



## Legislation Details (With Text)

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<b>Title:</b>	Joint Study Session with Planning Commission on the Zoning Code Comprehensive Update: Uses in Single-Family Districts and Short-Term Rental Regulations				
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<b>Attachments:</b>	1. Matrix of Short-Term Rental Regulations, 2. POST MEETING MATERIAL				

Date	Ver.	Action By	Action	Result
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## REPORT TO COUNCIL

### SUBJECT

Joint Study Session with Planning Commission on the Zoning Code Comprehensive Update: Uses in Single-Family Districts and Short-Term Rental Regulations

### BACKGROUND

The Community Development Department is preparing a comprehensive update to the City of Santa Clara Zoning Code. The City of Santa Clara's current Zoning Code has not been comprehensively updated since it first came into effect in 1969. This is the fourth in a series of study sessions to address specific items of interest for the Zoning Code update.

### DISCUSSION

The study session will highlight potential areas of change within the Zoning Code Update including developing new regulations related to: 1) uses in single-family districts; and 2) short-term rental regulations.

#### **1) Uses in Single-Family Districts**

On an ongoing basis, the City receives complaints directed to the City's Code Enforcement team or through the public hearing process about existing and potential high-occupancy single-family residences. Community members indicate that their quality of life is being negatively impacted by single-family residences that house a large number of occupants and as a result lead to noise disturbances, inadequate property maintenance and insufficient on-site parking. Many of these complaints are for residences located within the Old Quad neighborhood, in proximity to Santa Clara University. In recent years the City and Santa Clara University have invested additional resources to focus on Code Enforcement and nuisance abatement for this neighborhood. Santa Clara University has also taken measures to better educate students on responsible tenant behavior and to increase the percentage of off-site housing that they own and manage. Despite these activities, the community continues to feel negative impacts from high occupancy single-family residences.

The definitions and regulations provided in the current Zoning Code thus do not appear to be effective tools to fully address concerns these concerns. Federal and state laws, and specifically the Federal Fair Housing Act, establish certain strict limitations upon the regulation of household composition and any changes enacted by the City should conform with those restrictions. After conducting extensive research on potential regulatory approaches, reviewing community input received over several years, and conducting a series of community meetings for the current Zoning Code updates, staff is proposing to modify the existing Zoning Code regulations to include specific requirements for single-family residences to better address community concerns in a manner that aligns with applicable federal and state laws.

### *Regulatory Framework*

Several laws now govern how the City can create regulations that affect housing. The Federal Fair Housing Act and the California Unruh Civil Rights Act prohibit discrimination in the provision of housing on a number of bases, such as race, gender, religion, disability, and most significantly here, familial status. Restricting the number of individuals based on their familial status is not consistent with the fair housing laws and there have been several important cases in which the courts have restricted what cities can do with respect to single family uses. As a consequence, the City's Zoning Code is limited in its ability to restrict the number people who choose to reside as a household or "housekeeping unit" in a single-family house.

### *Current Zoning Regulations*

The current Zoning Code establishes definitions applicable to occupancy in single-family districts are as follows:

- "Housekeeping unit" means an individual or group of persons occupying a dwelling unit that has a single kitchen. 18.06.010(h).
- "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)

Based on these definitions, a housekeeping unit can be any number of people that share a single kitchen. At the same time, the presence of two renters would meet the criteria for a boarding house. The use regulations for the various Zoning Code districts potentially allow boarding houses through a Use Permit in the OG-General Office, CC-Community Commercial, CT-Thoroughfare Commercial, and CD-Downtown Commercial zoning districts.

The community considers the current Zoning Code definitions and regulations to be ineffective because they do not address the use of a single-family residence rented out to a large number of individuals within a single-family zoning district. While such a use is commonly referred to as a "boarding house" by community members, it does not easily fit into the definition for boarding house included in the Zoning Code.

