

1. HC Agenda - 12.1.2016

Documents:

[HC AGENDA - 12.1.2016.PDF](#)

2. HC Minutes - 10.26.2016

Documents:

[HC MINUTES 10.26.2016.PDF](#)

3. HC - Short Term Rental Memo - 12.1.2016

Documents:

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



HOUSING COMMITTEE

DATE: Thursday, December 1, 2016
TIME: 7:00 p.m. – 9:00 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 26, 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: TBD

Housing Committee

Minutes of October 26, 2016 Meeting

A meeting of the Portland City Council's Housing Committee (HC) was held on Wednesday, October 26, 2016 at 5:30 P.M. in the City Council Chamber in Portland's City Hall. Councilors present at the meeting included Mayor Ethan K. Strimling, Committee Chair Councilor Jill Dusen, Vice Chair Councilor David Brennerman, and members, Councilor Belinda Ray, Councilor Spencer Thibodeau, and Councilor Nick Mavodones. City staff present included Director of Planning & Urban Development, Jeff Levine; Division Director Mary Davis; and Housing Planner, Tyler Norod.

Item 1: Review and accept Minutes of previous meetings held on October 13, 2016.

Councilor Ray motioned and Councilor Thibodeau seconded to accept the minutes from the October 13th Housing Committee meeting. The minutes were unanimously approved by a vote of 5-0.

Item 4: Committee Discussion of Short Term Rentals and potential policy framework

The item began with Housing Planner, Tyler Norod providing a brief overview of the issue and clarifying some questions raised by elected officials and in public comments. Mr. Norod noted that staff looked into STR data from the islands. According to Airbnb there are 29 active hosts with a listing on the islands. 21 of these listings are for an entire unit. Previous analysis of Airbnb data that included island listings showed approximately 190 units that are likely operating primarily as STRs and not as a primary residence for a Portland resident. Previous analysis for determining the effect of these commercial STR units on market vacancy rate assumed a conservative estimate of 150 units based on AirDNA's data. Therefore, after removing the approximately 30 units on the islands Airbnb's data reflects a similar 150 units that have likely been removed from the long term housing market.

Councilor Duson opened up the item to Committee Members for a first round of comments to let the Committee to where they stand.

Councilor Ray – Submitted some thoughts to staff for putting this information online. I feel like it is important to have two different approaches. Owner occupied and non-owner occupied. See Councilor Ray's documents.

Thibodeau – My 30,000 ft view is that I am concerned about proposal before us from staff. I did not expect it to go as far as it did. I appreciate staffs hard work. I think we need to embrace STR's and not hinder them. I think the memo shows a clear influx and we have an opportunity to do something unique as a model to the rest of the nation. There are a lot of people only operating one unit. STRs aren't well defined. I think it is a zoning issue. I am concerned about definition of less than 30 days. We have had operators doing this before Airbnb existed and this impacts them. They are coordinating executives from elsewhere to be placed in our neighborhoods to see if this is somewhere they might live. I think its good advertising for the City. All that said, the emails I have seen from concerns about Bradley Street are ridiculous. You should not be able to advertise a party house. They should have to register with the Housing Safety Office (HSO) and any money received should go to a full time inspector. Concerned about LLC proposal under #3. Should have some control over what constitutes a room and occupancy per room. Perhaps limited to beds and not bedrooms (pull out couch). #7 agree that any regulations shouldn't supersede condominium bylaws. The penalty is too high. Something along the lines of \$200 a day per unit is more reasonable. \$500 is too high. The fees are too high for people to bring new units online. I think we want people to upgrade our housing stock and STRs allow us to do that. #12 Problem with having restrictions only for primary residences. #16. Huge concern with a three strike violations. Complaints must be valid. A big question is how does the Committee define what constitutes a violation. We need to clean up our ordinances to make addressing problem

properties like Bradley Street. If there were no Bradley St what would the opposition say? I think they would say why isn't this being regulated like a hotel? I think it's something different. It's a place you may someday live in. I think we need to do something from a safety perspective. We have seen where it is good, 95%, and what do we do to eliminate the problems.

Councilor Mavodones – Thanks to staff for the incredible work. No matter where we end up on this the data is very helpful. Thanks to Councilor Ray for her thoughts. Thank you to everyone in attendance who have taken the time to share their thoughts and patience. Some general thoughts: I have yet to be convinced that STR are having a significant impact on our housing supply. They may have some impact. There are a variety of scenarios in different housing types, zones, and underutilized properties. I know that there are lots of concerns that this is a significant impact but while open to be convinced but not there yet. I believe that the proposed regulations are too restrictive. I think we clearly need to address issues like the one on Bradley Street that are causing problems. Think that we should not include the islands but we should at least think about why the islands or other areas should or should not be regulated. We should think more about what allows us to not include island properties and use that as a lens for how we look at other areas. Moving to the framework : I am not sure I support item #1. Im not sure what the right number is. I think registering is really important. Ok with #9 and where money goes. I am not supportive of primary residence restrictions or LLC restrictions. Affidavit on safety and ability for onsite inspections is important. Identification number is ok. I have some concerns with three strike limit. How do we define that? There should be a penalty but I don't know if 12 month loss of registration is the correct penalty. There should be a penalty for not responding. The fine is too high and should be more reasonable.

Councilor Ray – To clarify, I didn't include all of the points that staff put together. With #12 I only wanted the primary residence affidavit if it was someone renting a primary residence home.

