



STAFF REPORT TO THE PLANNING COMMISSION PREPARED JUNE 19, 2018

- FILE NUMBERS: L18-0045 Short Term Rental Code Amendments
- REQUEST: Review and revise Tukwila’s regulations relating to the use of property for the purposes of short term rental, hold a public hearing and make a recommendation to the City Council.
- LOCATION: City wide
- PUBLIC NOTICE: Hearing notice was published in the Seattle Times June 14, 2018. A postcard was mailed to the owners and tenants of LDR Zoned parcels and the owners of MDR and HDR parcels. Emails were sent to the interested parties list, the contacts for Residential Rental Business Licenses and contacts within the short term rental industry.
- STAFF: Nora Gierloff, Deputy DCD Director
Charlotte Archer, City Attorney
- ATTACHMENTS:
- A. Tukwila and neighboring jurisdictions’ current rental standards
 - B. Policy Brief, City of Seattle Short Term Rental Regulations
 - C. Proposed Amendments to the Tukwila Municipal Code

BACKGROUND

During the City Council update to accessory dwelling unit (ADU) regulations the Council requested a review of regulation of short-term (defined as a period of less than thirty days) residential rentals. This would not include commercial properties used for the purposes of short-term and extended-stay housing, such as motels, hotels, and extended stay motels. This review was intended to focus on the rental of single-family and multi-family residences, as well as ADUs via an online marketplace such as HomeAway, Vacation Rental By Owner (“VRBO”) or Air BnB. The intention was to assess the impact of the City’s current regulations and determine if new regulations are needed to meet the City’s policy goals.

Tukwila’s current standards for short term rentals¹ include the following:

- Multi-family dwellings shall not be used for a rental tenancy of less than one month. See TMC 18.06.247.
- Dormitories defined as “a residential building or use which provides housing for students attending an affiliated school or housing for members of a religious order.” See TMC 18.06.237.
- Boarding House defined as “a residential building which provides housing on a short-term commercial basis for tenants” is a conditional use in the MDR and HDR zones. See TMC 18.06.073.
- Bed and breakfast facilities defined as “an owner occupied dwelling unit that contains guest rooms where lodging is provided for compensation,” are permitted in the LDR, MDR and HDR zones as conditional uses (for up to twelve guests), and guests shall be limited to a 14-day maximum length of stay. Tukwila has never received an application for a bed and breakfast conditional use permit. See TMC 18.06.063 and Table 18-6 n.5.

There is no restriction on the use of single-family dwellings or mobile homes in mobile home parks as short-term rentals. The draft Accessory Dwelling Unit ordinance currently being considered by the Council prohibits rental of ADUs for less than 30 days.

Tukwila’s Residential Rental Business License and Inspection Program, codified at Chapter 5.06 of the Tukwila Municipal Code (TMC), establishes an annual rental licensure requirement for all “units” intended for rent. Each dwelling unit must be inspected for life safety issues every four years and a Certificate of Compliance is issued by the City for those units that meet all requirements. The code is silent about whether it applies to short-term rentals; in practice, the City has received no rental license applications for short-term rentals.

DISCUSSION

The issue of whether the use of dwelling units for short-term rental purposes is having a net positive or negative impact on housing affordability and rental stock is currently being debated in many jurisdictions in Washington in light of the dramatic recent growth of the short-term rental industry, as well as the housing crisis in the greater Seattle area. Seattle recently adopted new regulations to prevent property owners from operating large-scale, short-term rentals in a commercial manner, as part of a larger effort to ensure an adequate supply of long-term rental stock for the City’s permanent residents. A table comparing Tukwila’s current rental standards to neighboring jurisdictions is included as Attachment A.

Staff’s research and citizen complaints indicate that there is an existing marketplace for the short-term rental of single- and multi-family dwellings in the City.