For example, the Zoning Code's definitions do not address the practice of renting a residence to two individual tenants, which is very common and is perceived as being a consistent activity within a single-family residential district, but does address when a residence may be rented to a large number of individuals, an activity perceived as inconsistent with a single-family zoning district. Staff is recommending modifications to City regulations to allow for greater consistency and more meaningful enforcement.

### *Proposed Changes to Zoning Code*

Staff is proposing the following Zoning Code modifications, which were created to be consistent with fair housing laws, and which change existing definitions and create new occupancy and common habitable area standards:

- Revise the definition of a “Housekeeping Unit” as follows (Text to be added to the Zoning Code is indicated by underline); “Single Housekeeping unit” to mean an individual or group of persons occupying a dwelling unit used as a common living arrangement. The primary single housekeeping unit can either be renters or owners of the unit/house. 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.
- Remove the definition of “Boarding House or Rooming House” or modify it so it aligns with occupancy criteria proposed below.
- Limit occupancy within a residence to create a cap on the number of guests who are not part of a single housekeeping unit, who may reside long-term (30 or more days). For a single-family dwelling, the proposed cap would be three guests in addition to the single housekeeping unit. For a duplex, the proposed cap would be two guests, in addition to a single housekeeping unit in each dwelling unit of the duplex.
- Require a minimum of 25% of floor area for new construction in a single-family dwelling to be common habitable area, which is area available to all residents for common use (ex: dining room, living room, kitchen). Garages and hallways are not considered common use areas.

The proposed cap on guests would regulate the number of individuals in addition to a single housekeeping unit, but consistent with fair housing laws, would not regulate the number of individuals who are members of a single housekeeping unit.

The proposed minimum common habitable area standard is intended to address concerns that have been raised about the practice of constructing dwellings with excessive numbers of bedrooms with relationship to the amount of common areas, by creating walls within living rooms or dining rooms. Such structures that have been broken up without retaining adequate common areas do not allow a single housekeeping unit to communicate, organize and socialize inside the house. A consequence of inadequate common area is the cross-over of the use of the dwelling from a single housekeeping use to individual room rentals that have spillover activities into front yards or backyards, which can be a nuisance to neighbors. Staff’s proposed standard of 25% floor area was determined based on analysis of building and planning permits previously issued by the City. Based on this review, 25% is a very achievable standard for the vast majority of homes within the City of Santa Clara.

The habitable common open space standard would be used to evaluate new single-family homes or additions to existing homes through the Planning or Building permit process. This standard could also be applied to existing dwellings as a factor in determining whether the use is as a single housekeeping unit.

Staff proposes that enforcement of the new regulations will be complaint-based. All property owners will be encouraged to discontinue any practices that do not meet the proposed code changes sooner, as existing tenants move out, in order to minimize disruption.

### *Community Feedback*

Staff has held several outreach meetings in the last few years, specifically with the Old Quad neighborhood and through the Neighborhood University Relations Committee (NURC). As noted in the Public Contact section below, additional noticed community meetings were conducted and live-streamed in the Spring of 2019. In these community meetings, staff received feedback on the proposed Zoning Code changes described in this report.

Many community members felt that the definition of single housekeeping unit was too vague. Specifically, some community members requested that the requirement of having only one lease be a part of the definition of a single housekeeping unit. They expressed that allowing for only one lease covering all the rental occupants would foster collective cooperation with the terms of the lease. While there may be some benefit of requiring one lease, it also means that violation of the lease by one occupant may have consequences for all occupants.

Some community members also expressed that the proposed regulations would not adequately address potential impacts to the availability of on-street parking attributed to high occupancy dwellings. To address this, the proposed Zoning Code changes could include a provision that existing two car garages in single-family districts must be open and available for two vehicles, which would be verified if necessary, in the event of a Code Enforcement complaint.

## **2) Short-Term Rental Regulations**

In recent years, short-term rental activity (stays of fewer than 30 days) has been popularized throughout the country as online platforms such as Airbnb and Vacation Rental By Owner (VRBO) have facilitated the practice. The use of short-term rental platforms can allow single-family home owners to leverage their properties for income, either when they are also in residence or when they are not present. Use of the same platforms on a continuous basis, and for multiple renters, can result in neighborhood impacts related to a high-occupancy residence and similarly affect neighborhood character more broadly across the City.

