

1. HC Agenda - 10.26.2016

Documents:

[HC AGENDA - 10.26.2016.PDF](#)

2. Review And Accept Minutes Of Previous Meeting Held On October 13, 2016.

2.I. Minutes - Housing Committee 10.13.2016

Documents:

[MINUTES - HOUSING COMMITTEE 10.13.2016.PDF](#)

3. Discussion Of Short Term Rentals And Potential Policy Framework By Housing Committee Members – See Enclosed Memorandum By Tyler Norod, Housing Planner.

3.I. Short Term Rental Memo - 10.21.2016

Documents:

[SHORT TERM RENTAL MEMO - 10.21.2016.PDF](#)

4. Housing Committee Member Discussion And Next Steps



HOUSING COMMITTEE

DATE: Wednesday, October 26, 2016
TIME: 5:30 p.m. – 7:30 p.m.
LOCATION: City Hall, City Council Chambers

A G E N D A

1. Review and accept Minutes of previous meeting held on October 13, 2016.
2. Discussion of Short Term Rentals and potential policy framework by Housing Committee Members – See enclosed memorandum by Tyler Norod, Housing Planner.
3. Housing Committee member discussion and next steps

Councilor Jill Duson, Chair

Next Meeting Date: Wednesday, November 9, 2016, 5:30 PM
Location – City Hall, City Council Chambers

Housing Committee

Minutes of October 13, 2016 Meeting

A meeting of the Portland City Council's Housing Committee (HC) was held on Thursday, October 13, 2016 at 7:00 P.M. in the City Council Chamber in Portland's City Hall. Councilors present at the meeting included Mayor Ethan Stirling, Councilor Justin Costa, Councilor Jon Hinck. Housing Committee Vice-Chair Councilor David Brennerman, and members, Councilor Belinda Ray, and Councilor Nick Mavodones. Committee members absent included Chair Jill Dusen and Councilor Spencer Thibodeau. City staff present included Director of Planning & Urban Development, Jeff Levine; Division Director Mary Davis; Administrative Officer James Dealaman; and Housing Planner, Tyler Norod.

Item 1: Review and accept Minutes of previous meetings held on September 28, 2016.

Councilor Brennerman reports that the previous minutes required a number of technical corrections which have been provided to staff. He asks to approve minutes as corrected. Councilor Mavodones motions for passage, Councilor Ray seconds 3:0 Housing Committee September 28, 2016 minutes accepted as amended.

Item 2: Brief overview of shelter zoning by Jeff Levine, Director of Planning & Urban Development

Jeff Levine provides overview on zoning items pertinent to homeless shelters, similar uses, and what current zoning does and doesn't allow.

Councilor Ray: On the housing first projects, do they always need a contract zone?

Jeff: No, they don't. In the past the style of allowing for specific uses has often been to allow for contract zone for specific uses. We've tried to get away from that and think more comprehensively about the zoning districts. So really when we looked at Housing First facilities, it was really a housing development with supportive services and we looked at zones that allowed those uses.

Councilor Ray expresses interest in creating more areas in the city where emergency shelters would be acceptable for conditional use so the City has more options in locating services. She thinks the current model should be renovated so there are more solutions for placing services. She wants to continue to keep this on the Committees radar.

Jeff Levine: It is currently a conditional use in a B-3 zone. In the case of shelters, we'd want to look at best practices for shelters nationally and try to get the conditional use to provide for that with certain standards. The current conditions for conditional use are somewhat outdated, we might want to update those as well.

Councilor Brenerman: In the boundaries defined for B-3, Oxford Street wouldn't be within that boundary, would it?

Jeff Levine: We believe it might be within the B-3 zone. If it's not, it most likely would be legally nonconforming use. Meaning it would predate the zoning restrictions and would be grandfathered as legally nonconforming use.

Item 3: Brief overview of corridor zoning by Jeff Levine, Director of Planning & Urban Development

Jeff Levine provides overview of corridor zoning in response to the Committee interest in producing more housing. He notes that the Comprehensive Plan is currently considering commercial corridors to promote mixed use development and looking at neighborhood balance. He highlights impediments on construction in zoning. He describes various zones and the results of producing housing with several recent zoning changes.

Councilor Mavodones: Is that true that about 400 units may have resulted or been directly influenced from these zoning changes?

Jeff Levine: Yes, a large amount of units would not have occurred if not for these zoning

changes.

Councilor Brenerman: Before the Comprehensive Plan (Comp Plan) is brought before the council is there anything this committee can do for zoning amendments without changing the Comp. Plan first?

Jeff Levine: Yes, there are things that you could do, but my recommendation is to wait until senior planning staff have time after concluding the comprehensive plan to comprehensively review any changes. Right now we are really looking only at minor changes.

Councilor Brenerman: When will the plan come to the council?

Jeff Levine: The goal is to bring the Comp Plan to the council right after the first of the year. It should then ramp up next spring. If a comprehensive zoning rewrite is needed, it may take longer, but may yield better results.

Councilor Ray: I hear from a lot of people concerns of the character of their neighborhood changing as a result of the R-6 zone changes. I would look like see some data to find out how often smaller multi units houses are being torn down and replaced with higher unit projects.

Councilor Ray: Within transit corridors do we have zoning that incentivizes more than one level?

Jeff Levine: Yes, we have the B-7 zone that requires multiple stories. I would much rather see incentives for multiple stories instead of requiring it. The Comp Plan should provide a recommendation for incentivizing this. But also we should consider having balance when looking at residential zones.

Item 4: Brief overview and discussion of Short Term Rentals and potential policy framework
by Tyler Norod, Housing Planner

Tyler Norod presented an overview on a proposal for potential regulatory framework for short term rentals (STR's) that would limit STR's to a host's primary residence. He provided background of the STR market, outlining benefits, public and compliance concerns, regulatory confusion, issues of unpaid local taxes, and highlights the removal of housing units from the long term market. He shares market data,

drawing on online databases. He shares examples of property and values being assigned to Portland housing in this climate, and highlights the vacancy rates, citing National Association of Realtors data. He provides that the most challenging aspect is enforcement. He appreciates Andrew Kalloch (Airbnb) for answering questions and attending tonight's meeting. Tyler agrees to post his slideshow to the City's website

Councilor Brenerman asks public comment to stay within three minutes.

Item 5: Public Comment

Troy (Airbnb Host): Troy has done a thousand rentals. He is amazed that revenue coming into Portland is now an issue. He has rented about 20-25 times with Airbnb guests visiting his home and it's been a wonderful experience and the revenue allows him to renovate his property. People probably wouldn't be coming to Portland as much if they didn't have access to the Airbnb experience.

Dr. Paula Gerstenblatt (Airbnb Host): She took on about \$110,000 in student loans, and her income has depreciated by \$15,000 from ten years ago. The income she makes on Airbnb allows her to get by and pay her student loans and to fix up her property. She has been a host for two summers. Her Airbnb has rules in order to attract good guests. She states the rules in advance, providing that there is a curfew and no partying. She spoke to all her neighbors before deciding to do it. Her house will never be a rental, so it's not taking anything off the market. She believes there should be regulations. Outliers that are disruptive should be dealt with, but this industry is important for incomes.

Sam: She is struggling with where she is seeing her hometown going. She sees her friends not be able to afford to live in Portland, and be pushed out. She can't afford to live on the peninsula anymore. A good majority of homes that people used to live out of are now Airbnbs. She would like to see stricter regulations.

Harvey Morrison (Danforth St.): His neighbor is a host of an Airbnb and he observed how the

value of the house has improved. He has observed bachelorette and bachelor parties, and has seen them be very quiet, and respectful. Nothing has changed. He praises his neighbor's effort and success. He attributes Airbnb to bringing tourists and commerce to the community and saying that the money goes directly into the community and not to big corporations. The city should get behind them.

Dick Noyes (USM area): He agrees with all other pro-Airbnb speakers. His family have been long time property owners. He is in favor of regulation, but soft regulations. He's had an incredible experience doing Airbnb hosting since September and having the opportunity to meet new and interesting people. He says that his house is safer with having an Airbnb property. He now has a separate commercial insurance policy for his Airbnb. His guests are respectful and he also provides rules when advertising his home. He offers a list of local venues for his guests and says guests have already returned.

Mark: He has been cleaning for some of the Airbnb groups present tonight. Cleaning for Airbnbs has allowed him to get off of government assistance. He works several days a week, and it's been a great experience. He's worked for hotels in the past and this is a very different experience.

Lynn Plymell: (Host) She is a manager of one short-term rental over the past year. This has helped her pay her student loans and basic expenses. If short-term rentals are restricted, she is concerned that the wealthy are the only ones that can afford to stay in Portland. She wants Portland to continue to be accepting and welcoming.

Robin Brown: (Bradley St): She works for Maine Medical's surgery department. She lives next to an Airbnb. Her neighbor alerted her by way of a note. Since August her neighbor's home has become a revolving door home. She's counted 240 guests, and seen that it's clearly advertised as a party house. The late night traffic and noise is harmful to her residential neighborhood. She's observed there being a party hosted by a company and an extremely large party. There is much trash and cigarettes being thrown

carelessly onto the street which she thinks is illegal. She has felt intimidated by parties of men. She has been at many times accosted by groups of Airbnb guests. She asks, is it acceptable to open any kind of business in a residential zone, because she has an illegal hotel next to her property. She also asks, will this be reflected by a reduction in her next property tax bill?