Councilor Brenerman – Thank you to Councilor Ray for taking the time to put together her thoughts. I have some thoughts. Many of you have sent us emails. I apologize for not having time to respond to all of you. I am of two minds. We are reliant on tourism in our local economy. We should hope that we can accommodate visitors in a variety of ways. STRs are an attractive way to bring people to the community. The other side is that if we sanction STRs in the zoning ordinance part of it does concern me that it would effect our long term rental market. It may not be right now but there could be a long term effect. Try to figure out how we do this to effect both thoughts. Could we write rules by zone. Owner occupied could do that. There may be differences for North Deering vs Munjoy Hill. Also, not sure we should treat the islands differently. I have also heard from neighbors on Bradley Street and appreciate their concerns. There needs to be a way to deal with party houses and problem properties. In a single family neighborhood that type of use is not appropriate. It is a nuisance. We all live in neighborhoods where people have parties. That happens, but when it is happening all the time there must be something that we can do about it. Perhaps we can do something about it as it relates to the disorderly house ordinance. Whether its something that covers occupancy, we should think about it. I agree that the 30 day limit is too short. I think there are situations where people want to rent for longer. #2 I think we all agree on mandatory registration and an associated fee. #3 I think we need to be broader than primary residences and whether or not the owner has to be LLCs. I may need more information on this item. #6 Why is there an exemption for the islands. #7 seems logical. #8 I question how high a fine the City can impose. I thought there was a limit. #10 and #11 seems reasonable. It seems like people should be able to rent out their primary residence but I don't think that they should have to be there. #13, #14, #15 makes a lot of sense. #16 Three strike limit goes back to the disorderly house discussion and how best to regulate this issue. #18 Seems like an excessive fine. I appreciate all

of staff's work and that they have researched so many other communities have done. I would like to see a limit on the percentage of buildings that could be used for STRs.

Mayor Strimling – I lean closest to Councilor Ray's proposal. I wasn't that far from staff's proposal. I think that there is an impact on our housing stock and housing price. It may not be evident now but has the potential to be in the future. It is just too lucrative not to have an impact and continue to grow. As a landlord you would be almost financially irresponsible not to do this. There is just too much money to be made not to have an impact. I think from the data we have seen that there seems to be within 125-150 units on the peninsula coming off the market. I am concerned about that. I think we should have STRs. I am not opposed to non-occupied owners operating STRs. I am against what is happening on Bradley. I am concerned about the future as the STR market has almost doubled every year since its inception. I would hate to look back from five years from now and regret not doing more. I think there should be a higher registration fee than traditional rentals since they make significantly more. We already have an ordinance that regulates when someone pays for taking a unit off the market. Maybe not as big of a fee but something that we look at. There seems to be some similarity with the intent of the housing replacement ordinance. Issues around duplexes should be looked at if you live in the building. I think renters should be allowed if owners are as long as landlords are ok with it. Maybe there is something around the number of days. Some people rent as STR during the summer but rent to the student for 9 other months. That seems reasonable.

Councilor Duson - I will start from my 10,000 ft perspective on the issue. I agree that the region/city is reliant on tourism but we are also reliant on our long term residents who are the basis of our economy/community. If I select a neighborhood that I thought was quiet and residential or mostly single family and rely on perceived uses in my neighborhood. These are competing issues and we should protect needs of casual renters and those who have made long term investments. At the same

time, when we think of when units that are coming off the market there are a good number of units that are renting space that would never have been on the market. Those who might never rent their unit long term. That bounces up against once you put something up for rent you are operating a business and you should pay a fee. All businesses pay their fair share to spread the cost of doing business across everyone in the city. The city makes investments in what is the home for the business. We need to think about the amount of the registration fee and any penalties. The fees should be related to administering and enforcing regulations. The fee makes sense to be close to the existing landlord registration. Non-compliance for penalties should inspire compliance and \$10,000 seems too high. As a general matter I want it to be possible for homeowners to offer STRs. I struggle with primary residence requirements but I think this is ok option to rent rooms or entire unit. I am less enthused about doing entire complexes in terms of impact on neighborhood. Larger buildings should register under existing B&B rules. I am warm to Councilor Ray's proposals. Not sure about defining the right number of days to define STRs. I will leave it to the Committee to drive that conversation and listen. Once you start running a business the municipality has a responsibility to make sure that safety regulations are followed. It's different than having your family move in. Not sure about the LLC item. #4 There are already occupancy standards in Portland in my experience there are rules related to number of square feet and sleeping space. I would ask staff to relay to the Committee any existing regulations for occupancy. I agree our disorderly house ordinance with some tweaks should potentially govern problem STRs. If neighbors are experience quality of life issues should have a method for addressing it through the ordinance. There should be penalties for bad behavior. It shouldn't matter who is in the home. The City should be able to respond and address those issues. If your only penalty is to not operate STRs that may be enough. Maybe not \$10,000. I don't know how to address whether or not this should apply to the islands. People have been operating vacation rentals on Peaks for 100 years so I think it makes sense to not have

it apply to the islands but they should still register with the HSO. #12 Would like to look closer at the specifics. Agree with #'s 14-15. A three strike limit can be addressed through amending the Disorderly House Ordinance. I appreciate Councilor Ray's efforts to come up with a revised proposal. I want to permit single family owner occupied STRs. I also support the multi family approach but want to limit it. We need to define some limit somehow. I do think this limits our housing stock and I think we have to be careful. We should have some sort of trigger to look at how things are going at a point in the future.

Councilor Thibodeau - The islands were mentioned several times. I fail to see the difference between weeklong stay on the islands and a week long business stay on the peninsula. If you have a group of people going out to bachelor party on peaks that may still be disruptive to neighbors. I agree on the disorderly house ordinance to STRs. I don't think they should be treated differently. They are still short term use of someone else's property in a residential neighborhood. Airbnb is just a platform.

Councilor Duson – I tend to agree about the islands. They should have to register and pay fees. But interested in how we would carve something out for the islands.