¹ The following are considered outside the scope of this project, as they do not involve the use of a residential dwelling unit for short-term rental purposes: Assisted Living Facilities (TMC 18.06.058); Continuing Care Retirement Communities (TMC 18.06.170); Convalescent/Nursing Homes (TMC 18.06.173); Correctional Institutions, including transitional housing (TMC 18.06.178); Extended-Stay Hotel or Motels (TMC 18.06.287); Hotels (TMC 18.06.440); Motels (TMC 18.06.585); Secure Community Transitional Facilities (TMC 18.06.706); Senior Citizen Housing (TMC 18.06.708); and Shelters (TMC 18.06.743).

From a policy perspective, short-term rentals can bring benefits to those who operate them, their visitors, and the surrounding neighborhood. Some homeowners use short-term rentals to help offset the cost of their home, including renting out a room or the entire home. Kent, for example, adopted regulations to allow the rental of ADUs “[t]o make homeownership more affordable because it will be easier to buy both new and existing homes with the help of an accessory dwelling unit.” SeaTac likewise currently permits the use of ADUs for rent to “increase opportunities for home ownership and allow older homeowners to remain in their homes and obtain extra income, companionship, and security.” Some jurisdictions find that ADUs may increase the supply of affordable rental units and may provide a variety in affordable rental units. Additionally, short-term rentals may provide a greater return on investment for homeowners as short-term rental rates often outpace rates for rentals on a long-term basis. For visitors, short-term rentals may cost less than traditional hotels or motels, which in turn provides a means to bring tourists and their spending power to Tukwila.

Some jurisdictions who have recently studied the rise in the use of rental properties as short-term rentals have concluded that there are negative impacts to communities throughout Washington. For example, Seattle recently studied the impact short-term rentals had on affordable housing within the City and found that the commercial use of short-term rental platforms (by commercial operators, rather than traditional single-family homeowners) has resulted in the removal of houses, condos and apartments from the long-term housing market. See Attachment B. The significant impact of short-term rentals on affordable housing availability was also the subject of a Harvard Law and Policy Review article², which concluded:

So long as a property owner or leaseholder can rent out a room on Airbnb for cheaper than the price of a hotel room, while earning a substantial premium over the residential market or rent-controlled rent, there is an overpowering incentive to list each unit in a building on Airbnb... In tight housing markets with near-zero vacancy rates, a sudden reduction in supply naturally increases rents, particularly because neither the market nor the public sector can swiftly add to the housing stock.

In addition, some jurisdictions have found that some short-term rentals can attract disruptive vacationing visitors to residential areas, which may have a negative impact on property values. A study commissioned by the hotel industry indicated some short-term rentals may have negative impacts on the hotel/motel industry. Short-term commercial rentals are likely subject to the City’s business licensure and tax requirements, but they often do not pay thereby circumventing traditional lodging taxes. There is also some evidence in the aforementioned studies that short-term rentals may also contribute to creating a transient community and create an increased parking demand in residential areas.

Policy Options

1. Prohibit the use of residentially-zoned property for short-term rentals.

² Full article available at http://harvardlpr.com/wp-content/uploads/2016/02/10.1_10_Lee.pdf.

The City could expand the prohibition on multi-family rentals to include the short-term rental of entire single-family residences, rooms within owner-occupied single-family residences, ADUs, and mobile and manufactured homes in the Low, Medium and High Density Residential Zones.³

2. Permit the use of residentially-zoned property for short-term rentals, with or without additional restrictions.

Alternatively, the City could opt to permit the use of residential dwelling units as short-term rental properties. To accomplish this, the City could expressly grant that right to single-family dwellings (either as entire-house rentals, or partial-house rentals), and remove the prohibition on the use of multi-family dwellings for short-term rental purposes.

A. Require owner-occupancy.

Some of the negative effects cited by opponents of short term rentals (including but not limited to noise, parking and refuse) may be mitigated by requiring owner-occupancy and prohibiting whole house rentals. This requirement would be similar to the restriction placed on ADUs and would face the same enforcement challenges. This option would prevent units from being removed from the long-term rental market.

B. Allow a local property manager in lieu of owner occupancy.

Requiring owner-occupancy would require the prohibition of entire-house short-term rentals so another option would be to allow a local property manager to be designated and available to respond to complaints. Kirkland, for example, requires a property manager located within City-limits at all times the property is being used as a short-term rental.