Danielle Message (Riverton Area): Airbnb has been a way to make ends meet. She's had a positive experience with her guests. It has been a helpful thing to her as a stay at home mom. It's been very beneficial for her family's income, and she's very concerned with regulations. Sharing her home has become a crucial part of her family's short-term and long-term goals. She is against any legislation that would change operation of her Airbnb.

Katherine Anderson (Grant St): She is using residence as an Airbnb and it has been a great way to help people conveniently lodge in the downtown and bring their pets. Airbnb has allowed her to improve the character of her home. She has the flexibility more with open space provided by an Airbnb. Having more space gives her more opportunities. Guests are always thankful, and six of her guests came to visit her Airbnb because they are considering moving to Portland. She asks, how many hotels are providing long-term units for living?

Kristen (Melbourne St): Airbnb has subsidized her current home and allowed it to be affordable for her and her tenant. She's better able to maintain and keep her current housing arrangement and to provide affordable housing and to prevent condo conversion.

Edward Cardy (Highland St): Airbnb has created a chaotic situation where unfettered and unregulated free markets reign. Elsewhere, Airbnb has challenged any regulation with lawsuits. Reports have suggested that some companies have engaged in using STRs and taking much needed housing off the market. Portland is responsible to implement some regulations. He believes the memo has vastly

underestimated the administrative and enforcement requirements needed to control STR. Airbnb owners should be paying taxes.

Marsha Robinson: (Short-term Renter): There are many people that come to Portland short-term who are workers, and are looking for a home to live in. She was able to find a reasonably priced home in this way. When these professionals are brought in in a welcoming way this builds long-term relationships.

John Clark: (Host): He owns a two unit and has been a host for two years. His experience with Airbnb has been very positive. It's enabled him and his partner to live more comfortably. It has also allowed them to do more work on the house and raise property value. In a neighborhood where there should be affordable housing, he sees it gentrifying. There's not a lot of affordable housing being built. Millionaires are taking over Munjoy Hill. He believes that Airbnb is not as concerning in taking away affordable housing as much as high priced condos being developed. He screens all of his guests, and has had a wonderful experience, saying it is good for cultural exchange. He feels buying buildings with the intent of opening an Airbnb as a hotel should be regulated.

George Rowe (Bayside): The Housing committee has done a terrible job in having a balanced discussion. Tonight's memo was very balanced but could have included a historic background. He urges the council to jump on doing something. He believes that the City has waited too long to implement regulation. Many hosts can potentially be preyed upon by the Airbnb company. He feels regulations are needed immediately.

Celest Bard (Prospect St.): In her experience, when considering zoning changes neighbors are stakeholders and are notified by postcard, and meeting are held for neighbors to voice themselves. An unregulated hotel is an un-zoned business in most neighborhoods in the city. The City needs to fall back on zoning and grapple with it. She's not against Airbnb but there needs to be a distinction in renting out rooms occasionally in their homes, and converting units into private hotels. She gives examples of some owners of Airbnbs that are simply investments. She suggests that permitting might be a solution. These investments

should not be allowed by the city. Airbnb is adding to the pressure of affordable housing. She also believes it drives up housing prices and also the value of property that could be sold because of rising investment value. The fabric of the community is being eaten away by this arrangement.

Diane Warming (Pine St, W. Concord St): She owns 2 residences and has had 100 Airbnb guests this past summer who have all been wonderful. Crime exists in normal rental units as well. With the money she earned through Airbnb she was able to renovate another apartment. She's been able to make renting affordable to tenants because of Airbnb.

Grace Engle: Airbnb allows her to have a flexible schedule while being enrolled in a rigorous academic program. She manages an Airbnb that has allowed her to be a successful entrepreneur and to use her skills to run a business. She manages two Airbnbs.

Bethany (India St): She's been an Airbnb host since 2010. Airbnb attracts and provides those who are considering living in Portland. Airbnb provides a marketing opportunity for the City.

Susan Barbara: She supports the staff's proposal reviewed today. It's important to make some changes and restrictions.

Chris Corsen (Grant St): He serves on the Board of the India Street Neighborhood Association. Over the years he's seen many friends leave the area because of a lack of jobs. He disagrees with earlier commenter that this was a balanced presentation. He believes more positive things can be said for STRs. He provides: If Airbnb says 2.4 is the average guests party size, and assuming that roughly 600 Airbnb units may be in use during the summertime there are about 1,500 people that wouldn't ordinarily be here. Assuming they were to spend \$100 a day, he estimates they spend 4.3 million dollars spent in Portland. The actual number is likely much higher, and I understand the concerns but there's a really easy solution, build. He urges Council member to first observe what impact it will have on the economy before taking any

action. He describes that currently many businesses are circulating a letter opposing Airbnb regulation, and more on that will be heard soon.

Andrew Kalloch (Airbnb): He introduces himself as a lawyer working for Airbnb specializing in policy. He thanks the host community in Portland and Portland's ability to communicate with his organization. He responds to earlier discussion on the connection of Airbnb and rents in the rental market. It's possible that Airbnb is having an effect on the rental market however small that may be. But, he states, rents were rising well before Airbnb came on the market. Between 2008-12 rents went up by about 25 percent, and as of 2012 Airbnb only had about 20 hosts in Portland. Housing markets are a complex issue. He clarifies that Airbnb supports regulation, and would need a state law change in order to facilitate collecting and remitting taxes. He cites existing regulatory frameworks (e.g. Rockland, etc.) as examples to deter outside investment into Airbnb. He also believes there's more to be done beyond just a primary residence restriction. He suggests setting parameters on inspections regulations. He also believes that a \$10,000 fine is far too high.

Taylor Sampson (West End): He owns a STR. Originally he looked for a long-term tenant, but his current residence could not be filled because of the price. He is concerned with the draft frameworks of the proposal. He suggests not limiting STRs to a maximum of three-bedrooms per unit/two people per bedroom. He owns a five-bedroom property that no one can afford other than listing it as a STR. Also, he suggests not limiting the proposal's language to primary residence but instead offering owner-operating residences as well. He is concerned that he would be in the position of considering condo conversion without the ability to rent Airbnbs.

Ellen Sidar: (Bradley St): Her neighbor opened an Airbnb party house. There are zoning laws for a reason for protecting property owners from having their property devalued by undesirable businesses

moving into their neighborhood. We need more regulations on these businesses, and deserve a say in zoning laws.

Scott Lindsey: He is a longtime Portland landlord commercially and residentially. He faced challenges in obtaining permitting for an Airbnb. The zoning was lacking. He disagrees with blanket regulation. These renters create vibrancy and activity in the City. Airbnbs are in pockets throughout the city and regulation should not just be a blanket type of arrangement. There are other zoning areas that are affected by what's being considered.

Lawrence Wallen (Noyes St): He's lived in Portland the past twenty years. He rented a multi-unit home to long term tenants for four years and had bad experiences with tenants, losing significant rent. After pursuing Airbnb he's had a great experience. Airbnb became a safety net. He's built strong relations with local businesses. He does not support the current proposal, but he supports regulation to deal with properties like Bradley Street.

Ed Gardner: He is the President of the Maine Association of Realtors, and also a Portland resident and property owner. He states that the two bedroom average in tonight's presentation of \$1,109 a month, is probably about half of what Portland charges. Because of Portland pricing, the lack of housing is going up. People's property rights here would be violated through this proposal where responsible property owners would be penalized. He doesn't mind the mandating of an owner living in the same building. He thinks denying property rights could have an impact on how the city grows.

Colleen Bedard (Vesper St) She owns two, three unit buildings that she purchased as investments for retirement savings. As a landlord, she would often lose money or breakeven. She listed a unit as a vacation rental and had a fun experience. Her guests were respectful and very community oriented. Her buildings are now safer and look better. She believes any other concerns can be addressed by existing city ordinance.

Kyle Kerber (Chebeague Island): He is an Airbnb host in the West End. He wants to address the owner occupied part of the proposal. If he can't make it home to Chebeague Island during the winter he uses the mainland apartment, and also says the apartment wouldn't be on the market anyways. He agrees with other comments that if there are troublemakers or disturbances they should be addressed.

Chris Quint (Portland Community Chamber of Commerce): He supports modest and fair regulations to level the playing field. Also, he supports preserving the long-term housing supply of Portland. He believes there is still a lot of work that needs to be done in the proposal, but commends staff on putting it together.

David Hulet: He is a property owner and thinks there's been an unfair assumption that Airbnb issues are exclusive to Airbnb. Issues can happen with any property. Because of Airbnb he's able to supplement his income and help with debt. Also, Airbnb enabled him to improve the community around him. It has helped him with renovating his home which otherwise wouldn't be possible. He states, it's not a hotel.

Gaye Brown (Deering Highlands): She agrees with earlier speakers that Airbnbs are like a hotel and heavily impact the neighborhood. She responds to earlier comment in that guests would be gone in two nights. She states that guests can book rooms much longer than just two days. She feels the new regulations are a good start, but do not go far enough. She plans on passing out her research on other proposed regulations.

Julie Joy: She describes herself as having written a letter to the editor in the Herald in today's edition. She's a homeowner made possible through renting rooms from her second floor to subsidize her income from working. She wants to see City resources go towards the populations that need them the most.

Tom Sidar: (Bradley St): He references the bad examples mentioned earlier. He states that Airbnb has no quality control. He's lodged a complaint with Airbnb and received no response. He states that Airbnb having different standards based on each host's independent standards is not quality control. Police are often brought to Bradley Street but there is no change. It is a horrendous example of a zoning violation where a commercial business in a neighborhood can threaten those who complain. What will the city do about this extremely dangerous party house? Airbnb will do nothing to fix these issues. What will the city do? He welcomes any response from Airbnb about the party house behavior he described.