Councilor Thibodeau – I think we need to talk about dealing with homes in residential neighborhoods that are bad actors. If someone is renting out their primary home for the weekend there needs to be a way for neighbors to contact owners if necessary. I don't think we can make it public because of issues related to burglary etc. But most hosts would likely want to take care of issues if made known. I think contact info needs to be available.

Councilor Mavodones – I agree. Contact needs to be available so that the city can address any issues.

Councilor Ray – There was a suggestion that all STRs have a local contact available. There should maybe be an alternative contact as well. I think we all fell into the middle of the regulation

spectrum between. I heard information about the registration fee. I think it should be kept low for people in their primary homes.

Councilor Thibodeau – I don't think there should be a huge barrier to entry. \$35 for the first unit and increases for additional units. If you have 5 units there should be a licensing fee, something higher. More than one unit should be higher.

Councilor Brenerman – I think the mayor has a point that the money earned is significant so maybe a fee should be higher. However, owner occupied perhaps should be a lower fee.

Councilor Thibodeau – I think it should be \$35 for first unit and \$100 for second and move up. Based on the figures listed that would be prohibited at all.

Councilor Mavodones – I like \$35 but I think \$100 seems reasonable but would not want to go significantly higher. I think whatever we do we should ask for a report at the end of the year and perhaps a sunset clause. If data shows things keep getting higher maybe we adjust the fees or regulations.

Mayor Stimling – I think I am closest to Councilor Ray's proposal. I am surprised that people aren't looking at higher fees. I have heard from hosts that the fee should be high. I think one of the things that's important is that we distinguish between types of users. I think when you buy into peaks you know that you are buying into a community where you expect STRs. Other areas of the community that is very different.

Councilor Ray – I think with the \$35 is important as most landlords in Portland are not big landlords. Most live on-site and are small landlords. I have also heard from hosts who have said to me to charge a higher fee for non-owner occupied units because it is so lucrative.

Councilor Thibodeau – I agreed with Councilor Duson that once you do it at a certain size you are operating a business.

Councilor Duson – I am ok with \$35 for first unit and higher for units above that. I want people spending money on units to improve the building's safety and invest in the property. I don't want this to be a barrier for small homeowners supplementing their income. This is market driven. It is less likely that there will be a lot of people to rent my second floor way out where I live. I want to make sure that people are making these units safe.

Councilor Brenerman – Councilor Ray's limits on number of commercial units for owner occupied and non-owner occupied based on a percentage allowed for STRs. Do others have thoughts?

Councilor Duson – First, are people comfortable with a fee at \$35 and are people warmed to the idea of a higher fee for additional units at maybe \$100. This would allow for private and commercial STRs and we want to regulate both.

Mayor Strimling – If there isn't any restrictions than it feels like we haven't done anything.

Councilor Duson – Committee agrees that we should regulate.

Mayor Strimling – My concern is that we may be taking units off the market. I would be less comfortable unless we regulate how many units potentially are taken off the market.

Councilor Brenerman – I think we need to be careful that there is not a whole sale movement to take units off the market. I think there should be discussion about multi-family homes.

Councilor Ray – I was working with a 20% limit but with some consideration for smaller buildings. A two unit can offer one unit as an STR. Then step up to 20%. Cap would be 5 units per building no matter how many units in a building.

Councilor Duson – I am confused about how under your proposal we would distinguish between owner occupied and non-owner occupied. Is your intent that they could rent their space or their unit?

Councilor Ray – My intent was that a two unit owner could rent both.

Councilor Mavodones – To clarify, under your proposal if I own a two unit I could rent the other unit and my own unit?

Councilor Ray – Yes. And if you live in a 3 or 4 unit you can do as you please with your own unit but only one other unit could be a full time STR. You wouldn't be allowed to rent more than 2 units until 10 or more building.

Councilor Thibodeau – If you owner occupy you should be able to rent out your entire building up to a point. There aren't many big buildings. I also don't agree with mixing short term and long term units in one building. The forced mix may not be good for everyone. My preference would be to allow in smaller multi-families all units.

Councilor Mavodones – Clarifying question to Ray, if I am renting in a three unit, the owner could have an STR in one unit. Is there anything that would preclude me from renting out my unit I rent?

Councilor Ray – The way I intended it to be would be that renters units are thought of as a single family house so it would be allowed. Both owner and renter would need to declare that both units are their primary residence.

Councilor Duson – My suggestion is that we draft it that the owner registers the units. So the renter wouldn't register the unit. The owner would need to have it be part of their business model. I

think the renters unit would count as an STR. I don't think we should let it slip through to have a third unit as STR just because their landlord allows it.

Councilor Mavodones – I think I am ok with having leases allow for STRs so long as the owner registers all through units including that the tenants ability to do so.

Councilor Thibodeau – We just talked about the fees for more than one unit. From my perspective this would be confusing to an owner of a building. Owners should be responsible for registration. For buildings less than 4 units I don't think there should be percentages or changes. Larger buildings can be operated as other lodging types. Right now we are only talking about 430 units. Don't want to make it too complicated.

Councilor Duson – For me I don't want to have buildings approach 50% STRs aside from owner occupied two family buildings. I think that renters should be able to earn income through subletting as STRs. Except for large buildings. If I have five units and then allow tenants to sublet could create issues. Allowing tenants to occasionally rent as STRs should not be a means of increasing STR limits in a building.

Councilor Thibodeau – I don't think there are any large buildings today that operate primarily as STRs. I think its more important to focus on smaller buildings. I think we should probably regulate anything over 6 units. I don't see a reason to overregulate.

Councilor Duson – I don't see a consensus forming here.

Councilor Ray – In terms of the renter, I think the renter should register since it's their responsibility to oversee the unit's operation. It would be similar to single family home. You are not just acting as an agent of the landlord. You would have to sign an affidavit declaring it as your primary residence as a renter.

