

## **SHORT-TERM RESIDENTIAL OCCUPANCY ORDINANCE FREQUENTLY ASKED QUESTIONS (FAQs)**

### **1. What is short-term residential occupancy (STRO)?**

Short-term residential occupancy means the occupancy of a dwelling unit or part thereof for less than one month. The STRO ordinance defines a month as a period of consecutive days from the first calendar day of occupancy in any month to the same calendar day in the next month following, or the last day of the next month following, if no corresponding calendar day exists. For example, a check in on January 31 and check out on February 28 would be a month stay; whereas a check in on February 1 and check out on February 28 would not be a month.

### **2. What do I need to do to legally operate a STRO property?**

If your property is located in the City of San Diego and is rented out for less than one month per guest stay, you must obtain a Transient Occupancy Tax Certificate and collect and remit Transient Occupancy Tax (TOT). This applies to STRO properties of any kind (i.e. houses, condos, rooms, or spaces) rented directly by the owner/operator, by property management companies or via internet travel services. *If you are renting property for less than a month at a time in the City of San Diego and do not have a TOT Certificate, you are not in compliance with the San Diego Municipal Code; there are no exceptions.*

Additionally, property owners who rent out all or a portion of their property for more than 6 days in a calendar year are responsible for remitting Rental Unit Business Tax to the City of San Diego. For questions regarding TOT and/or Rental Unit Business Tax, please visit the following webpages:

TOT: <https://www.sandiego.gov/treasurer/taxesfees/tot>

Rental Unit Tax: <https://www.sandiego.gov/treasurer/taxesfees/btax>

Starting July 1, 2022, in addition to the TOT and Rental Unit Business Tax requirements, anyone operating a STRO property in the City of San Diego will need to obtain a STRO License in the appropriate license category.

### **3. Does the STRO ordinance apply to all zones?**

Yes, the ordinance applies to all dwelling units used for short-term residential occupancy in the City of San Diego regardless of base zoning designation.

### **4. What is the fee to obtain a STRO license?**

The STRO license fee is proposed to be adopted by Council in Fall 2021.

### **5. What is the cost to obtain a Transient Occupancy Tax (TOT) Certificate?**

There is no cost to obtain a TOT Certificate. Please visit the [TOT webpage](#) for additional information about TOT compliance.

### **6. How much is the Rental Unit Business Tax?**

Rental Unit Business Tax is made up of a base fee and a per unit fee. The total Rental Unit Tax for your property depends on the number of units. Please see the Rental Unit Tax fees table at <https://www.sandiego.gov/treasurer/taxesfees/btax/rtaxfees>.

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**7. What is the difference between home share and a whole home short-term residential occupancy?**

Home share means the short-term residential occupancy occurs in either the host's primary residence or in a separate dwelling unit on the same premises as the host's primary residence. Home sharing includes duplex properties and eligible accessory dwelling units when the host resides on site.

Whole home means short-term residential occupancy of the host's entire dwelling unit while the host is not physically present and residing in the dwelling unit.

**8. What if I plan to home share in my permanent residence but do whole home rentals during the summer months when I am away; what type of license should I apply for?**

If you are the permanent resident, reside onsite and are absent for 90 days or less per calendar year, you would apply for a Tier 2 license.

**9. Who can apply for a STRO license?**

A host is defined as a *natural person* who has the legal right to occupy the dwelling unit and to allow short-term residential occupancy. A host may include the owner or a lessee if the lease allows for subleasing for less than one month. A host may only hold one license at a time, and a host may not operate more than one dwelling unit for STRO at a time within the City of San Diego.

**10. As part of home share, can I rent out several rooms separately?**

Yes, if you are renting the room(s) for more than 20 days per year and are the permanent resident that is absent no more than 90 days per calendar year, you would obtain a Tier 2 license for the dwelling unit.

**11. When can I apply for a STRO license?**

The application period is expected to begin in the Spring of 2022, and licenses will be issued in advance of the July 1<sup>st</sup> implementation date. The Office of the City Treasurer's STRO webpage will be updated as soon as additional information is available. It is recommended you sign up to be notified of STRO updates. You can sign up by entering your email address on the [STRO webpage](#).