Daniel: He owns properties in a B3B zone. I think you need to look at the various zones based on situation.

Lynn Tillotson (President and CEO of the Convention and Visitors Bureau): She states she is not speaking for the hotels but she has spoken to the hotels and they are not being effected by Airbnb. They have had a great season and some of the busiest summers, maybe in part because of the home share economy. She realizes that the sharing economy is not going to lighten. Home-away vacation rentals are marketed differently as full homes. Portland has a dire need for employees, and people come here with sticker shock. We need the ability to be able to embrace tourism.

Roberto: (Airbnb Customer): Is a great way to travel and a different philosophy of travel. It allows travelers to experience the town through having a home. He says that bad things can happen no matter where you are and sometimes you can't control them. He believes losing Airbnbs would be a great loss.

Berry Manter (Eastern Prom): She is an Airbnb host. It's been very positive, and allowed for more time for pastime. Airbnb has allowed for networking. Airbnb is by nature self-regulatory as guests and hosts do get rated. She is surviving in part because of Airbnb.

Lisa Adams (Merrill St) She is landlord with eight long-term tenants and also uses Airbnb. It has enabled her family to travel more. She has had bad past experiences with long term renters. It is a great way to participate in communities and encourages travelers to stay longer.

Chris Hart: (Emery St): He says Airbnb keeps both the host and guests honest through the rating system. He's had over 100 guests with no problems. It's exciting to see many young people coming to Portland because of Airbnb. He strongly supports it. The proposal tonight seems pretty reasonable.

Ken Thomas: He feels there are many things that can be done for best practices for new hosts. He's contacted Airbnb and the police chief about the problems on Bradley Street. He rents out two units as Airbnb rentals saying it's not an illegal hotel. Airbnb has allowed him to take care of people. This platform allows those willing to work hard to have a dream. Airbnbs are not driving up rents; there are not many of them.

Bob Jovinini: He rents out two rooms and had an extraordinary experience hosting. His business needs to be able to rent out rooms for four weeks during the summer without being present. The question here needs to be broader one.

George Carhart: He rents a one room Airbnb. He believes raising of prices for housing has been going on long before Airbnb. The City is not doing anything about the staff for the hotels, and more consideration is needed to find housing for staff.

Anthony: (East bayside): He is an Airbnb host expressing that regulation could be extremely damaging. Airbnb allows for financial stability. He does however want to see regulation that's not prohibitive. He wants support for STRs.

Gwen Williams: There have been many Airbnb hosts here tonight speaking. At other meetings there have been many voices asking for rental protections. Many people present in meetings are speaking to their own self-interest.

Joey Brunelle: More information should be collected on local Airbnbs. After originally being a critic of Airbnbs, he feels they serve a purpose. Twenty percent could be added to the housing vacancy rate. Property owners should be able to rent from their home if they choose. He has a problem with investors operating Airbnbs. He encourages the committee to do something quickly before the problem gets out of hand.

Louis Levado: He doesn't oppose the Airbnb, but does oppose the double standards on tenant protection rights. He has seen less work on rights for tenants than for Airbnb. He thinks that Airbnb is a good thing.

Ralph Baldwin (Reading on behalf of June Fitzpatrick of Park St) She is in favor of Airbnbs. They offer a cozier environment and more income for Portland residents. The income from STR allows her to augment her income.

Ralph (Commercial St.) He operates three Airbnbs. He works very hard seven days a week for scheduling and maintenance of this business. He has no choice but to use this business as an income. He believes the proposal would inflict widespread damage. There needs to be a way for people to be able to provide themselves with security.

Crandall Toothaker: He has been renting properties before Airbnbs were around. He doesn't think that the housing shortage is because of STRs. He feels that Airbnb didn't drive up prices. We need a way to improve income and ways to let people stay here. He urges STR owners to pay lodging taxes, believing that regulations should be created, but he's not in favor of the proposal.

Item 6: Housing Committee member discussion and next steps

Councilor Brennerman: Public comment is closed with counting a total 49 people who spoke

Councilor Mavodones counted 50 with Ralph reading as a proxy.

Councilor Mavodones has questions but given the late hour wants to send them by email

Councilor Ray: Can you clarify the primary residence part of the proposal?

Tyler Norod: The intent is to limit STRs to a person's primary unit and only that unit, but there's the potential for discussion how you define primary residence. Is it owner occupied multifamily or does the person need to be home during the guests stay. Communities do it in a number of ways and it will important for the Committee considers this.

Councilor Costa: For those renters who are not present through parts of the year. Do we have an ability to get more granular with data looking at zip code or something like that? Would that include Peaks Island?

Tyler Norod: It's accurate to say the data is for the whole city, but most of the data represents units not on the islands.

Councilor Costa wants to ensure that data is accurately reflected. Also, he asks staff to look into what is going on at Bradley street.

Councilor Brenerman: There has been emails between Councilors, staff, and City Manager to see what can be done.

Councilor Costa: What's happening is the city is not failing to enforce, but that this is a new situation and that rather than move forward and present each case to the ZBA, the manager has asked for elected officials to give clarity.

Councilor Brenerman asks whether the proposal would mean that buildings have to be owner occupied and whether owners have to be present while renting out their unit.

Tyler Norod: There are regulations in other places that require the owner be present. The proposal did not require that and that was not the intent.

Mayor Strimling: I would love to hear from Airbnb via an email about what's going on at Bradley Street. It's my understanding that Airbnb should be doing something. Please call or email me to explain.

Councilor Ray believes that more research is still needed.

Tyler Norod: I'm pretty sure we can accommodate another meeting and discuss this further

Councilor Brenerman: October 26th is next meeting. I expect this will be one of the primary discussion items.

Councilor Mavodones: I hope that at our meeting we'd have the opportunity, given the complexity, not to be looking on taking action, but instead have more discussion. Could somebody send this committee the disorderly housing ordinance. I would like a fresh look at that.

Councilor Brenerman: Would the regulations drafted be applied to the zoning ordinances? How would the City approach this?

Tyler Norod: We would make minor amendments to existing language in Chapter 6 which governs inspection and enforcement along with some small modifications to Chapter 14 which largely covers the City zoning.

Councilor Mavodones: I hope we strive to get the best ordinance or best regulations on what fits our community best. I don't want a simple route to drive what we're doing. If staff needs to spend more time or Corporation Counsel needs to spend more time, that's what we need to do.

On a motion made by Councilor Ray and seconded by Councilor Brenerman the meeting was adjourned at 10:47 PM.

Respectfully,

James Dealaman



TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Jeff Levine, Planning & Urban Development Director
Mary Davis, HCD Division Director
Tyler Norod, Housing Planner

DATED: October 21, 2016

RE: Short Term Rental (Airbnb) Regulation Framework Discussion

The Housing Committee previously met on Thursday, October 13, 2016 to hear a presentation from staff on Short Term Rentals and solicit feedback from members of the public. Staff provided information on local market data, examples of regulations in other communities facing similar housing challenges, and included a draft regulatory framework as a baseline for discussion.

The Committee was scheduled to meet from 7:00 PM – 9:00 PM but allowed for additional time to ensure that everyone who wished to speak had an opportunity to do so with the meeting ending close to 11:00 PM. In addition, the Housing Committee was missing Chair Duson and Councilor Thibodeau. Due to time limitations and the fact that not all Committee members were able to be present, the Committee decided it would be best to save deliberations until the Housing Committee's next scheduled meeting on October 26, 2016.

Staff has attached the previous meetings memo as a reference. It is anticipated that the Committee will have an opportunity to discuss the draft framework and reflect on feedback that they have received thus far.



TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Jeff Levine, Planning & Urban Development Director
Tyler Norod, Housing Planner

DATED: October 7, 2016

RE: Short Term Rental (Airbnb) Regulation Framework

There is a growing chorus from cities across the globe expressing concerns about the impact of short term rentals (STR's) on their communities and limited housing stock. The following memo outlines local STR market data, best practices from other cities, and offers a potential strategy tailored to Portland's unique needs for regulating this burgeoning industry.

STR's are facilitated through a range of online platforms connecting hosts with guests. The most commonly used platform is Airbnb. Airbnb was initially intended to be a means for hosts to generate extra money from occasionally renting out space in their primary dwelling unit. However, with the opportunity for STR's to generate profits significantly higher than traditional long term tenants, the economic incentives have expanded to commercial enterprises whose business model is predicated on buying and renting out entire units only to short term renters.

This is not to say that STR's do not have positive impacts on the local economy and on Portland residents. STR's provide another means of attracting visitors to Portland providing a boost to the local economy. STR's are often more affordable per person than a hotel allowing more money to be spent on locally owned businesses. STR operators and guests often cite the positive interactions and unique experiences distinct to STR's that provide visitors with a positive impression of Portland. Additionally, STR's can allow homeowners to afford and maintain their homes, pay off debt, and are more likely to spend their increased incomes in the local economy.

STR Related Concerns

There are a number of concerns related to the proliferation of STR's within the Portland housing market. To date, governments have struggled to reign in these ever evolving markets to provide certainty, safety, and fairness. Given their quick ascension to prominence there has not been sufficient time for most public entities to develop and enact policies that clarify STR's place within the community. Commonly cited issues related to STR's include the following:

- Conflict with local zoning laws
- Removing housing stock from the market displacing residents and driving up prices
- Disturbances to neighbors
- Disrupts neighborhood character



- Building safety and ADA issues
- Unfair competition for other lodging types such as B&B's
- Unpaid local taxes and fees

Over the past year the City has received significant feedback from both hosts and concerned members of the community. The two most frequent issues cited related to long term units being removed from the housing stock or the potential for STR's to disrupt neighborhood character and become a disturbance for neighbors. While there is some debate about the specifics, in reality most, if not all, STR's in Portland are operating outside of compliance with City and State regulations and requirements. Regulations are needed to address safety and help clarify the rules, expectations, and penalties for being out of compliance with the City's code.