Councilor Thibodeau – There are two types of STRs. Primary residence vs STRs outside of non-owner occupied STRs. I think it might be helpful to split up into number of units owner occupied, non-owner occupied, and renters.

Councilor Ray – I think single family homes are a special case. It sounds like the Bradley Street owner is never actually there. Single family home needs to be primary home or traditional rental. If its owner occupied multifamily I don't want it to be the whole building as STR.

Councilor Thibodeau – For not owner occupied you want to restrict to a certain percentage of units as STRs.

Councilor Duson – Would it help to frame the discussion in terms of size of buildings? I think there may be some consensus that single family homes must be primary residences.

Councilor Ray –Some preliminary thoughts on proving primary residence is that a host would need to be registered to vote at that address, have a drivers license with that address, and sign an affidavit. There may be more ways. It's difficult to enforce a limit on days.

Councilor Mavodones – I have a process comment. How late do we anticipate going? We are wading into a lot of detail without general consensus on a direction. It would be helpful to have some draft language or options based on what we have heard so we can have that in advance of next meeting.

Councilor Duson – I think that would be very helpful. I think its important that staff knows how best to move forward. We seem to have some agreement on some items but not all. Also, we need to see if there is more information that we need to make an informed decision?

Councilor Ray – We discussed renters. Comments were received on business zones vs other zones. I would be interested in more information on different zones.

Councilor Mavodones and Councilor Duson also expressed interested in potentially differentiating between zones.

Councilor Ray – Should Portland residency be a requirement?

Councilor Duson – No. Im not sure that would be legal.

Councilor Thibodeau – What about our commercial office vacancy rates and how that might be affected if STRs are allowed?

Councilor Ray – I am all on board for permits and they should be displayed with emergency contact information and registration ID in any online advertisement. Disorderly house ordinance seems sufficient. Can we have more information to ensure that it is. Could add additional piece that if there are 15 complaints in 365 day period maybe have additional penalties or revoke registration.

Mayor Strimling – Would like to explore business and residential. A lot of our biggest residential buildings are in business zones. I would want more information there so we are careful not to have undue impact. Is there a way to fine or sanction the platform for bad behavior of hosts?

Councilor Ray – Set a time period to reexamine – Sunset clause? The other issue is violations and how to define what constitutes a violation and what the fees should be?

Councilor Brenerman – To determine impact, is it possible to know how many single family homes duplexes, triple deckers, etc. we have in the community? If we are making regulations based on unit size we need to know how many we have. I think we need to look towards the future. It may be limited today but we need to think about impacts of a possible increase.

Councilor Duson – Asking staff for data and for councilors to think more about this.

Mayor Strimling – I think it would be helpful to have clarification on how to become an inn, bed and breakfast, etc. Also how does the housing replacement ordinance work? The ordinance's current price may be too high for STRs but maybe we could take a closer look at this. Any revisions to the ordinance would obviously apply only to non-owner occupied units.

Item 6: Housing Committee member discussion and next steps

Councilor Duson – I am going to try hard to focus on what is right for Portland and recommending to the Council. Hopefully we should be able to narrow this down at the next meeting. We may end up with a few minority proposals to the full Council if there is not a strong majority amongst committee members. The minority proposals could take the form of amendments.

On a motion made and seconded the meeting was adjourned at 8:06 PM.

Respectfully,

Tyler Norod



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: December 1, 2016

RE: Short Term Rental (Airbnb) Regulation Framework

The Housing Committee last met to discuss potential short term rental (STR) regulations on October 26th, 2016. At that meeting Committee members provided feedback on draft regulatory framework proposed by staff and asked for additional information on a number of items. Since that time, staff has worked with other departments including the City Manager's office, Permitting & Inspections, the Housing Safety Office, the Police Department, and Corporation Counsel to incorporate feedback from Committee members into a regulatory framework for review.

The following section of this memo briefly outlines additional information for questions raised by members of the Committee at the previous meeting.

Additional Information

Disorderly House Ordinance

The Disorderly House Ordinance (DHO) regulates properties that disturb the surrounding community through any number of actions including loud noise, boisterous parties, sounds emanating from within the structure which are audible outside the building; fights (excluding domestic violence); tenants or invitees intoxicated in public ways in vicinity of the building; and other similar activities in the building or outside the building itself.

The DHO is triggered when police document violations during a certain number of visits in any 30 day period. The following table delineates the number of police visits per dwelling size which create a disorderly house:

Units per Building	# Police Visits per 30 Day Period
5 or fewer units	3
6 to 10 units	4
11 or more units	5

Visits by police must be documented to show a violation has occurred. Such documentation may include sworn affidavits by named citizens which may be sufficient to create a reasonable suspicion illegal activity listed above has occurred.



Once written notice has been given to a building owner they must meet with the City to identify how the problems will be eliminated. The City and Owner will enter into an agreement on what effective measures will be taken to address the issue. These measures shall be implemented within one week of the meeting between the City and the Owner. The measures may include having the hosts STR registration revoked and not be allowed to reapply for at least another year. Failure to enter into an agreement allows the City to file a complaint in district court seeking all compensatory and equitable relief permitted by law.

If the same building should be classified as a disorderly house on a subsequent occasion within three (3) years, than the City is under no obligation to meet with the owner but may condemn and post the building or any units therein and proceed directly to the district court seeking all compensatory and equitable relief permitted by law.

Staff believes that the existing DHO will work well to address problem STR properties without any significant changes to the existing ordinance language. It will be important to educate city staff and members of the public on how new STR regulations may be affected by the DHO. Education efforts may include a handout to STR registrants providing an overview of the DHO and its implications. By continuing to use the DHO to address STRs the City would be following uniform procedures for all short and long term housing in the City.

