

**Frequently Asked Questions (FAQs) for Short Term Residential Rentals (STRR)**  
**Existing Regulations as of 12/14/2016**



**1) Q: What are the current City of Oakland regulations for Short-Term Residential Rentals, such as Airbnb, VRBO, HomeAway, Flipkey, etc.?**

**A:** Current planning regulations **prohibit any rental** of a single-family home, apartment/condo, Secondary Unit, or room **for less than one week**, based on the City's definition of "Permanent Residential Activities", which are defined as the occupancy of living accommodations on a weekly or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis.

If you are renting your home, apartment/condo, Secondary Unit, or room for less than 7 consecutive nights, the Oakland Planning Code defines the activity as "Transient Habitation" (or essentially a hotel). Most residential and commercial zones in the City of Oakland **do not allow** Transient Habitation, with the exception of designated zones in downtown, along the waterfront, near the airport, along the I-880 freeway, and in Specific Plan areas. Most of the zones that do allow Transient Habitation still require a Conditional Use Permit (CUP) for that activity. The only current exceptions to the Transient Habitation activity restrictions is if the facility is classified as either a "Bed and Breakfast" or a "Semi-Transient Residential Activity". (Please see the answer to #5 below for more detailed requirements, as well as Tables 1 and 2 below).

**2) Q: Is the City of Oakland looking at making changes to its Municipal and Planning Codes to allow for Short-Term Residential Rentals?**

**A: Yes.** The City Council has asked the Bureau of Planning to prepare recommendations that would allow Short Term Residential Rentals (STRRs) in the City of Oakland with certain limitations. Planning Staff is currently studying the potential impact of STRRs in Oakland, and what regulations other Cities have enacted in order to come back to City Council with recommendations. However, until such changes to City Codes are actually adopted, the existing regulations described herein will continue to apply.

**3) Q: Am I required to pay business taxes to the City of Oakland for my rental unit or room rental?**

**A: Yes.** All persons who conduct business in the City of Oakland and owners of rental property (residential, commercial and industrial) are required to file and pay an annual business tax. Every person engaged in the business of conducting or operating an apartment house, lodging house, and every person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping or lodging, including, and limited to, a single-family house, duplex, townhouse, condominium or co-operative, is required to pay a business tax.

For more information about business taxes, please see the City of Oakland's, Finance and Management Agency's Revenue webpage at: [http://www.oaklandnet.com/government/fwawebsite/revenue/revenue\\_biztax.htm](http://www.oaklandnet.com/government/fwawebsite/revenue/revenue_biztax.htm) as well as their FAQ page at:

[http://www.oaklandnet.com/government/fwawebsite/revenue/revenue\\_faqbiztax.htm](http://www.oaklandnet.com/government/fwawebsite/revenue/revenue_faqbiztax.htm)

**4) Q: Am I required to collect and remit Transient Occupancy Taxes (TOT)?**

**A: Yes.** Every person occupying any hotel/motel, lodge or B&B (bed & breakfast) within the City of Oakland for any period up to thirty (30) consecutive days is required to pay the Transient Occupancy Tax (TOT) to the operator at the time the rent for occupancy is paid. The current rate is 14% of the rent charged, as stipulated in Chapter 4.24 of the Oakland Municipal Code.

Every hotel, motel, lodge and B&B operator is responsible for collecting and remitting TOT to the Tax Administrator. The amount of tax shall be reported separately from the amount of rent charged. It is unlawful for any hotel operator to advertise or state in any manner (directly or indirectly) that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded.