Non-owner occupied STR units have the potential for unfair competition against other legal lodging uses such as hostels, bed and breakfasts, and motels. These lodging types require various inspections and additional code regulations largely being unmet by most STR's. If commercial STR's were ever allowed outside of a primary residence it is unclear what would happen to these existing and conforming uses under Portland's zoning code.

Lodging taxes are collected and governed by the State and, as such, may be better regulated by the State instead of at the local level.

A Growing Problem

A recent search of Airbnb rentals in Portland has shown that in August of 2016 there were 439 listings ranging from shared rooms to entire apartments/houses. Of these listings, 311 were entire housing units (or 70% of all Portland Airbnb listings) with an average rate per night of \$235. This time last year only 206 entire units were listed for an average rate per night of \$228. This is a 66% increase in the number of units available and a 3% increase in price per night. A recent letter from Airbnb to the City acknowledged that the number of listings in the Portland area have doubled in the past year and guest arrivals are up 124%.

	August 2015	August 2016	Delta (%)
# of Entire Units	206	311	+66%
Price/Unit (\$)	\$228	\$235	+3%

To look at the numbers another way, HUD sets fair market rent (FRM) for a 2 bedroom unit in Portland at \$1,109 per month, or \$36 per night. According to AirDNA, the average STR renting two rooms in August earned \$4,177 and those at the upper echelon earned \$6,026. These figures do not include those hosts renting for below the average number of nights per month because they are less likely to be operating their units commercially as full time STR's. At these rates commercial STR's can rent for **more than 5 times** than the average long term unit. These increases demonstrate a hot market

that will likely continue to grow, attracting more commercial users, and further aggravating concerns related to short term rentals and disruptions to local neighborhoods.

August 2016	2-Bed FMR/night	STR/Month -2 Rooms	Delta (%)
50 th Percentile of Hosts	\$1,109	\$4,177	+376%
83 rd Percentile of Hosts	\$1,109	\$6,026	+543%

Some hosts may cite that the profits are not as high as described above. According to AirDNA, the lowest month's average daily rate for an STR was \$170 per night in February of 2016. The average STR occupancy rate for February 2016 was 35% or approximately 10 days (2016 was a leap year). This would yield approximately \$1,700 in revenue. This is still significantly higher than the average long term rental unit in Portland would rent for on the open market.

Earlier this summer, according to the STR data company, AirDNA, there were 61 hosts in Portland with multiple listings out of 359 active hosts within the market. A more recent search in early October showed that there are now 76 hosts with multiple listings in Portland representing an increase of approximately 25% in commercial hosts with more than one listing. Hosts with multiple postings now represent about 21% of all hosts in Portland. This is a fast and alarming trend showing that there is an active and growing market to remove units from the market for use as STR's.

	June 2016	October 2016	Delta (%)
# of Hosts w/Multiple Units	61	76	+25%

Of the 439 active listings, 34.9%, or 153, are rented between 4-12 months of the year suggesting these may be operating primarily as STRs. Large management companies, such as Mainely Property Management, openly advertise on their website as part of their business model to manage STR's for commercial STR owners. Other management companies, such as Apex Rental Properties also advertise short term rentals directly on their website including a 2-bedroom unit in the West End for \$4,500 per month. The increasing number of multiple listings by a single host and evolving business model of local management companies further demonstrates the potential for the Portland STR market to support large scale commercial STR operations.

Vacancy Rates

A recent study published at the end of 2015 by the U.S. Department of Housing & Urban Development (HUD) listed a vacancy rate for the Portland market at 2.9% during the third quarter of 2015. The peninsula's vacancy is likely even lower. According to the National Association of Realtors, any time the vacancy rate is below 5% it is considered a landlords market where rents are more likely to increase and landlords can be more selective choosing their tenants. Portland has approximately 32,700 housing units. Given the more than 400 units in Portland -- listed on Airbnb alone--this equates to approximately 1.3% of the City's housing stock involved in STR's. According to AirDNA, this would place



Portland in the upper echelon of cities around the nation whose housing stock is utilized by Airbnb operators.

The peninsula is home to the vast majority of Airbnb listings. Assuming the 153 commercial units estimate above and ever increasing competition, commercial STR units could account for 1.3% of the peninsula's roughly 12,000 housing units. Returning these units to full time residents has the potential to make a significant dent in the vacancy rate. Coupled with the hundreds of new units slated to come on line Portland may even begin to see stabilizing or improving trends in the local housing market.

It should be noted, that the majority of these figures only pertain to data on Airbnb's listings. Given the variety of other online platforms to facilitate STR's, this data only represents a portion of all STR's operating in the Portland market. It is likely that these estimates are conservative and will likely continue to grow based on recent trends if action is not taken by the City.

Impact on Neighborhoods

The City has received a number of complaints from residents of STR's operating in their neighborhood. Often times, these complaints are the result of hosts who actively welcome larger groups of guests such as family gatherings, bachelor parties, and other potentially disruptive uses. Other concerns are related to the potential impact of commercial STR's degrading the sense of community when a growing proportion of units are predominately used for transient guests.

After researching regulations in other communities an emerging best practice is taking form to help address the root of these concerns. A growing number of communities are either prohibiting STR's altogether or limiting STR's to hosts' primary residency. Communities have also begun to limit the number of bedrooms and occupants that STR's may advertise for rent. Hosts are also being required to register with the City and face the potential loss of registration if too many complaints are received about their property. Combined these regulations are aimed at reducing disruptions to neighborhood character and the likelihood of parties or other troublesome behaviors.

Safety, Education, and Compliance with Other City Codes

Most STR's are not registered with the City and therefore are not subject to inspection to ensure that they are in compliance with the necessary safety and building codes. Other communities have required that STR's register with the city, make themselves open to inspections by building code officers, and sign affidavits assuring the city that the unit is up to date with all relevant fire, building, and life safety codes.

Potential Regulatory Frameworks

In an effort to address STR related concerns and modernize Portland's zoning ordinance, staff has developed a regulatory framework outlined in Attachment C for consideration. The framework is tailored specifically to Portland and derived from a growing national best practice to limit STR's to a



host's primary residence. Similar regulations have recently been employed by municipalities across the nation including Berkeley, CA; Boulder, CO; and San Francisco, CA.

By registering STR's and limiting them to primary residences the ordinance would intend to return housing units to long term use and reduce the potential for the growing trend of commercial STR's to disrupt neighborhood character. Other cities, like Austin, Texas, have found that owner occupied STR's tend to receive less complaints from surrounding neighbors. Between October, 2012 and October, 2015, the City of Austin received 266 complaints about non-owner occupied properties. Twenty percent of non-owner occupied properties have at least one complaint, with an average of 2.4 complaints. Seventeen percent of the complaints were about over occupancy.

Owner occupied units are less likely to have transient guests as frequently as commercial units and owner occupied units may be more likely to screen out guests who may want to use the property for disruptive behavior such as bachelor parties. By including a mechanism for revoking an STR's registration, the ordinance would also provide a means of intervening in problem STR behavior.

Enforcement

The issue of enforcement is one of the most challenging elements of regulating STR's. Many cities, in pursuit of fairness and compromise, have implemented complicated regulations. This has only made enforcement even more difficult leading to lower compliance rates. The likely key to enforcement is simplicity. For example, following a short grace period, Berlin only allows STR's in a small portion of a host's primary residence and the host must always be home. Anyone found in violation is given a \$100,000 fine. As a result, STR's advertisements in Berlin have dropped more than 40% by the end of the grace period. Portland will want to tailor a policy to its unique needs and likely require lower fines but the template of simple rules and high penalties seem to be a growing best practice with real results.

The regulatory model of allowing STR's in primary residences is relatively simple. It can be complicated by expanding that to other units within owner occupied buildings or restricting it to certain zones. It becomes much more difficult to enforce once it has been expanded to allowing non-owner occupied commercial STR units. Currently 21% of Airbnb listings in Portland are by hosts with multiple listings. Restricting STR's to primary residences would significantly shrink the enforcement pool allowing staff to more efficiently pursue enforcement. Coupled with significantly high fines, which may come in the form of liens on the violating property, regulations may effectively disincentivize skirting the law leading to a reasonable potential for effective enforcement.

Creating a system for regulating STR's will have some short term staffing impacts. We estimate that it will take approximately 500 hours of staff time, or about 0.25 FTE for a year. Once a system is up and running, there will still be staffing impacts but they would be at a lower level.

Attachments

Attachment A: STR Regulations in Other Municipalities

Attachment B: "A Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level"

Attachment C: Draft STR Regulatory Framework for Portland

Attachment A: STR Regulations in Other MunicipalitiesSanta Monica, CA

Beginning in June of 2015, Santa Monica began implementing a new STR policy that limits STR's to hosts primary dwelling unit and requires that the host be present for the guest's entire stay. Santa Monica chose to pursue a stricter ordinance governing STR's in an attempt to help relieve stress on their local housing market. The ordinance specifically prohibits STR's that provide the exclusive use of STR's for less than 30 days by transient guests. Violators could be fined up to \$500 per day and face criminal prosecution. Hosts must obtain a city business license and pay a 14% transient occupancy tax. There are exemptions available for hosts making less than a certain amount per year in gross receipts. The ordinance allows "residents" to rent out bedrooms, so both owners and long term tenants may partake in hosting STR's. However, there is a provision that stipulates that tenant's leases must allow tenants to rent out rooms as an STR. The ordinance does provide some flexibility in that hosts may rent out their "guest house" if it is on a parcel that is zoned as a single family. This exemption does not apply if the property is zoned as a multi-family.