**12. Can my spouse and I both submit an application for the same dwelling unit for a Tier 3 (or Tier 4, if applicable) license to better our chances of obtaining a license if a lottery is needed?**

No, only one completed and accurate application per dwelling unit will be considered for a license, regardless of the Tier.

**13. I want to obtain a Tier 3 or a Tier 4 license but there are a limited number of licenses that will be issued. What is the process to determine who will get a Tier 3 or Tier 4 license?**

The issuance of Tier 3 licenses and Tier 4 licenses shall be on a lottery basis if sufficient demand exists.

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### **14. How will the lottery process work?**

While the lottery process has not yet been finalized, the lottery concept requires a complete application to be submitted to qualify for the license lottery and there must be no ongoing Code Enforcement cases at the property. In compliance with the ordinance, the Office of the City Treasurer will be promulgating administrative guidelines and regulations to implement and enforce the ordinance. Guidelines regarding the administration of the lottery process will be presented as an informational item at a public hearing to City Council no later than October 15, 2021.

### **15. What are the license application requirements?**

All hosts must have a Transient Occupancy Tax (TOT) certificate, a Rental Unit Business Tax account, if applicable, and must be in current compliance with the City's TOT requirements (i.e. not owing back taxes for unpaid TOT). For a license application to home share, the host must also provide proof that the dwelling unit is the host's primary residence.

License applications will not be processed for dwelling units with pending enforcement actions issued by the City for violations of any provision of the San Diego Municipal Code. A pending enforcement action includes, but is not limited to, violations of the City's Land Development Code, TOT requirements, Tourism Marketing District assessments, and Rental Unit Business Tax requirements, including unpaid invoices that have been referred to the City Treasurer's Delinquent Accounts Program.

### **16. What if I operate my dwelling unit as a STRO and do not have a license after July 1, 2022?**

Using a dwelling unit for STRO without a license after July 1, 2022 is a violation of the STRO ordinance and will likely result in regulatory actions. The actions may include issuance of a Notice of Violation with an assessment of penalties. Operating an STRO without a license will jeopardize a host's ability to obtain a STRO license in the future.

### **17. Can I rent out my Accessory Dwelling Unit (aka "granny flat") as a STRO?**

No, San Diego Municipal Code prohibits the use of ADUs for short term rental and will result in a Code violation. Only permitted companion units in existence before the September 2017 prohibition may be used as a STRO.

### **18. What types of units are prohibited as STRO units?**

The following are prohibited for use as STRO:

- Income-restricted affordable housing units;
- Student housing, dormitories and Single-Room-Occupancy (SRO) buildings;
- Legally established Accessory Dwelling Units (ADUs); which are a specific type of "in-law" or "granny flat" approved by Development Services Department;
- Sleeping quarters in most shipping containers and outdoor areas, including tipis (teepees) and tree houses;
- Sleeping quarters in vans or (RVs) recreational vehicles. RVs are not considered residential units;
- Non-residential areas within buildings, such as living/sleeping quarters added in garages without proper permits;
- Commercial office/retail or industrial (warehouse) spaces; and
- Boats or similar watercraft.

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**19. Can a Live/Work unit be used for STRO?**

You can host short-term rentals in the residential portion of a live/work unit or "artist live/work unit," if you are a permanent resident of that unit and both live in AND host short-term rental guests exclusively in the "live" area of the unit. Short-term residential occupancy (e.g. sleeping, lounging/resting, or cooking areas) is NOT allowed in the "work" portion of the live/work or artist live/work unit. Additionally, you may not reside in the "work" area and use the "live" area of the live/work or artist live/work unit for STRO.

**20. Can my commercial or industrial building be used for STRO?**

No, STRO may only be hosted in areas that are permitted for residential use. For example, short-term rentals may not be held in an institutional, commercial or industrial building, unless a specific portion of the building is authorized as a residential dwelling unit.

**21. Can I use my recreational vehicle, camper, or a temporary structure on my property for STRO?**

No, vehicles (including RVs and Camper Vans) and temporary structures (such as tents, sheds, tree houses, etc.) may not be used for STRO.

**22. What is my platform doing to comply with the new regulations?**

We recommend you discuss with the platform(s) you use about available assistance and requirements for continued use of their websites.