For more information about Transient Occupancy Taxes, please see the City of Oakland's, Finance and Management Agency's Revenue webpage at:

[http://www.oaklandnet.com/government/fwawebpage/revenue/revenue\\_biztax.htm](http://www.oaklandnet.com/government/fwawebpage/revenue/revenue_biztax.htm) as well as their FAQ page at: [http://www.oaklandnet.com/government/fwawebpage/revenue/revenue\\_faqtanocctax.htm](http://www.oaklandnet.com/government/fwawebpage/revenue/revenue_faqtanocctax.htm)

**5) Q: What are the different Activities that Short-Term Residential Rentals could fall under in the Oakland Planning Code (OPC) under today's regulations?**

**A:** The City of Oakland's Planning Code (Title 17), regulates activities that occur in different zones throughout the City of Oakland. Since there is currently no one activity category for Short-Term Residential Rentals, rentals of all kinds fall under one of the following activity types:

**OPC Section 17.10.110 – Permanent Residential Activities:**

Includes the occupancy of living accommodations on a weekly or longer basis only. Therefore, rental of a single-family home, for instance, for less than 7 consecutive nights is not considered a Permanent Residential Activity and falls under OPC Section 17.10.125 – Bed and Breakfast Residential Activities or OPC Section 17.10.440 – Transient Habitation Commercial Activities listed below.

**OPC Section 17.10.120 – Semi-Transient Residential Activities:**

Includes the occupancy of living accommodations partly on a weekly or longer basis and partly for a shorter time period, but with less than thirty percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-weekly basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons.

**OPC Section 17.10.125 – Bed and Breakfast Residential Activities:**

The provision of lodging services to transient guest on a less-than-weekly basis and have each of the following characteristics:

- A. The activity occupies a One-Family Dwelling Residential Facility, One-Family Dwelling with Secondary Unit Residential Facility, or a Two-Family Dwelling Residential Facility;
- B. The activity allows no more than twelve (12) adult paying guests at any time and contains no more than six (6) guest units;
- C. The activity is located in a facility that is owner occupied;
- D. The activity is located in a facility on a property with an existing or contingency historic rating of "A", "B", "C", or "D", or is a Landmark according to the City of Oakland Office of Historic Preservation;
- E. The facility includes incidental eating and drinking services for lodgers only that are provided from a single kitchen per bed and breakfast establishment.

**OPC Section 17.10.440 – Transient Habitation Commercial Activities:**

Includes the provision of lodging services to transient guests on a less-than-weekly basis. Therefore, all rentals in the City of Oakland of less than 7 consecutive nights that are not approved as either a Bed and Breakfast or Semi-Transient Residential Activity fall under this classification.

- 6) **Summary Tables 1 and 2 are provided to help clarify the differences in where rentals of less than and more than 7 consecutive days are allowed. These tables are only summaries, for full regulations please refer to the Oakland Planning Code (Title 17).**

**Table 1: Summary of Activity and Facility Types for Rentals of Less Than and More Than 7 Consecutive Days**

<b>Length of Stay</b>	<b>Activity Type</b>	<b>Single-Family/Duplex Residential Facility</b>	<b>Multi-Family Residential Facility</b>	<b>Commercial (Hotel) Facility</b>
<b>Less than 7 consecutive days</b>	Semi-Transient Residential	<b>Not Allowed</b>	Only allowed with a Conditional Use Permit (CUP) in certain higher intensity residential and commercial zones	Only allowed with a Conditional Use Permit (CUP) in certain higher intensity residential and commercial zones
	Bed and Breakfast Residential	Only allowed with a Conditional Use Permit (CUP) and the limitations listed in FAQ #5	<b>Not Allowed</b>	<b>Not Allowed</b>
	Transient Habitation Commercial	<b>Not Allowed</b>	<b>Not Allowed</b>	Only allowed in very limited areas, such as downtown, near the airport, and specific plan areas; and in most of these areas, requires a CUP. There are specific findings that have to be made (see L2 in Table 2 or OPC 17.103.050).
<b>7 or more consecutive days</b>	Permanent Residential	Allowed in lower and middle density residential zones	Allowed in middle and higher density residential zones and most commercial zones	<b>Not Allowed</b>
	Semi-Transient Residential	<b>Not Allowed</b>	Only allowed with a CUP in certain higher intensity residential and commercial zones	Only allowed with a CUP in certain higher intensity residential and commercial zones
	Bed and Breakfast Residential	Only allowed in certain zones with a CUP and the limitations listed in FAQ #5	<b>Not Allowed</b>	<b>Not Allowed</b>
	Transient Habitation Commercial	<b>Not Allowed</b>	<b>Not Allowed</b>	Only allowed in very limited areas, such as downtown, near the airport, and specific plan areas; and in most of these areas, requires a CUP. There are specific findings that have to be made (see L2 in Table 2 or OPC 17.103.050).