Occupancy Restrictions

The Committee asked staff for more information about existing occupancy limitations within the City code and building codes. The current codes do not spell out specific occupancy limits for every use. However, there are at least two references to occupancy limits based on a properties legal zoning use and building code occupancy standards which may help inform future STR regulations.

The International Residential Code (IRC), which covers the building code for 1-2 family residences, does not have occupancy limits. However, the International Business Code (IBC), which covers multi-family residences, limits occupancy to one person for every 200 square feet within a unit. At this rate, a 1,000 square foot two bedroom unit in a triple decker would not be allowed to be rented to more than four people.

Under Chapter 14 of the City Code a rooming unit is defined as a room or suite of rooms in a house, building or portion thereof rented as living and sleeping quarters, but without full kitchens or bathrooms. This definition would govern uses such as Lodging Houses. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one (1) rooming unit for the purpose of this article. Each rooming unit in a lodging house shall have kitchen privileges unless all meals are provided on a daily basis. There shall be no more than two (2) persons residing in each rooming unit.

Chapter 14 describes a family occupying a residential dwelling unit as being not more than sixteen (16) individuals living together as a single nonprofit housekeeping unit. The code goes on to



clarify that persons occupying a hotel, fraternity house or sorority house shall not be considered a family.

The existing language in the code shows precedent to support staff's initial recommendation to limit STR guests to a maximum of two people per bedroom since the units when operating as STRs would be closer in use to lodging units than residential dwelling units.

Housing Replacement Ordinance

The Housing Replacement Ordinance (HRO) requires a property owner to pay a significant one-time fee per residential unit that is demolished or converted into a non-residential use. The ordinance is triggered when three or more residential units are demolished or converted. The goal of ordinance is to limit the net loss of housing units in the City.

Depending on the final framework supported by the Committee, non-owner occupied units being converted to lodging units as STRs could potentially align with the premise behind the HRO. Unfortunately, the one-time high fee for conversion or demolition of a housing unit is not perfectly suited to an STR. Unlike fees triggered under the HRO, STRs do not necessarily remove a unit permanently from the City's housing stock. Part of the appeal of STRs compared to more traditional lodging options is that the unit is designed to mimic the décor and amenities of someone's actual home. Because of this, a STR could theoretically be returned to the long term housing market at any time with little difficulty. As such, a significant one-time fee may not be as appropriate for non-owner occupied units.

Instead, staff would recommend that the Committee consider higher annual registration fees for non-owner occupied STRs. These annual fees could be used to help pay administration costs for overseeing these new regulations and also go towards the Housing Trust Fund. In a letter dated, October 24th, 2016, a group of STR host advocates suggested that the City implement an annual fee for STRs of \$250 per bedroom or \$500 per entire unit. As a minimum, Staff would recommend initially using this fee structure for non-owner occupied units and would also recommend that the registration fees be examined periodically similar to how other landlord registration fees are reviewed.

Islands

There was some discussion at the last Housing Committee meeting as to whether or not the islands should be treated differently when it comes to STR regulations. It should be noted that the City does have existing precedent in its code for recognizing the unique characteristics of housing on the islands and treating those areas different than the rest of Portland. One such example can be found in Section 6-129 of the City's Code allowing island dwelling units that do not meet the minimum building standards to continue operation so long as it is not feasible or practical to provide such minimum



standards and the health, safety, or general welfare of the occupants or public will not be adversely affected.

Given the long tradition of seasonal island rentals, staff recommends that for now the Committee not apply new STR regulations to the islands. To be clear, these units are already required to register with the City's Housing Safety Office and be inspected. If there is further interest in establishing additional regulations for island rentals or increases in registration fees staff would recommend a separate analysis to provide additional information on the unique situation on the islands.

Potential Impact on Downtown Office Market

The Committee raised questions on what impact STRs may have on the downtown office market. Approximately 1,975,000 square feet of Class A office space currently exists in Portland's downtown. According to the CBRE/Boulos Company 2016 Market Outlook Portland's downtown office market showed stronger than expected improvement with Class A Office vacancy rates dropping from 8.8% to 4.5% between 2014 and 2015. Average Class A Office space tends to rent for between \$17 - \$27 per square foot. Class A space is often located in newer buildings with larger building floorplans that often do not lend themselves to conversions to STR units.

According to the same market study, downtown Class B office space showed significantly higher vacancy rates of approximately 10% for 2015. In 2015, downtown Portland had approximately 2,350,000 square feet of office space. Class B offices often include upper floors of many of our historic buildings downtown. These type of buildings have layouts that would be more likely to be redeveloped into suitable residential space. Portland has recently witnessed some interest in converting office space to long term residential uses such as the 443 Congress Street project approved by the Planning Board earlier this year. However, conversion costs may be prohibitive depending on a building's existing infrastructure and layout. Construction rates of approximately \$200 per square foot would provide a rough estimate of costs associated with redeveloping Class B office into residential space suitable for STRs. Each STR conversion project would need its own unique financial feasibility analysis but it is safe to say that most property owners would need to invest significant funds to convert spaces.

At this time the high vacancy rates suggest that there may be some room in the market for a modest number of STRs to replace Class B office space. A larger analysis would be needed to better understand the potential for and specific market impacts of STRs on the downtown Class B office market. Questions to consider would be whether or not STR revenue would support additional redevelopment over traditional office rents and what impact this may have on local small businesses that rely on this office space. If vacancy rates decrease due in part to STR conversion the City may experience an increase in office rents placing additional pressure on local small businesses. The City should keep a close eye on this issue to ensure that the balance between the STR market and small business needs are appropriate.

