Housing & Economic Development Committee Meeting

Tuesday, January 17, 2023 at 5:30 PM
VIA ZOOM LINK BELOW

MEMBERS
Councilor Pious Ali, Chair
Councilor Roberto Rodríguez
Councilor Mark Dion
Councilor Regina Phillips

Please click the link below to join the webinar:
https://portlandmaine-gov.zoom.us/j/88317133775?pwd=SUwxaXovTU9nMHZrRi9UQmN4YXVQdz09
Passcode: 323082
Or One tap mobile :
US: +13052241968,,88317133775# or +13092053325,,88317133775#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 or +1 689 278 1000 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 669 444 9171 or +1 669 900 6833
Webinar ID: 883 1713 3775
International numbers available: https://portlandmaine-gov.zoom.us/u/kzYxPt9Mk

To submit written public comment on an agenda item, email edd@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Housing & Economic Development meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

The Housing & Economic Development Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the Agenda Center following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

1. **Review and accept draft joint meeting Minutes of the Housing and Economic Development Committee and the Sustainability and Transportation Committee.**

   a. See attached draft meeting Minutes.

2. **Review and accept Minutes of previous meeting held on November 15, 2022.**

   a. See attached draft meeting Minutes.

3. **2023 Calendar Year Work Plan review and updates via Facilitators.**

a. Welcome and Gratitude

b. Understanding Values and Social Change Ecosystem Roles and Archetypes

c. Creating a Consensual Process that Honors Interconnectedness

d. Past Accomplishments - See attached 2022 Work Plan Schedule, 2022 Annual Accomplishment Report, and 2022 Work Plan Chart

e. Future Goals - See attached 2023 Draft HEDC Work Plan Schedule and Work Plan Chart

4. Public Comment

a. Markos Miller Public Comment

b. Wendy Cherubini Public Comment

c. Jon Anton Public Comment

Next Meeting Date: February 21, 2023

Minutes

Remote Joint Housing and Economic Development Committee and Sustainability & Transportation Committee

November 15, 2022

NOTE: This meeting was held via Zoom and can be viewed at this link: http://www.portlandmaine.gov/1695/Economic-Development-Committee These Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A remote meeting of the Housing and Economic Development Committee (HEDC) and the Sustainability & Transportation Committee (STC) of the Portland City Council was held on Tuesday, November 15, 2022, at 5:00 p.m. via Zoom. Present from the HED Committee were Chair Pious Ali, and member Roberto Rodriguez, and Tae Chong. Present from the Sustainability & Transportation Committee were Victoria Pelletier, and Chair Andrew Zarro who is also a member of the HEDC. Also in attendance was Mayor Kate Snyder. Present from the City staff were Interim Housing and Economic Development Department Director Mary Davis, Sustainability Director Troy Moon, Associate Corporation Counsel Michael Goldman, Assistant City Manager Anne McGuire, Parks Director Alex Marshall, Parks, Recreation & Facilities Management Director Ethan Hipple, Interim City Manager Daniel P. West, Principal Administrative Officer Lori Paulette, and Housing Program Manager Victoria Volent.

Item #1: Review of 2022 Food Truck Pilot Program and Staff Recommendation for 2023 Food Truck Program

Ethan Hipple introduced, and Alex Marshall presented the *2023 Food Truck Recommended Plan at the Eastern Promenade* for the Committees' and public review prior to presenting this item to the Interim City Manager for a decision.

As part of their clarifying questions, the Committee asked if the proposed stairway from the Cleaves monument to the mid lot is contingent on the food truck proposal to which the answer is no. The planning and funding for the stairway had been put on hold, but with the proposed changes, the city would hope to execute development of the stairway sooner rather than later. In response to the Committee question regarding what does the exploration of electricity mean, staff noted the goal for the Cutter lot location is to provide electricity (to eliminate the use of generators), if it is a feasible option. Feasibility will be determined on whether or not there is enough support and interest from food truck operators with the Cutter lot location. The Committee noted with the investment of electricity, trash cans, and picnic tables to a desirable location, perhaps the licensing fee of $32.50 per day for 120 days, should be increased. In response to the Committee question regarding the popularity of food trucks, staff noted Covid was the impetus for the big increase in food trucks; consequently predictions of growth or decline are speculative. In response to the Committee's question regarding plans to bring electricity to other locations used by food trucks, staff replied no. The City has carved out locations for food trucks, but has not provided infrastructure for a historically mobile operation. Mayor Snyder asked if staff anticipates; any amendments to policy to reflect proposed changes brought about through adding infrastructure; and implementing standard agreements between the City and food truck operators should the City increase its level of engagement by providing a landing place for outdoor restaurants. In response to the Committee's requested for confirmation on the number of recommended food truck spots and licenses, staff confirmed there would be seven spots, but they would issue a license to any operator requesting one with the understanding spots are available on a first come, first serve basis. Based on the attendance records collected by park rangers, the average number of food trucks per day was six (when no license fee was charged); seven available spots should meet the daily average need given a licensee fee will be implemented. Staff has not discussed variations to this outline but is looking for Committee and public comments and suggestions. The Parks Commission will review the recommendations during their December 1 meeting after which the recommendation will be forwarded to the City Manager for the final decision.