Boulder, CO

Boulder's City Council voted in June of 2016 to restrict STR's to primary residences where residents live in the unit at least 275 days out of the year. The Council voted 7-1 in favor of this ordinance but there still needs to be final approval in November of an overlapping policy related to taxation of STR's. The ordinance would limit the occupancy of STR's to no more than what is already allowed within each zone. STR's would also not be allowed in deed restricted affordable units. Boulder, a city of approximately 88,000 people, currently has 514 units listed on AirBnB.

Berkeley, CA

The new ordinance passed 7-1 in June of 2015 allowing residents to rent out space in their primary dwelling unit assuming that they live their nine months out of the year. Residents would be allowed to rent out bedrooms in their primary residents for as many nights as they wish as long as they are present during the stays. Accessory Dwelling Units, like backyard cottages, cannot be used as STR's. STR's are defined as rentals not exceeding 14 days. Only bedrooms can be rented out. Libraries, playrooms, living rooms, dining rooms cannot be used as STR's. The hosts would be required to have a valid business license and at least \$500,000 in insurance. Hosts would also be required to notify neighbors of their property being used for STR's. Guests would be provided with information on relevant city ordinances related to noise, trash, and parking. When not present, the owner must designate a local contact to handle any complaints or issues that may arise. If three substantiated violations occur within 180 days the license will be forfeited for one year.



Austin, TX

Although significantly larger city than Portland, Austin has been one of the pioneers in terms of regulating STR's. Austin's policy limit the number of unrelated people who can stay in one place at a time to six. It also capped the number of listings in many neighborhoods throughout the city. Austin provides three STR categories that operators must register within. Type I is for owner occupied units. Type II is for non-owner occupied buildings two units or smaller. Type III is for non-owner occupied multi-family buildings wherein one or more unit is being utilized as an STR. Types II and III have caps that do not allow more than a certain percentage of the housing stock within each census district to be used as STR's.

A recent expose in the Washington Post identified significant enforcement issues with Austin's system. Problems were identified related to the number of people staying at STR's, absent landlords renting out property with problem causing guests, and what neighbors referring to as "rogue hotels operating in residential neighborhoods". The article interviewed local residents who did not appear to be concerned about allowing local people to rent out their primary homes but were having issues with properties that were managed in a more commercial manner.

Despite being passed only a few years earlier, Austin has already expressed regret about how it designed its policy. Due to growing concerns over non-owner occupied STR's (Type II), Austin passed (vote 9-2) amendments to their ordinance that will phase out Type II STR's by 2022. Other amendments included limiting the number of guests that can stay in an STR.

Los Angeles, CA

Los Angeles recently passed their "Home-Sharing Ordinance" on May 21, 2016. It is one of the most recent examples of STR regulations and reflects a growing trend of local governments restricting STR's to a host's primary dwelling. Los Angeles cited concerns regarding nuisance activities, change in character of certain neighborhoods, and most importantly, the loss of housing stock for local residents for reasons it decided to only allow STR's in primary residences.

San Francisco, CA

San Francisco only allows STR's if hosts are full time residents, rentals are capped at 90 Days (which is very challenging to enforce), and all hosts must register with the City. The regulations require Airbnb and other platforms to only post rental listings that are registered with the City or face daily fines of up to \$1,000. Within a few months of adopting these regulations more than 700 hosts had registered with the City. Airbnb is currently suing the City of San Francisco claiming the fines directed at the online platform operator and not specific hosts violate federal law regulating online businesses.



New York City, NY

Current New York City law only allows a permanent residents to sublet their property for less than 30 days, and then only if they're still residing at the property. New York has engaged in some of the largest legal confrontations to date with Airbnb largely stemming from STR's effects on the local housing market. Airbnb recently began implementing a self-regulated "1:1 policy" which attempts to only allow each hosts to post one unit and remove those hosts who offer more than one residency for commercial use. Airbnb also tries to distinguish allowable uses such as traditional Bed & Breakfasts and allow them to continue advertising on its site. This is an interesting development that should be monitored. It is unclear whether or not Airbnb would be willing or able to offer a similar service to a smaller market like Portland.

Amsterdam, Netherlands

In 2014, Amsterdam became one of the first major cities to regulate short term rentals. Amsterdam and Airbnb signed a Memorandum of Understanding that allowed hosts to operate freely so long as they paid tourist taxes and only rented out their primary dwelling unit for no more than 60 days per year. Rotterdam, The Hague, and Utrecht are considering similar deals.

That said, Amsterdam is now considering not renewing the deal as Airbnb has refused to release data and stop listing to commercial hosts who have violate the rules of the agreement. Similar to what has been found in Portland, a recent look at data from AirDNA shows approximately 25% of Amsterdam hosts list more than one property. There is a chance that Amsterdam may outlaw all STR's if an agreement cannot be reached.

Berlin, Germany

Passed in 2014, Berlin has one of the toughest laws to date. It banned the letting of apartments without a permit. Hosts were given a two year grace period to rent to long term tenants or sell their property. Registered hosts may also rent out may rent out space in their home provided they are present during the guests entire stay and that rooms rented account for no more than 50% of the total floor space of the unit. Hosts who break the law are subject to a €100,000 (\$111,770) fine. As a result, Airbnb listings fell by 40% since the start of May returning over 6,700 units to the local housing market. So far the threat of a large fine appears to be one of the most effective enforcement tools to date.

London, United Kingdom

London limits STR's to no more than 3 months per year. Some local Councils for the various neighborhoods are pursuing even tighter restrictions that would only allow a host to rent out their home

for no more than 30 days every year. Residents must also register with the City and face fines up to \$20,000 for violating the law.

Grand Rapids, Michigan

In 2014, Grand Rapids voted to regulate STR's. New regulations mandate that all units must be owner occupied with only one room per unit with a total of two guests being rented out at any time. Hosts must register for one of 200 available permits and notify neighbors within 300 feet. Fee's of \$2,000 have been implemented for advertising an STR without a permit. Permits cost about \$300 a year.

Vancouver, British Columbia

In early October Vancouver announced plans to regulate STR's. Like Portland and a number of other cities on this list, Vancouver is currently struggling with housing affordability issues. The proposed ordinance would limit STR's to primary residences and require registration with the City. It will not allow residents to rent out accessory dwelling units or more than one unit in their home. Airbnb recently expressed its initial support for the proposed regulations. It is estimated that approximately 1,000 of the 4,000 listed STR's in Vancouver are commercial STR's showing a similar ratio to Portland's market.



A PRACTICAL GUIDE TO EFFECTIVELY REGULATING SHORT-TERM RENTALS ON THE LOCAL GOVERNMENT LEVEL

Ulrik Binzer, Founder & CEO Host Compliance LLC

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Introduction: The meteoric rise of “home-sharing” and short-term rentals

Sharing our homes has been commonplace for as long as there have been spare rooms and comfortable couches. Whether through word of mouth, ads in newspapers or flyers on community bulletin boards, renters and homeowners alike have always managed to rent out or share rooms in their living spaces. Traditionally these transactions were decidedly analog, local and limited in nature, but with advance of the internet and websites such as Airbnb.com and HomeAway.com it has suddenly become possible for people to advertise and rent out their homes and spare bedrooms to complete strangers from far-away with a few mouse-clicks or taps on a smartphone screen. As a result, the number of homes listed for short-term rent has grown to about 4 million, a 10 fold increase over the last 5 years. With this rapid growth, many communities across the country are for the first time experiencing the many positive and negative consequences of an increased volume of “strangers” in residential communities. While some of these consequences are arguably positive (increased business for local merchants catering to the tourists etc.) there are also many potential issues and negative side-effects that local government leaders may want to try to mitigate by adopting sensible and enforceable regulation.

How to effectively regulate home-sharing and short-term rentals has therefore suddenly become one of the hottest topics among local government leaders across the country. In fact, at the recent National League of Cities conference in Nashville, TN, there were more presentations and work sessions dedicated to this topic than to any other topic. Yet, despite more than 32,000 news articles written on the topic in recent yearsⁱ, surprisingly little has been written on how to implement simple, sensible and enforceable local policies that appropriately balances the rights of homeowners with the interests of neighbors and other community members who may only experience the negative side-effects associated with people renting out their homes on a short-term basis. This guide seeks to address this knowledge gap and offer practical advice and concrete examples of short-term rental regulation that actually works.

Why regulate home-sharing and short-term rentals in the first place?

There are many good reasons why local government leaders are focused on finding ways to manage the rapid growth of home-sharing and short-term rental properties in their communities. To name a few:

1. Increased tourist traffic from short-term renters has the potential to slowly transform peaceful residential communities into “communities of transients” where people are less interested in investing in one another’s lives, be it in the form of informal friend groups or church, school and other community based organizations.