Portland's Housing Stock

At the last meeting Committee members asked for more information on the makeup of the Portland's housing stock. The chart below utilizes data from the 2014 American Community Survey (ACS) to outline what proportion of the City's housing stock is composed of different housing typologies. The chart represents approximately 30,000 occupied housing units, 13,000 of which are owner occupied and 17,000 of which are renter occupied. Approximately 66% of Portland's housing stock is within multi-family buildings.

Housing Type	% Housing Stock	# Units
Single Family/Townhouse	44%	13,200
Two-Family	10%	3,000
3-4 Unit Buildings	16%	4,800
5-9 Unit Buildings	10%	3,000
10 or More Unit Buildings	20%	6,000

ACS Housing Typology Estimates - 2014

STR Registration for Part of the Year

During the public process the Committee has heard from some STR hosts who use one of their units in a multi-family building as a STR during the peak summer months and return the unit to the long term rental market during the off-season. Committee members asked if there was a way to address this scenario through the regulations. Unfortunately, writing the regulations to capture and allow for this particular scenario would be particularly difficult to enforce. This may change as technology and regulations across the nation evolve but as of right now there would be no reliable means of distinguishing between STRs that rent short term for only a portion of the year or those STRs operating full time.

Existing Lodging Zoning

An overview of existing zoning regulations related to various existing lodging types is included in Attachment B of this memo. Most lodging types are limited to the City's business zones or more dense residential zones such as the R-6. The attachment contains information related to parking requirements, on-site management, number of permitted guest rooms, and which zones allow for which lodging uses.

The closest lodging type to STRs in the existing code are Bed & Breakfasts, Hostels, or Lodging Houses. Unfortunately, even these lodging types are not well suited to regulate STRs. Issues concerning access to kitchens, parking requirements, minimum square footage requirements, on-site management, and limitations for proximity to other lodging uses are just some of the reasons these existing uses would be challenging for accommodating the online based STR business model. The zoning code also



contains a definition for a Tourist Home but this use is not currently allowed anywhere in Portland. Similar to the other lodging typology, Tourist Homes also do not accurately capture the modern STR market.

Areas of Agreement

At the previous Housing Committee meeting, Committee members expressed agreement on a number of regulatory themes governing STRs. Areas of agreement included:

- All STRs should register annually with the Housing Safety Office;
- There should be nominal registration fee for hosts renting their primary residence and higher registration fees for non-owner occupied units;
- STR regulations would not supersede condominium bylaws;
- All registration fees and penalties should be contributed towards administrative costs and the Housing Trust Fund;
- If applicable, a host must sign an affidavit identifying the unit as their primary residence and provide reasonable documentation such as Maine's Homestead Exemption, voter registration, government ID with address, vehicle registration, or other documents approved by staff;
- All hosts of both primary residences or non-owner occupied units should sign an affidavit to be drafted by the City stating that their unit is up to date on all safety codes, including but not limited to having working smoke detectors and proper egress;
- As a condition of registration, hosts must allow on-site inspections;
- A registration identification number must be visible in any online advertisements and must be visible within the unit and upon request by City officials;
- There should be a system in place that would allow the City to fine and revoke the registration of any host who is being a bad actor and frequently disturbing the neighborhood;
- There was interest in checking in on this issue annually to watch the state of the STR market and evaluate how well the regulations are working; and
- Hosts should a contact person available should an issue arise while they are away.

Staff from various departments reviewed this feedback and included it in their efforts to revise the previous regulatory framework.

Revisions to the Regulatory Framework

Staff has had a chance to digest feedback received from the Committee, members of the public, and a variety of affected City Departments. In addition to the areas of consensus outlined above, staff is recommending a few key revisions to round out a framework for regulating STRs in Portland. An outline of a revised regulatory framework can be found in Attachment A.



Non-owner occupied STR cap

There was an interest from several Committee members to periodically receive updates on the state of the STR market to ensure that the market does not get to a point where it poses a threat to the health of the long term residential market. To this end, staff believes that posing a cap on non-owner occupied STR units would achieve a balanced approach to STR growth while ensuring that the market does not grow too quickly. The cap could be reviewed annually and adjusted as needed. The cap would not apply to hosts renting out their primary residence. The cap would be based on each non-owner occupied unit so hosts would still be allowed to rent out bedrooms individually in one unit and only affect the cap once for that entire unit.

The reason that a cap is necessary is that the number of listings on Airbnb alone have almost doubled every year since 2010. If this trajectory were to continue it may have serious implications for the local housing market. Data from Airbnb show that hosts with more than one listing control 127 units in Portland and 189 rent for more than 90 days a year and are likely used primarily as STRs at least seasonally. These figures do not include other online STR platforms or websites for local real estate companies that have other STR listings. Therefore, it would be fair to assume that up to 200 units may be utilized as non-owner occupied STRs units today. Allowing for 300 units under the initial cap would provide flexibility and ensure that those operating today could continue to do so without letting the market move beyond a point that the Committee might be uncomfortable with.

Owner Occupied & Non-Owner Occupied STR Limits

Staff's original framework recommended limiting STRs to a host's primary residence. Based on suggestions and feedback from the Committee staff has revised the framework to reflect the STR occupancy parameters first suggested by Councilor Ray, which would allow a variety of STR units per building depending on the number of units within the building and whether or not the building was owner occupied. A chart outlining these limitations is provided in Attachment A.

Hosts must be property owners

At the last meeting there was some debate about whether or not tenants could register their apartment as an STR and if this unit would count against any limitations for how many STRs could operate within a building. After discussions with various departments it was determined that this would pose a serious challenge to effectively regulating any policy that places limitations on how many STRs may operate. The potential for loopholes would be too easy to jump through and too difficult to prove otherwise. All that said, nothing would prohibit a property owner from registering a unit and allowing the tenant to manage the STR to their economic benefit so long as the unit does not exceed other requirements like allotment of STR units per building. It may be best to reexamine this issue at a later date after the City has an opportunity to assess the effectiveness of any regulatory framework.