C. Place Restrictions on Occupancy, Parking and Quiet Hours.

A few jurisdictions in Washington have adopted heightened restrictions on the number of occupants, noise (quiet hours), off-street parking, and other issues in order to address concerns raised by existing short-term rentals. For example, San Juan Island County places a cap on the number of renters at no more than three per bedroom, and requires additional off-street parking for properties used as short-term rentals.

To the extent these concerns are documented, the City could utilize these regulations to directly remedy problem-properties utilized as short-term rentals. Ongoing requirements such as additional parking spaces would need to be verified through an inspection process, possibly as part of a licensing procedure.

³ It should be noted that any proposed amendments to the TMC pertaining to the City's existing regulations for short-term rentals will need to heed two concerns that would likely necessitate an exemption from any proposed prohibition on transient accommodations. First, adult family homes (AFH) could arguably be considered residential properties used for rental purposes; however, state law prohibits the City from enacting regulations that put up a road-block to the placement of AFHs in all areas zoned for residential purposes. RCW 70.128.010. Second, the same analysis would likely apply to a residence used to house people with disabilities, including the recovery from a drug addiction. See RCW 36.70.990.

Enforcement of occupancy limits would be difficult absent admissions by the properties' owners. Producing evidence to prosecute a violation would require observation by the City's Code Enforcement Officers, likely after-hours. Noise complaints are handled by the Police Department and it may be difficult to enforce stricter regulations than the standards in the existing Noise Ordinance.

3. Permit the use of residential units in mixed use zones for short term rentals.

The adjacency of commercial uses may make neighbors in zones such as Neighborhood Commercial Center and Regional Commercial Center less sensitive to noise and parking impacts associated with short term visitors. Any zone that permits hotels and motels would seem to also be appropriate for short term rentals.

4. Require a License to operate a Short-Term Rental.

Tukwila requires that businesses, including home occupations, obtain a business license to operate in Tukwila and that landlords obtain an annual rental license for all "units" intended for rent – this is not currently utilized for short-term rental properties. Currently short-term rental operators are not obtaining either license.

Incorporating short-term rentals into the Residential Rental Business License and Inspection Program would allow the City to monitor the use of residential properties for this purpose, and to ensure that the subject properties are adequately addressing life safety issues. However, currently the traditional "roommate" arrangement (e.g., long term rental of a single-room within an owner-occupied dwelling unit) is not subject to the City's Residential Rental Business License and Inspection Program; yet the majority of short-term rentals currently advertised in the City involve the short-term rental of a single-room within an owner-occupied dwelling unit.

It may make more sense to require home occupation business licenses for short term rentals as they are more closely related to operating a business than an ongoing living arrangement. It may be a challenge to enforce this requirement as the City relies on self-reporting of rental properties in order to achieve compliance, and it is difficult to track-down non-compliant properties but for the complaints received from neighbors.

5. Clean up existing regulations to remove ineffectual provisions.

Currently, the City has no permitted Bed and Breakfast facilities. The definition of Bed and Breakfast facility appears to be somewhat antiquated and ineffectual, with the rise of AirBnB and other online alternatives. Staff would recommend removing Bed and Breakfast facility and all related regulations from the TMC.

Similarly, the City is aware of a few Boarding Houses within the City and there are ongoing code enforcement complaints relating to un-permitted Boarding Houses in the LDR zoning district (where this use is prohibited). The existing definition of a Boarding House makes this regulation difficult to enforce, given its use of undefined terms like "short-term" and "commercial basis."

Similarly, there is no cap on the number of tenants that may reside in one Boarding House, no requirement that the Boarding House is owner-occupied, and there are no other relevant regulations such as higher parking standards.

Staff would recommend the amendments to the TMC depicted at Attachment C to address these issues.

REQUEST

Hold the public hearing on the proposed changes, review each proposed change, and recommend policy options to the City Council. Staff will incorporate these decisions into a draft ordinance for City Council review.