2. Short-term renters may not always know (or follow) local rules, resulting in public safety risks, noise issues, trash and parking problems for nearby residents.
3. So-called “party houses” i.e. homes that are continuously rented to larger groups of people with the intent to party can severely impact neighbors and drive down nearby home values.
4. Conversion of residential units into short-term rentals can result in less availability of affordable housing options and higher rents for long-term renters in the community.
5. Local service jobs can be jeopardized as unfair competition from unregulated and untaxed short-term rentals reduces demand for local bed & breakfasts, hotels and motels.
6. Towns often lose out on tax revenue (most often referred to as Transient Occupancy Tax / Hotel Tax / Bed Tax or Transaction Privilege Tax) as most short-term landlords fail to remit those taxes even if it is required by law.
7. Lack of proper regulation or limited enforcement of existing ordinances may cause tension or hostility between short-term landlords and their neighbors
8. The existence of “pseudo hotels” in residential neighborhoods (often in violation of local zoning ordinances etc.) may lead to disillusionment with local government officials who may be perceived as ineffective in protecting the interests of local tax-paying citizens.

In short, while it may be very lucrative for private citizens to become part-time innkeepers, most of the negative externalities are borne by the neighbors and surrounding community who may not be getting much in return. The big question is therefore not whether it makes sense to regulate short-term rentals, but how to do it to preserve as many of the benefits as possible without turning neighbors and other local community members into “innocent bystanders”. In the next sections we will explore how to actually do this in practice.

Effective short-term rentals regulation starts with explicit policy objectives and a clear understanding of what regulatory requirements can be enforced

As with most regulation enacted on the local level, there is no “one size fits all” regulatory approach that will work for all communities. Instead local regulation should be adapted to fit the local circumstances and policy objectives while explicitly factoring in that any regulation is only worth the paper it is written on if it can be enforced in a practical and cost-effective manner.

Start with explicit policy objectives!

As famously stated in Alice in Wonderland: *“If you don't know where you are going, any road will get you there.”* The same can be said about short-term rental regulation, and unfortunately many town and city councils end up regulating the practice without first thinking through the community's larger strategic objectives and exactly which of the potential negative side effects

associated with short-term rentals that the regulation should try to address. As an example, the Town of Tiburon in California recently passed a total ban of short-term rentals without thinking through the severely negative impact of such regulation on its stated strategic policy objective of revitalizing its downtown. Likewise the City of Mill Valley, California recently adopted an ordinance requiring short-term landlords to register with the city, while failing to put in place an effective mechanism to shut-down “party-houses” although there had been several complaints about such properties in the past. Such oversight was clearly unintentional but highlights the fact that the topic of regulating short-term rentals is extremely complicated and it is easy to miss the forest for the trees when it comes time to actually writing the local code. To avoid this pitfall, local government leaders should therefore first agree on a specific list of goals that the new short-term rental regulation should accomplish *before* discussing any of the technical details of how to write and implement the new regulation. Any draft regulation should be evaluated against these specific goals and only code requirements that are specifically designed to address any of those concrete goals should be included in the final ordinance. Below are a few concrete examples of what such lists of concrete policy objective could look like for various types of communities:

Example A: List of short-term rental policy objectives for an affluent residential community in attractive location

- Ensure that traditional residential neighborhoods are not turned into tourist areas to the detriment of long-time residents
- Ensure any regulation of short-term rentals does not negatively affect property values (and property tax revenue)
- Ensure that homes are not turned into pseudo hotels or “party houses”
- Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police department
- Give permanent residents the option to occasionally utilize their properties to generate extra income from short-term rentals as long as all of the above mentioned policy objectives are met

Example B: List of short-term rental policy objectives for an urban community with a shortage of affordable housing

- Maximize the availability of affordable housing options by ensuring that no long-term rental properties are converted into short-term rentals
- Ensure that short-term rentals are taxed in the same way as traditional lodging providers to ensure a level playing field and maintain local service jobs
- Ensure that the city does not lose out on hotel tax revenue that could be invested in much needed services for permanent residents

- Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police department
- Give citizens the option to utilize their properties to generate extra income from short-term rentals as long as all of the above mentioned policy objectives are met

Example C: List of short-term rental policy objectives for a working-class suburban community with ample housing availability and a struggling downtown

- Give property owners the option to utilize their properties as short-term rentals to help them make ends meet
- Encourage additional tourism to drive more business to downtown stores and restaurants
- Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police department
- Ensure that the city does not lose out on tax revenue that could be invested in much needed services for permanent residents

Example D: List of short-term rental policy objectives for beach town with a large stock of traditional vacation rentals

- Ensure any regulation of short-term rentals does not negatively affect the value of second homes (and thereby property tax revenue)
- Encourage increased visitation to local stores and restaurants to increase the overall availability of services and maximize sales tax collections
- Minimize public safety risks and the noise, trash and parking problems associated with existing short-term rentals without creating additional work for the local police department

Once clear and concrete policy objectives have been formulated the next step is to understand what information can be used for code enforcement purposes, so that the adopted short-term rental regulation can be enforced in a cost-effective manner.

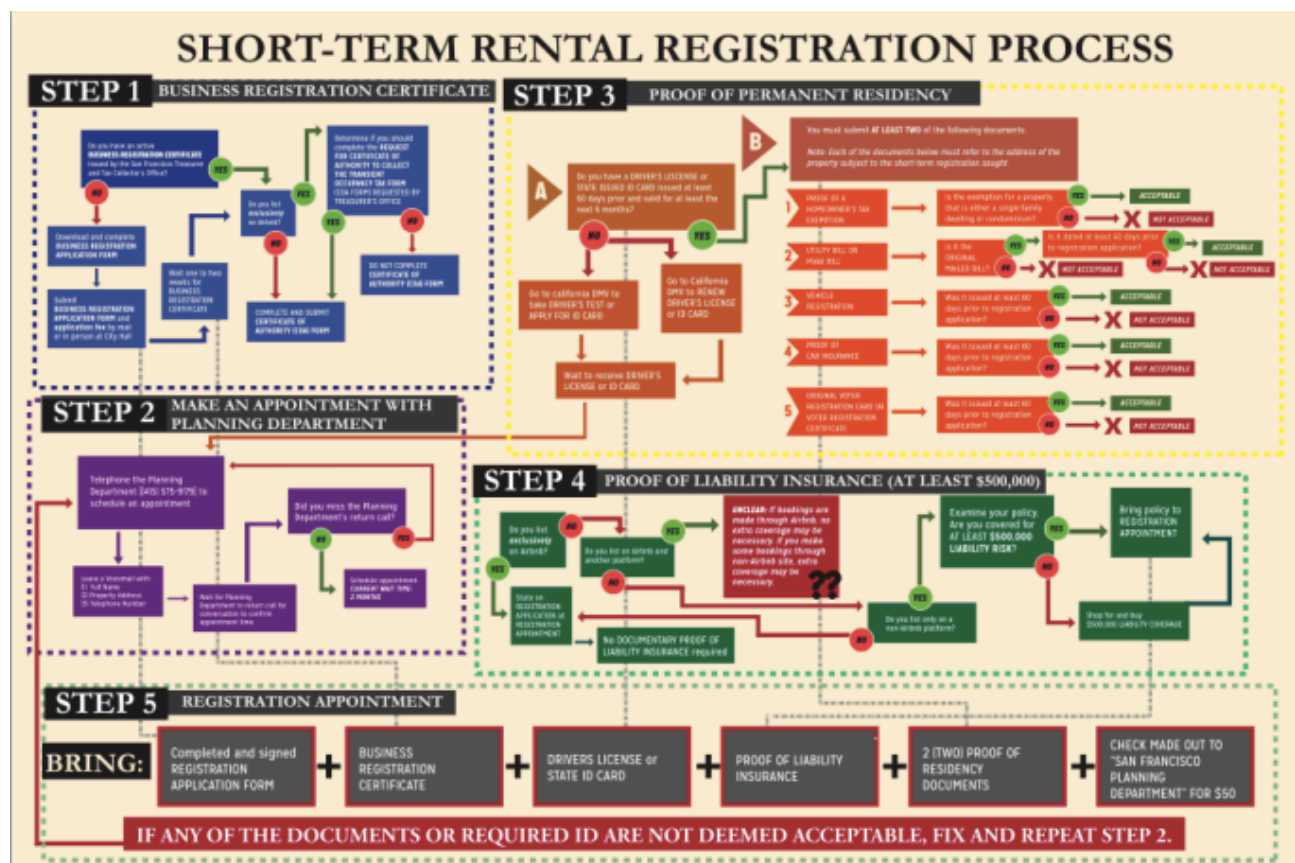
Only adopt policy requirements that can and will be enforced!

While it may seem obvious that *only enforceable legislation should be adopted*, it is mind-boggling how often this simple principle is ignored. To give a few examples, the two California towns previously mentioned not only failed to adopt regulation consistent with their overall strategic policy objectives, but also ended up adopting completely unenforceable rules. In the case of Tiburon, the town council instituted a complete ban of all short-term rentals within its jurisdiction, but not only failed to allocate any budget to enforce it, but also failed put in place

In the case of Mill Valley, the town's registration requirement turned out to be completely unenforceable as the town's personnel had neither the technical expertise, time nor budget to track down short-term landlords that failed to register. As a result, the town has had to rely exclusively on self-reporting, and unsurprisingly the compliance rate has been less than 5%.