Fines

After significant review with Corporation Counsel and other departments staff recommends that STR violations be fined similar to all other applicable building and land use codes under Chapter 6. These fines begin at a modest \$100 per day and would be in line with what all other landlords are required to pay for safety violations or failing to register.

Host's Authorized Agent

There was some discussion at the previous meeting about whether or not there should be a penalty for not responding to complaints or inquiries from the City. Acknowledging that many hosts may not be nearby when renting out their home, staff suggests that hosts provide the City with an authorized agent that can be contacted should there be an issue while they are away. This is already an option on the existing landlord registration form required by the Housing Safety Office. It is recommended that the failure of hosts or their representatives to adequately respond to inquiries by the City within a 48 hour period shall be considered a violation of these regulations and be subject to penalties.

Registration fees

As noted above under the Housing Replacement Ordinance section of this memo, staff recommends that hosts renting their primary residences pay a nominal annual registration fee with the Housing Safety Office of \$35. This registration fee is similar to what other landlords are required to pay. Based on feasible registration costs suggested by local hosts, it is recommended that non-owner occupied units pay an annual registration of \$500 for an entire unit and \$250 per rooming unit if the STR is not an entire unit. These higher fees are necessary to help support higher administrative costs associated with allowing these new uses as well as providing some funding to the Housing Trust Fund, since like the Housing Replacement Ordinance, these non-owner occupied units are removing residential units from the local housing stock.

Attachment A: Revised Draft STR Regulatory Framework

1. A Short Term Rental (STR) is a dwelling unit or rooming unit for transient guests for less than 30 days;
2. Property owners and their agents (Hosts) may not operate an STR without annually registering with the Housing Safety Office each unit or rooming unit;
 - a. Primary residences, whether registering individual rooming units or an entire unit, will register annually at a nominal fee of \$35, which is the same registration fee for all Portland landlords;
 - b. In accordance with the recommendation received from STR host advocates, each non-owner occupied STR unit will register annually at a fee of \$500 per unit and \$250 per rooming unit if not registered as an entire unit;
3. The number of STR units that may be operated in a building will depend on whether or not the building is owner occupied as further detailed in the two charts below;

Owner Occupied Buildings

Single Family Home (Owner Occupied – home is owner’s primary dwelling)	- May offer rooms in home or—when owner is away—entire home as STR(s) provided the home is the owner’s primary dwelling. - Acceptable proof of primary dwelling: owner registered to vote at that address; Owner’s Driver’s License shows address; signed affidavit to City stating home is primary dwelling (#12 on Tyler’s list)
Multi-Unit Building (Owner occupied – one unit in the building is owner’s primary dwelling)	- In a building of 2-4 units, may offer 1 unit for STR. - In a building with 5 or more units, may offer up to 20% of units for STR, rounded down and capped at a maximum of 5 units. 5 unit building – 1 STR 10 unit building – 2 STRs 15 unit building – 3 STRs 20 unit building – 4 STRs 25+ unit building – 5 STRs

**Not Owner Occupied**

Single Family Home (not Owner Occupied)	No single family home not owner occupied shall not be advertised or operated as an STR
Multi-Unit Building (not Owner Occupied)	- In a building of up to 2 units, no units may be used for STR. - In a building with 3-4 units, 1 unit may be used for STR. - In a building of 5 or more units, may offer up to 20% of units for STR, rounded down and capped at a maximum of 5 units. 5 unit building – 1 STR 10 unit building – 2 STRs 15 unit building – 3 STRs 20 unit building – 4 STRs 25+ unit building – 5 STRs

4. A cap of 300 units will be made available for all STR units that are not a host's primary residence. Once 300 units have been registered a wait list will be formed to help gauge market demand;
 - a. The City will reevaluate the STR policy annually to understand the STR market impact on Portland's housing stock and whether adjustments should be made to the cap;
5. Due to accountability and effective enforcement concerns only property owners will be able to register STRs;
6. Should a property violate the Disorderly House Ordinance the STR registration will be revoked and the property not reconsidered for to register again for a minimum of 12 months;
7. STR regulations would not apply to the Islands but all rentals on the islands should still continue to register with the City's Housing Safety Office;
8. STR regulations will not supersede condominium bylaws;
9. STR will be addressed similar to all other applicable building and land use violations as described under Section 6.1 of the City Code and the Disorderly House Ordinance;
10. All registration fees and penalties shall be contributed towards administrative costs and the Housing Trust Fund;
11. Property management firms found operating STR's without proper registration may be fined. These fines may be in addition to fines levied against the property owner;
12. Where applicable, 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, including government ID's, Homestead Exemption, voter registration, and any other documents deemed appropriate by City staff;

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, etc;
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;
16. Failure of hosts or their representatives to adequately respond to inquiries by the City within a 48 hour period shall be considered a violation of these regulations and be subject to penalties under Section 6.1.

**Attachment B – Existing Lodging Zoning****Bed & Breakfasts**

A building in which more than two (2) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests. An owner, manager, or operator shall live in the building as a permanent resident. No cooking facilities shall be permitted in any of the guest rooms. The only meal which may be offered is breakfast, which shall be offered only to overnight guests.

Depending on the zone there are often parking minimums required to operate a Bed & Breakfast with one (1) parking space required for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms and one (1) parking space for each additional guest room in excess of four (4) rooms. Zones also have square footage requirements for how many guest rooms are allowed in a building. For example in the R-6 zone, Bed & Breakfasts are required to have a minimum of two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room. Approval would be contingent on Level II site plan. Bed & Breakfasts in the B-2 and B-3 zones may include a meeting facility that among other events allows for private parties, weddings, and receptions so long as the building was in existence prior to March 3, 1997 and was greater than 4,000 square feet on that date.