Many neighboring cities have adopted short-term rental regulations that limit the days per year that a property may be made available for short-term rental with or without a host present and that also limit the number of short-term rental occupants.

### *Current Regulations*

Properties that engage in short-term rentals are required to collect and remit Transit Oriented Tax (TOT) to the City. The City has a current Memorandum of Understanding with Airbnb whereby the company provides the City TOT collected through the platform and provides the City with limited short-term rental activity information.

Santa Clara currently does not have land-use regulations regarding short term rental activity. As such, the City does not regulate the duration of time a property may be made available for short-term rental nor any other limitations.

### *Proposed Regulations*

A summary of neighboring regulations/practices in use in neighboring cities is included with this report (Attachment 1). This information was presented to community members at two citywide community workshops in February 2019 and through a subsequent Zoning Code update online survey. Staff also reviewed code enforcement complaints received on short-term rental properties in general and public testimony regarding the architectural review application for a new single-family

residence at 2892 Sycamore Way, which was the subject of code enforcement complaints regarding the high-volume, short-term rental practice on the property. Based on this research and community input, staff proposes the following new regulations for short-term rental activity:

- Limit the number of days properties are available for short-term rental, without a permanent host present, to a maximum of 90 calendar days per year.
- Do not limit number of days a property can be made available for short-term rental with the presence of a host who permanently resides in the dwelling. The host must be authorized and responsible to quickly address any issues raised by neighbors.
- 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 eight short-term occupants total.

As part of this proposed approach, the property owner would be required to secure an annual administrative permit, including payment of a fee to address the cost of verification and enforcement activities. Through the administrative permit, the property owner would provide the Community Development Department sufficient information to verify compliance with the terms of city regulations.

### **Next Steps**

A public review draft of the proposed zoning code will be available in the November/ December 2019 timeframe, with a public hearing by the Planning Commission anticipated in December 2019/January 2020 and a City Council hearing anticipated in February 2020.

### **ENVIRONMENTAL REVIEW**

This is an information report only and no action is being taken by the City Council and no environmental review under the California Environmental Quality Act ("CEQA") is required at this time. The Comprehensive Zoning Update will undergo environmental review and an environmental document will be brought to the City Council when the Council considers the Update for approval in 2020.

### **FISCAL IMPACT**

A future annual administrative permit fee is anticipated to generate additional revenue that would cover the cost of administering a short-term rental registration program. In addition, the City currently receives TOT revenue through a voluntary collection agreement with Airbnb. Approval of STR regulations may have an impact on TOT revenues.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

Community participation is a key part of the Zoning Code Update. In addition to meetings with the Old Quad Neighborhood on June 19, 2018, August 20, 2018, September 17, 2018, October 15, 2018, and December 3, 2018, staff organized community meetings with the general public on February 13 and 28, 2019 to discuss topics for change within the Zoning Code. The topics discussed with community members included the codification of elements of the City's single-family design guidelines; the creation of new zoning districts to implement existing General Plan designations; possible changes to the number of parking spaces required for residential and non-residential uses;

and regulation of short-term rentals, such as Airbnb. Community meetings to gain input on the topic of potential occupancy criteria in single-family districts were noticed and held on April 29, May 16, and May 29, 2019. The May 16 and May 29 meetings were also live-streamed.

The City received over 500 responses to a community survey on the Zoning Code Update, which was released on June 20, 2019 and made available through July 12, 2019. The survey was announced on the City's social media accounts, sent to interested parties through e-notify lists and posted on the City's website.

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. Additionally, notice of the Study Session was sent via email notification to participants of previous community meetings on the topics. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

## **ATTACHMENTS**

1. Matrix of Short-Term Rental Regulations

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Approved by: Deanna J. Santana, City Manager