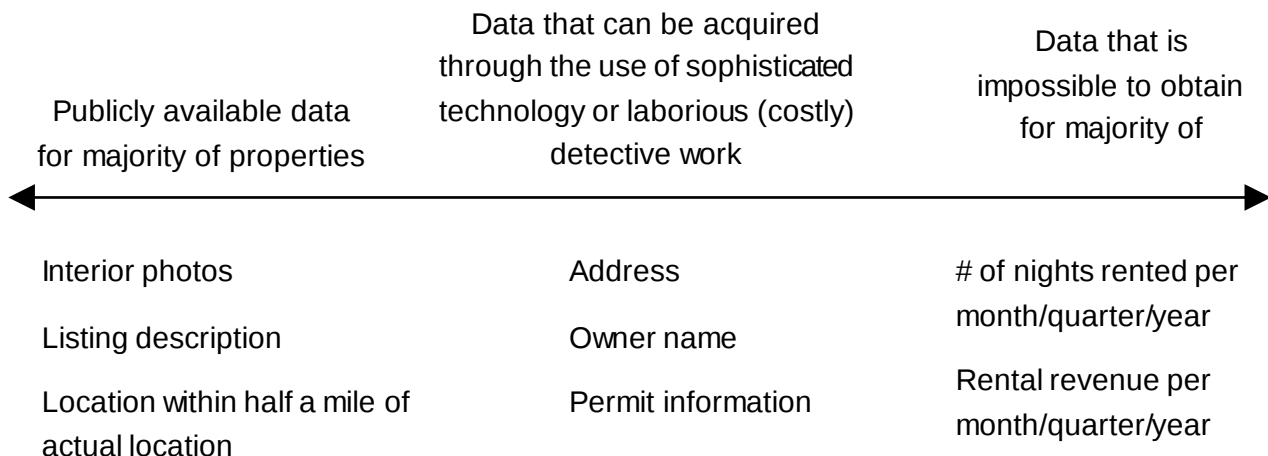
Keep it simple!

Another common mistake is for cities to adopt complicated rules that are hard for citizens to understand and follow and that require large investments in enforcement. As an example, despite setting up a dedicated department to enforce its short-term rental regulation, the City of San Francisco has only achieve a 10-15% compliance rate as its regulation is so complicated and its registration process so agonizing that most people give up before even trying to follow the rules. Below is flow-chart that illustrates San Francisco's cumbersome short-term rental registration process.



While hindsight is 20/20, it is worth noting that the registration requirements were probably well-intended and made logical sense to the council members and staff that adopted them. The problem was therefore not ill-will but a lack of understanding of the practical details as to how the various short-term rental websites actual work. As an example, San Francisco's short-term rental regulation require that property owner's display their permit number on any advertising (including online listings) whereas Airbnb's website has built-in functionality that specifically prevents short-term landlords from doing so and automatically deletes all "permit sounding" information from the listings in most locations. Likewise, San Francisco's legislation bans anyone for renting their homes for more than 90 days per calendar year, while none of the home-sharing websites give code enforcement officers the ability to collect the data necessary to enforce that rule. To make matters worse, the listing websites have refused to share any property specific data with the local authorities and have even gone as far as suing the cities that have been asking for such detailed data. Local government officials should therefore not assume that the listing websites will be collaborative when it comes to sharing data that will make it possible for local code enforcement officers to monitor compliance with complicated short-term rental regulation on the property level. Instead, local government leaders should seek to carefully understand the data limitations before adopting regulation that cannot be practically enforced. To get a quick overview of what information that can be relied on for short-term rental compliance monitoring and enforcement purposes, please see the diagram below that shows which:

1. data is publicly available on the various home-sharing websites
2. information that can be uncovered through the deployment of sophisticated "big data" technology and trained experts (or time-consuming and therefore costly detective work conducted by a town's own staff)
3. property specific details that are practically impossible to obtain despite significant investment of time and money



So where does that leave local government leaders who want to put in place enforceable short-term rental regulation? In the next section we will explore, describe, and assess the viable regulatory tools available for local government leaders to effectively address the key issues related to taxation, regulation, social equity and economic development.

Viable regulatory approaches to managing short-term rentals

As mentioned earlier, the first step to creating effective short-term rental regulation is to document and get agreement on a set of clear and concrete policy objectives. Once this has been accomplished, putting together the actual regulatory requirements can be simplified by referring to the “cheat sheet” below, which lists the regulatory levers that can be pulled to accomplish those goals in a practical and cost-effective manner while factoring in the data limitations highlighted in the previous section.

Short-term Rental Policy Objectives and the Associated Viable Regulatory Approaches		
Policy Objective	Viable Regulatory Approach(es)	Unviable Regulatory Approach(es)
Give law abiding and respectful citizens the option to utilize their homes as short-term rentals	Adopt a formal annual permitting requirement and a process for revoking permits from “trouble properties”. As an example a local government can adopt a “3 strikes rule” whereby a permit is automatically revoked for a number of years in the event the local government receives 3 (substantiated) complaints about a property within a certain time frame (i.e. a 24 month period). Alternatively, a local government can adopt a rule by which a permit is automatically revoked in the event the town receives conclusive evidence (police report, video evidence etc.) that a city ordinance has been violated.	Failing to clearly specify what rules law abiding and respectful short-term landlords and their renters must comply with. Adopting regulation that does not clearly define the criteria and process for revoking a short-term rental permit.
Ensure that speculators do not buy up homes to turn them into pseudo hotels while still giving permanent	Adopt a formal permit requirement and make it a condition that the permit holder verifies residency on an annual	Adopting a permitting process that does not formally require short-term rental permit

residents the option to utilize their homes to generate extra income from short-term rentals	basis by submitting the same documentation as is required to verify residency for public school attendance purposes	holders to verify that they are permanent residents of the permitted property
Ensure that homes are only occasionally used as short-term rentals (and not continuously rented out to new people on a short term basis)	It is unfortunately not practically possible to enforce any formal limits on the number of times or number of days that a particular property is rented on an annual/quarterly/monthly basis, but adopting a permanent residency requirement for short-term rental permit holders (see above) can ensure that there is a practical upper limit to how often most properties are rented out each year (most people can only take a few weeks of vacation each year and they are therefore practically restricted to rent out their homes for those few weeks). There is unfortunately no easy way to deal with the tiny minority of homes where the “permanent resident” owners have the ability to take extended vacations and rent out their home continuously. That said, if the above mentioned “permanent residency requirement” is combined with rules to mitigate noise, parking and trash related issues, the potential problems associated with these few homes should be manageable. Adopting a “permanent residency requirement” also comes with the additional side benefit that most people don’t want to rent out their primary residence to people who may trash it or be a nuisance to the neighbors. The “permanent residency requirement” can therefore also help minimize noise, parking and trash related issues.	A formal limit on the number of times or number of days each property can be rented on an annual/quarterly/monthly basis is not enforceable as occupancy data is simply not available without doing a formal audit of each and every property.

Ensure homes are <u>not</u> turned into “party houses”	Adopt a formal permit requirement and put in place a specific limit on the number of people that are allowed to stay on the property at any given time. The “people limit” can be the same for all permitted properties (i.e. a max of 10 people) or be correlated with the number of bedrooms. In addition, the regulation should formally specify that any advertisement of the property (offline or online) and all rental contracts must contain language that specifies the allowed “people limit” to make it clear to (potential) renters that the home cannot be used for large gatherings. While not bullet-proof, adopting these requirements will deter most abuse. In addition it is possible to proactively enforce this rule as all listing websites require (or allow) hosts to indicate their property’s maximum occupancy on the listings.	Adopting any regulation that does not clearly define what types of uses are disallowed will be ineffective and likely result in misinterpretation and/or abuse.
Minimize potential parking problems for the neighbors of short-term rental properties	Adopt a formal permit requirement and put in place a specific limit on the number of motor vehicles that short-term renters are allowed to park on/near the property. The “motor vehicle limit” can be the same for all permitted properties (i.e. a max of 2) or be dependent on the number of permanent parking spots available on the property. In addition, the regulation should formally specify that any advertisement of the property (offline or online) and any rental contract must contain language that specifies the allowed “motor vehicle limit” to make it clear to (potential) renters that bringing more cars is disallowed. As with the “people limit” rule mentioned above,	Adopting any regulation that does not clearly define a specific limit on the number of motor vehicles that short-term renters are allowed to park on/near the property.

	adopting these parking disclosure requirements will deter most abuse. In addition it is easy to proactively enforce this rule as most listing websites require or allow their hosts to describe their property's parking situation on the listing.	
Minimize public safety risks and possible noise and trash problems without creating additional work for the local police department and code enforcement personnel	1. Require that all short-term rental contracts include a copy of the local sound/trash/parking ordinances and/or a "Good Neighbor Brochure" that summarizes the local sound/trash/parking ordinances and what is expected of the renter. 2. Require that short-term rental permit holders list a "local contact" that can be reached 24/7 and immediately take corrective action in the event any non-emergency issues are reported (i.e. deal with suspected noise, trash or parking problems) 3. Establish a 24/7 hotline to allow neighbors and other citizens to easily report non-emergency issues without involving local law/code enforcement officers. Once notified of a potential ordinance violation, the hotline personnel will contact the affected property's "local contact", and only involve the local law and/or code enforcement personnel in the event that the "local contact" is unsuccessful in remedying the situation within a reasonable amount of time (i.e. 20-30 minutes).	Adopting any regulation and enforcement processes that do not explicitly specify how non-emergency problems should be reported and addressed.
Ensure that no long-term rental properties are converted to short-term	Adopt a permanent residency requirement for short-term rental permit holders (see above) to	Adopting a permitting process that does not formally require short-

rentals to the detriment of long-term renters in the community	prevent absentee landlords from converting long-term rental properties into short-term rentals.	term rental permit holders to verify that they are permanent residents of the permitted property will be ineffective in preventing absentee landlords from converting their long-term rental properties into short-term rentals.
Ensure that residential neighborhoods are not inadvertently turned into tourist areas to the detriment of permanent residents	Implement one or both of the following regulatory approaches: 1. Adopt a formal permit requirement and set specific quotas on the number of short-term rental permits allowed in any given neighborhood, and/or 2. Adopt the “permanent residency requirement” for short-term rental permit holders (mentioned above) to ensure that there is a practical upper limit to how often any property is rented out each year	Adopting a complete ban on short-term rentals, unless such a ban is heavily enforced.
Ensure any regulation of short-term rentals does not negatively affect property values or create other unexpected negative long-term side-effects	Adopt regulation that automatically expires after a certain amount of time (i.e. 2-5 years) to ensure that the rules and processes that are adopted now are evaluated as the market and technology evolves over time.	Adopt regulation that does not contain a catalyst for evaluating its effectiveness and side-effects down the line.
Ensure the physical safety of short-term renters	Adopt a physical safety inspection requirement as part of the permit approval process. The inspection can be conducted by the municipality’s own staff or the local fire/police force and can cover various amounts of potential safety hazards. As a minimum such inspection should ensure that all rentals provide a minimum level of protection to the renters who are sleeping in	Adopting a self-certification process that does not involve an objective 3 rd party.