Councilor Ali opened the meeting for public comment.

Julia Kirby- Emerson Street, spoke in favor of food trucks being on Cutter Street lot and against allowing food trucks on the Eastern Prom.

Mitch Coffey- Eastern Prom- Supports the recommended plan. Noted law enforcement should be better instructed on how to handle food trucks that do not follow the rules.

Dylan Gardner- co owner of Falafel Mafia food truck. Concerned with new rules for 2023 season. Food trucks cannot pay a license fee without having a guaranteed spot to operate. Food truck operators are considering expanding their business operations by purchasing a second truck specifically for the Prom location. The program as planned would subsequently create daily drama and conflicts as it does not provide any guarantees. Instead, food truck operators are proposing a program that grandfathers trucks that operated on the Prom during the pilot programs. Trucks that operated the most should get first say on buying the license for the next year and the option to renew every year after that. Would like to see the option of spot sharing where food truck operators control their spot. Bringing electrical power to the spot should be explored. Another concern is limited parking periods in the Cutter Street Lot. It is unregulated all day parking for groups of city workers.

Jordan Rubin- owner of Mr. Tuna food truck. Putting out a fee for the Cutter Street lot is really hard for us to make a decision on what we want to do. The upper location was worth $3,900 but now you are asking us to pay for a less desirable location. Now we are kind of fighting for a location that we don't necessarily want to be in but we don't have any other options. A lot of us based our business on being on the upper location and here we are getting pushed down to this lot and it's not bad enough we have to be down there, and fight for business down there, but now we need to pay and fight with the other food trucks to be in this lot. We are willing to be 100% flexible on so many issues but it seems the residents that want us off the hill are not flexible on anything and just want us gone. If this is our only option, it needs to allow parking for patrons. Should not allow all day parking for other users. There has to be changes; charging that much money and not guaranteeing a spot seems insane to me.

Diane (sent in a letter)- recognizes the effort and frustration on all sides. Appreciates the survey, all the efforts from Parks and Rec, and the recommendations. We are in a different time now, Covid was a different reality but is hopefully is over. We are not sure what it will look like going forward. Supports having a fee to be in the park and supports having other location options if folks don't want to pay the fee. Supports allowing the food truck to stay in the park but not necessary with immediately creating the infrastructure because there are too many unknowns. Would support spending money on lessening the environmental impacts.

Garrett Champlin- operates the Eighty 8 Donut Cafe food truck. Listening to the comments that are clearly coming in from what I will call the entitled residents calling in and expressing their grave concerns over us returning to the upper Promenade. This is getting ridicules, you guys are really messing up a good thing. People came to the park and enjoyed the park and we were instrumental in helping that happen. We took care of that land; picked up our trash, there was no trash issue above and beyond what other people brought in. You want the trash to be taken care of, put the appropriate trash cans in place. Let's take a look at entitlement; let's stop listening to the handful of people who live on the Promenade and are just fretting over this grave pedestrian issue. I would like to see the incident reports on the pedestrian issues on the upper Promenade. I would like to see some studies on noise levels. I would like to see some studies on what is the actual pollution amount coming from generators. If there is some, then let's put in electricity; let's do it up top. Stop giving us this treatment of down below when you are not even looking at the economic strength and opportunity we provide. Let's look at the people who were disappointed with this lame, lame plan that was thrown out in haste last year causing economic distress, unemployment. You guys are not going about this correctly. I am trying to be patient but it is ridiculous. Scrap this plan and let us go back up to the top.

Patrick Robinson- Brook Road- frustrated by this and feels a lot of what Garrett said. The simple solution is just adding some trash cans and having people being a little bit disgruntle about their view of the harbor. There will be a lot of people that go unemployed and businesses will not exist anymore if this plan goes forward. Leaving them at the bottom of the hill is going to be really detrimental to them and their business in the long term. It is one of the best things about the city and people will come disappointed when those trucks are not on the hill.