**Table 2** below lists the permitted, conditionally permitted, and prohibited activities of Permanent Residential, Semi-Transient Residential, Bed & Breakfast Residential, and Transient Habitation Commercial in the various zones within the City of Oakland.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see OPC Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in OPC Section 17.010.040.

**Table 2: Permitted and Conditionally Permitted Activities (from OPC)**

Zones	17.10.110 Permanent Residential Activities	17.10.120 Semi-Transient Residential Activities	17.10.125 Bed & Breakfast Residential Activities	17.10.440 Transient Habitation Commercial Activities
RH, D-WS-1-4, D-WS-6, D-WS-7	P	--	--	--
R-80, S-1	P	P	--	--
HBX-1, HBX-2, HBX-3	P	C	--	--
RD, RM, RU-1, RU-2, RU-3, CN, CC-1, CC-2, D-BV-4	P	--	C(L1)	--
RU-4, RU-5, D-KP	P	C	C(L1)	--
CC-3	C (no new Res. Facilities)	--	C(L1)	--
CR	--	C	--	C(L2)
D-CE-1, D-CE-2, D-CO-3, D-CO-6	--	--	--	C(L2)
CBD-R, CBD-P, CBD-X, HBX-4, D-CE-3, D-LM	P	C	P(L1)	C(L2)
CBD-C	P	C	P(L1)	P
HBX-1, HBX-2, HBX-3, D-CO-1, D-CO-2	P	C	--	--
CIX-1A, CIX-1B, CIX-1C, CIX-1D, D-GI	--	--	--	C(L2)
CIX-1, CIX-2, IG, IO, M-20, M-30, M-40, S-3, D-WS-5, D-WS-9, D-CE-5, D-CE-6, D-CO-5	--	--	--	--
C-40, C-45, S-2	P	P	--	C(L2)
S-15	P	--	--	C(L2)
D-OTN, D-CE-4	P	C	--	C(L2)
D-WS-8	P	--	--	P
D-BV-1, D-CO-4	C	--	--	C(L2)
D-BV-2, D-BV-3	P	--	C(L1)	C(L2)

L1. It must meet the use classification of OPC Section 17.10.125 – Bed and Breakfast Residential Activities as listed in the Planning Code and summarized above in FAQ #5. Additional limitations may be listed in the Planning Code for individual zones.

L2. Additional limitations may be listed in the Planning Code for individual zones. As specified in OPC Section 17.103.050, a Conditional Use Permit for any Transient Habitation Commercial Activity may only be granted upon determination that the proposal conforms to the general use permit criteria (see OPC Section 17.134.050) and to all of the following additional use permit criteria:

1. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, along the I-880 freeway, in a specific plan area, and/or in an area with a concentration of amenities for hotel patrons, including but not limited to restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit;
2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services;
3. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:
  - a. Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;
  - b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;
  - c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;
  - d. The majority of the parking located either to the side or rear of the site, or where appropriate, within a structured parking facility that is consistent, compatible and integrated into the overall development;
  - e. Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;
  - f. Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level, and appropriate attention to detail;
  - g. Lighting standards for hotel buildings, grounds and parking lots that are not overly bright and direct the downward placement of light.
4. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;
5. The proposed operator of the facility shall be identified as part of the project description at the time of application.

## 7) Contact Us

For questions contact:

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