Permitted in zones: R-6; B-1; B-1b; B-2; B-2b; B-3; B-3b; B-3C; B-7; and I-B (Peaks Island Only).

Hostel

An overnight lodging facility for transient guests that provides sleeping rooms and common areas for cooking. A hostel shall not be used as an emergency shelter nor allow unaccompanied minors under the age of 18 years old. Length of stay shall not exceed 15 days in any 60 day period. An owner, manager, or operator must live in the building as a permanent resident.

Hostels must submit a Level II site plan to be considered. In the R-6 zone no more than 10 overnight transient guests shall be permitted as of right or 20 overnight transient guests as a conditional use. As part of the conditional use requirements in the R-6 hostels need to have a minimum of 250 square feet per guest when permitted for more than 10 guests. B-1 zones allow as-of-right a maximum of 20 overnight transient guests and other business zones do not have a cap on the number of guests. Other business zones do not have a cap on number of rooms or guests. Parking must be supplied at a ratio of one space per eight beds or one space per twelve beds if the site is within a quarter mile of a public transit stop.

Permitted in zones: R-6; R-6A; B-1; B-1b; B-2; B-2b; B-2c; B-3; B-3b; B-3c; B-5; B-5b; and B-7



Lodging Houses

A house, building or portion thereof containing two (2) or more rooming units and providing such units, with or without meals, to individuals on not less than a weekly or monthly basis for compensation. A lodging house, except for lodging houses located in the IR-2, IR-3 and I-B zones, shall contain common areas for use by all residents, including a kitchen. A kitchen need not be available as part of the common areas where all meals are provided on a daily basis. Lodging houses are permitted as conditional uses within the R-5 zone so long as conversions of existing two-family or multiplex structures into lodging houses shall not be located within five hundred (500) feet of another lodging house as measured along street lines to the respective property lines. The R-5 also requires lodging houses to have a minimum lot size of 9,000 square feet with a minimum of 1,000 square feet of lot per rooming unit. Rooming units within the lodging house is required to have a minimum of 200 combined square feet between a rooming unit and common space. The minimum square footage of each rooming unit is 80 square feet. Lodging houses are permitted as-of-right in R-6 zones. The IR-2 zone allows lodging houses as a conditional use so long as they are more than two and not more than nine rooming units. In the IR-2, Lodging houses require a minimum lot of 30,000 square feet with an additional 10,000 square feet per lodging room after three rooms. They are permitted in the B-1, B-2, B-3, B-4, B-5, and B-7 zones. Parking is required at a ratio of one parking space for each five rooming units, except in the R-5 zone, which requires one parking space for every two rooming units. Level II Site Plan Review is required for permitting all Lodging House facilities.

Permitted in zones: R-6; R-6a; B-1; B-1b; B-2; B-2b; B-3; B-3b; B-3c; B-4; B-5; and B-7

Inn

A building used for more or less temporary occupancy of individuals, who are lodged with or without meals, having ten (10) but no more than fifty (50) rooms. Guest rooms shall not contain separate kitchen facilities. Allowed in the IR-3 under Planned Unit Developments, provided that the total number of rooms does not exceed fifty and the minimum lot size is equal to 10,000 square feet per lodging room. Inns are considered a conditional use within the I-B zone where they must have a minimum lot size of 30,000 square feet for the first three lodging rooms and 10,000 additional square feet for each additional lodging room. However, if the site is served by public water and sewer, the minimum lot size is 5,000 square feet for three lodging rooms and 5,000 square feet for each additional lodging room. Inns are also permitted in the B-6 Eastern Waterfront Mixed Zone and B-7 Mixed Development District Zone. In the Eastern Waterfront Port Zone any inn must be located landward of the spring tide line and westerly of the extension of the India Street right-of-way.

Permitted in zones: IR-3; I-B; B-6; and B-7

Motel



A building or group of attached or detached buildings containing guest rooms or dwelling units most of which have separate outside entrances and parking space hereby intended to be used principally by automobile transients for compensation. Motels include tourist courts, motor lodges or cabins. Motels of less than 150 rooms are permitted in the B-2 zones. Motels are also permitted as-of-right in the A-B airport business zone, B-4 zone, and B-5 zones. Motels are prohibited in the Waterfront Central Zone and the Waterfront Port Development Zone. A parking ratio of one space per sleeping room is required for all motels.

Permitted in zones: B2; B-2b; B-2c; A-B (Airport Business); B-4; and B-5

Hotel

A building used for more or less temporary occupancy of individuals who are lodged with or without meals, having ten (10) or more guest rooms. Hotels of less than 150 rooms are permitted in the B-2 and B-6 zones. Hotels are also permitted as-of-right in the A-B airport business zone, B-3 zones, B-4 zone, B-5 zones, and B-7 zone. In the Eastern Waterfront Port Zone any hotel must be located landward of the spring tide line and westerly of the extension of the India Street right-of-way. Hotels are prohibited in the Waterfront Central Zone and the Waterfront Port Development Zone. A parking ratio of one space for every four guest rooms is required for hotels. Hotels with a gross floor area of more than 100,000 square feet are required to provide a minimum of one loading bay.

Permitted in zones: B-2; B-2b; B-2c; A-B (Airport Business); B-3; B-3b; B-3c; B-4; B-6; and B-7 with special conditional use requirements for the Waterfront Central Zone and Waterfront Port Development Zone.

Tourist Home

A building in which more than one (1) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests. A transient guest is a person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period. A tourist home is defined in the zoning code but is not permitted anywhere within any zone in Portland.

Permitted in zones: N/A