	unfamiliar surroundings and therefore may be disadvantaged if forced to evacuate the structure in the event of an emergency.	
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In addition to the above targeted regulatory measures, local governments should adopt requirements for short-term rental permit holders to maintain books and records for a minimum of 3 years so that it is possible to obtain the information necessary to conduct inspections or audits as required. Finally, it is imperative that local governments adopt fine structures that adequately incentivizes short-term landlords to comply with the adopted regulation. Ideally the fines should be proportionate to the economic gains that potential violators can realize from breaking the rules, and fines should be ratcheted up for repeat violators. Below is an example of a fine schedule that will work for most jurisdictions:

	1 st violation	2 nd violation	3 rd violation	4 th violation
Fine for advertising a property for short-term rent (online or offline) without first having obtained a permit or complying with local listing requirements	\$200 per day	\$400 per day	\$650 per day	Upon the fourth or subsequent violation in any twenty-four month period, the local government may suspend or revoke any permit. The suspension or revocation can be appealed.
Fine for violating any other requirements of the local government's short-term rental regulation	\$250 per day	\$500 per day	\$750 per day	
Notes: (a) Any person found to be in violation of this regulation in a civil case brought by a law enforcement agency shall be ordered to reimburse the local government and other participating law enforcement agencies their full investigative costs, pay all back-owed taxes, and remit all illegally obtained short-term rental revenue proceeds to the local government (b) Any unpaid fine will be subject to interest from the date on which the fine became due and payable to the local government until the date of payment. (c) The remedies provided for in this fine schedule are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the local government to address any violation or other public nuisance.				

Best Practices for Enforcing Short-term Rental Regulation

To implement any type of effective short-term rental regulation, be it a total ban, a permitting requirement, and/or a tax, local governments must expect to invest some level of staff time and/or other resources in compliance monitoring and enforcement. That said, most local governments are neither technically equipped nor large enough to build the true expertise and

sophisticated software needed to do this cost-effectively. There are several reasons why this is the case:

1. Rental property listings are spread across dozens (or hundreds) of different home sharing websites, with new sites popping up all the time (Airbnb and HomeAway are only a small portion of the total market)
2. Manually monitoring 100s or 1,000s of short-term rental properties within a specific jurisdiction is practically impossible without sophisticated databases as property listings are constantly added, changed or removed
3. Address data is hidden from property listings making it time-consuming or impossible to identify the exact properties and owners based just on the information available on the home-sharing websites
4. The listing websites most often disallow property owners from including permit data on their listings, making it impossible to quickly identify unpermitted properties
5. There is no manual way to find out how often individual properties are rented and for how much, and it is therefore very difficult to precisely calculate the amount of taxes owed by an individual property owner

Luckily, it is possible to cost-effectively outsource most of this work to new innovative companies such as Host Compliance that specialize in this area and have developed sophisticated big data technology and deep domain expertise to bring down the compliance monitoring and code enforcement costs to a minimum. In many situations, these companies can even take on all the work associated with managing the enforcement of the short-term rental regulation in return for a percentage of the incremental permitting fees, tax revenue and fine revenue that they help their local government partners collect. ***Adopting short-term rental regulation and outsourcing the administration and enforcement can therefore be net-revenue positive for the local government, while adding no or little additional work to the plates of internal staff. What's more, getting started generally requires no up-front investment, long-term commitment or complicated IT integration.***

That said, while it is good to know that adopting and enforcing short-term regulation can be net revenue positive if done in partnership with an expert firm, it is important to note that the economic benefits are only a small part of the equation and that local government leaders should also factor in the many non-economic benefits associated with managing and monitoring the rapidly growing short-term rental industry in their local communities. These non-economic benefits are often much more important to the local citizens than the incremental tax revenue, so even if the incremental revenue numbers may not seem material in the context of a local government's overall budget, the problems that unregulated and/or unmonitored short-term rentals can cause for the neighbors and other "innocent bystanders" can be quite material and should therefore not be ignored. Or as Jessica C. Neufeld from Austin, TX who suddenly found herself and her family living next to a "party house" reminds us: *"We did not buy our house to be*

living next to a hotel. Would you buy a home if you knew a hotel like this was operating next door, if you wanted to set your life up and raise a family?”ⁱⁱ.

Conclusion

It is the responsibility of local government leaders to ensure that as few people as possible find themselves in the same unfortunate situation as Jessica and her family. In this white-paper we have outlined how to make it happen - in a revenue positive way. To find out more about how we can help your community implement simple, sensible and enforceable short-term rental regulation, feel free to visit us on www.hostcompliance.com or call us for a free consultation on (415) 715-9280. We would also be more than happy to provide you with a complimentary analysis of the short-term rental landscape in your local government's jurisdiction and put together an estimate of the revenue potential associated with adopting (or more actively enforcing) short-term rental regulation in your community.

About the Author

Ulrik Binzer is the Founder and CEO of Host Compliance LLC, the industry leader in short-term rental compliance monitoring and enforcement solutions for local governments.

Ulrik got the idea to found Host Compliance when he was serving on a committee appointed by his local town council to study possible ways to regulate short-term rentals in the local community. In preparation for his work on the committee, Ulrik spent countless hours researching how other municipalities had approached the regulation of short-term rentals, and it became evident that enforcing the regulations and collecting the appropriate taxes without the support of sophisticated technology was virtually impossible. As a result, Ulrik set out to build those tools and make them available to municipalities of all sizes at a fraction of the cost of what it would cost them to build and run such technology internally.

Prior to founding Host Compliance, Ulrik served as Chief Operating Officer of Work4 Labs - an 80 person Venture Capital backed technology company with offices in Silicon Valley and Europe, and Soligent Distribution LLC - the largest distributor of solar equipment to local governments and businesses in the Americas.

Before assuming executive management roles in technology companies, Ulrik served as Vice President of the private equity firm Golden Gate Capital, as a strategy consultant at McKinsey & Company and as an Officer in the Danish Army where he commanded a 42-person Platoon and graduated first in his class from the Danish Army's Lieutenant School.

Ulrik received his M.B.A. from Harvard Business School where he was as a Baker Scholar (top 5% of his class) and earned his Bachelor of Science degree in International Business from Copenhagen Business School and New York University.



Ulrik can be contacted on (415) 715-9280 or binzer@hostcompliance.com. You can follow him and Host Compliance on twitter on [@HostCompliance](https://twitter.com/HostCompliance).

ⁱ Google News accessed on 1/5/2016

ⁱⁱ New York Times article: "New Worry for Home Buyers: A Party House Next Door", October 10, 2015

Attachment C: Draft STR Regulatory Framework for Portland

1. An STR is a dwelling unit or bedroom in a dwelling unit that rents residential space to transient guests for less than 30 days;
2. All STR's must register annually with the Housing Safety Office;
3. To discourage the removal of units from the local housing stock, all STR's must be owned by the host as their primary dwelling;
 - a. If the dwelling unit is owned by an LLC or other corporate entity it will not be considered a primary residence;
4. To reduce the opportunity for disturbance to neighbors, no host can rent out or advertise more than three bedrooms with no more than 2 guests per bedroom;
5. Libraries, playrooms, living rooms, dining rooms, basements, garages, and other non-bedroom space as reflected in the assessor database cannot be used towards the occupancy or bedroom limitations for STR's;
6. STR regulations would not apply to the Islands;
7. STR regulations would not supersede condo bylaws;
8. Escalating penalty for advertising or renting an STR without first registering with the City;
 - a. Penalty of \$500.00 for first offense;
 - b. Penalty of \$10,000 for any subsequent offense;
9. Fines may be placed as liens on the violating property;
10. Property management firms found advertising STR's without proper registration may be fined. These fines may be in addition to fines or liens levied against the property owner;
11. All registration fees and penalty fees shall be contributed towards administrative costs and the Housing Trust Fund;
12. Hosts must sign an affidavit that the registered unit is their primary residence and provide copies of documents approved by the City demonstrating compliance with this residency requirement;
13. Hosts must sign an affidavit drafted by the City that the STR unit is up to date on all safety codes including but not limited to having working smoke/CO detectors, proper egress, and access to fire extinguishers;



14. As a condition of registration, STR's must allow on-site inspections, as well as upon request present their registration information, rental history and upcoming reservations;
15. A registration identification number will be given to each host. A valid registration number must be available on-site upon request and be visible in the description of any advertisement;
16. Three strike limit for any violations within a 12 month period leading to a minimum of a 12 month loss of registration;
17. Issuance of a strike may also include the property owner or their authorized agent not adequately responding to inquiries by the City, within a reasonable amount of time;
18. Operating or advertising STR's with a revoked registration is an automatic \$10,000 fine.