent host.
- Limit short-term rental occupancy to 2 people in a studio unit, 3 people in a one bedroom unit, and 2 people per bedroom for each bedroom in excess of one bedroom, but not to exceed 8 short-term rental occupants total.
- Property owner required to secure an annual administrative permit with an annual fee.

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## **Zoning Code Update**

### **Next Steps**

- Public review draft of the proposed zoning code will be made available December 2019
- Tentative public hearing dates:
  - Planning Commission & City Council in Spring 2020

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## **City Council Meeting**

**Joint Study Session:  
Zoning Code Update—  
Occupancy Criteria in  
Single-Family Districts and  
Short-Term Rental Regulations**

**October 8, 2019**





## Zoning Code Update

### Common Habitable Area Example

Total Habitable Floor Area (garage <u>not</u> included in calculation):	1,650 sq.ft.
Family Room	221 sq.ft.
Kitchen	130 sq.ft.
Living Room	380 sq.ft.
<b>Total Common Habitable Area:</b>	<b>731 sq.ft.</b>
Common Habitable Area Percentage:	$(731/1,650) \times 100 = 44\%$

Garages, hallways, offices, bedrooms, and bathrooms would not be considered as "common habitable area"



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## Zoning Code Update

### Short-Term Rental Examples

City	Hosted	Requirements	Unhosted	Permit	Registration Process
Sunnyvale	Permitted in any zoning district where residential uses are permitted subject to requirements	* Max 4 overnight lodgers per night. * With facilities for sleeping, bathing, and toileting inside.	Prohibited	Required. Business License required for separate listings for three or more spaces or rooms	1) Register as a host, fill out short-term rental application 2) Register with Finance to pay TOT 3) Bring completed short-term rental application and TOT registration to the One-Stop Permit Center for approval and pay a one-time registration fee 4) Report TOT payment each month (Airbnb will collect and remit TOT on behalf of hosts. Hosts must still remit TOT for non-Airbnb bookings.)
Pasadena	Permitted in single-family residences, duplexes, condominiums, townhomes, and multi-family rental units, except covenant restricted (affordable) units. No limit on number of days for hosted stays.	* Parking for the short-term rental to be provided on-site. * 3 violations may result in the automatic suspension of the permit. (wait at least one year before applying again) * Occupancy is limited to 2 guests per bedroom plus 2 additional guests. For example, a 2-bedroom home could be rented to a party of up to 6 guests.	Limited to a max of 90 days per year (Vacation rentals and properties where the property owner does not reside for a minimum of nine (9) months out of the year are not permitted to be used for the purpose of short-term renting.)	Required (valid for one year); Business License not required  Type 1 Permit: hosted short-term rentals Type 2 Permit: unhosted short-term rentals	1) Complete supplemental application forms 2) Apply online for short-term rental permit (\$100 fee applies) 3) Include short-term rental permit number on all listings 4) Remit TOT records to the City on a quarterly basis (due on January 20, April 20, July 20, October 20); can only be submitted online via Host Compliance 5) Renew short-term rental permit annually (only online), annual permit fee (\$100)
San Francisco	The Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit	* Be the permanent resident of the unit (spend at least 275 nights a year in the unit) * Rentals for more than 30 consecutive nights	Limited to a max of 90 days per year	1) Obtain a Business Registration Certificate 2) Obtain a host certificate (valid for 2 years)	1) Register as a business; application fee (\$250) 2) Apply with the Office of Short-Term Rentals (OSTR) 3) Register to become a certified host; certificate number must be posted on all listings advertising your short-term rental 4) File a quarterly report

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# Zoning Code Update

## Short-Term Rental Examples

City	Hosted	Requirements	Unhosted	Permit	Registration Process
San Jose	Permitted in any one-family dwelling, two-family dwelling, multiple family dwelling, mobile home, livework unit, secondary dwelling or guest house * 365 days per calendar year with host present	* Transient occupancy (not to exceed 30 days in duration per rental period) as an incidental use to primary residential uses * up to 3 transient users in a one-family dwelling * up to 2 transient users in each dwelling unit in a two-family dwelling or multiple family dwelling	* limited to 2 people in a studio unit, 3 people in a one bedroom unit and 2 people per bedroom for each bedroom in excess of one bedroom, but not to exceed 10 persons total * 180 days per calendar year, no host present	Does not require hosts to obtain a special permit or provide information for a public registry.	N/A
Mountain View	No limit on number of days for hosted stays.	* Must have 10 or fewer occupants	* 60 day annual limit (\$500 fee/day for exceeding limit)	Required	1) Get a business license (submit in person or email finance) 2) Submit an Short Term Rental (STR) registration application (online) 3) Complete the TOT registration (in person or email finance) 4) Must renew registration by January 30 (\$165), late fees applicable 5) TOT collection is the responsibility of the STR host/operator and is due quarterly: April 30, July 31, October 31, January 31 (signed, dated, and mailed to finance)