Cam Gardner- co-owner of Falafel Mafia food truck- Asking all to look at the email signed by the food trucks that regularly operate on the Cutter Street that details issues with the pilot program. One of the main concerns is the proposed fee structure of offering unlimited licenses and then leaving it up to the food trucks to fight it out to who can actually operate. The Cutter Street lot is not good. It negatively impacted our business more than any of you can comprehend and probably more than you care. This whole thing has been absolutely ridiculous. This whole thing is out of touch. Some of the councilors did not even read the proposal. This does not make any sense. We hope you will take into the account the consideration of our feedback. Why don't you reach out to the food trucks when you are making these rules?

Solange Kellermann- Howard Street- Happy to see the food trucks no longer on the top of the hill. Did the City look at how other cities accommodate food trucks? Wells food trucks had secured spots for some and rotating spots for others. As a former business owner in the Old Port, did not see the City as needing to support business plans. Object to the description of the people who live on the Prom as elitist.

Jack Barber- an owner of Mainely Burgers. This is a difficult issue. We did not apply to the food truck program last year as did not know if we could commit to the five days a week. Based on other lots, this is rather expensive. Disheartening to hear about the decrease in sales from other food truck operators since the move to the Cutter Street lot. Hard to understand the idea of charging a location fee based on foot traffic. Electricity would be difficult to do depending on the trucks; a lot of trucks run off three phased power.

Karen Snyder- Waterville Street- the proposal is a lot better and more robust. In favor of food truck located on Cutter Street. In favor of the Amethyst Park lot because that part of the city has heavy foot traffic, it would not compete with other park and recreational uses or would not cause environment damage. Saddened to see the public parks system in the center of the controversy. The public park system was designed to allow a safe space for all people to enjoy either nature or community oriented recreation events. Allowing commercial businesses within the public parks system is infiltrating our park system and is disheartening. Bangor and Boston have ordinances to keep food trucks out of city parks. Should uphold the intent and design of the public park system, and not allow commercial use.

Lucas Ankhartz- (Brighton Avenue) found the food trucks amazing. The Cutter food park sucks. The proposal sucks. There will be no community; there is no point in having it; it will kill off the business. Why aren't you trying to bring back the Prom to what it was and should bring this to other parks. Should try to make the parks a food destination. It was fun. Should try to bring back community. Would love to see food trucks in the Western Promenade area.

David Packard- works in Portland- It's been disappointing to watch the process. The survey was either poorly done, or written to get the answers staff wanted; it was very one-sided and did not present the opportunity to say which was better or to compare the two spots. Response from food trucks is "this has significantly impacted our business", and the response was kind of a shoulder shrug and "let's make it harder". It would behoove both Committees to sit down with the food truck owners and take some of that consideration better to heart. Karen had a great point; food trucks don't really belong in the park which is why food trucks should be on the street, at the top of the park, not inside it. People should have the option of both the Amethyst lot and upper Prom lot locations.

Jean Nini McManamy- Willis Street- took a look at the compacted root zones around the twelve trees suffering damage. Love to see food truck owners take on the issue of environment destruction and pedestrian access. Delighted to have the paths back this year. Picnic tables would make for an attractive destination.

Councilor Ali closed public comment.

Anne McGuire thank everyone and asked for thoughts, ideas and feedback to be sent to the City Manager, herself, or anyone on the Parks and Rec staff.

Councilor Ali closed the joint Housing and Economic Development Committee and

Sustainability & Transportation Committee.

Councilor Ali opened the Housing and Economic Development Committee meeting.

Respectively submitted, Victoria Volent

Minutes

Remote Housing and Economic Development Committee

November 15, 2022

NOTE: This meeting was held via Zoom and can be viewed at this link: http://www.portlandmaine.gov/1695/Economic-Development-Committee These Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A remote meeting of the Housing and Economic Development Committee (HEDC) of the Portland City Council was held on Tuesday, November 15, 2022, immediately following the Remote Joint Meeting of the HEDC and the Sustainability and Transportation Committee. The HEDC meeting started at approximately 6:30 p.m. via Zoom. Present from the Committee were Chair Councilor Pious Ali, and members Councilors Roberto Rodriguez, Tae Chong, and Andrew Zarro. Present from the City staff were Interim Housing and Economic Development Department Director Mary Davis, Associate Corporation Counsel Michael Goldman, Assistant City Manager Anne McGuire, Finance Director Brendan O'Connell, and Principal Administrative Officer Lori Paulette.

Item #1: Review and vote on October 18, 2022, draft meeting Minutes.

On motion made by Councilor Rodriguez and seconded by Councilor Chong, the Committee voted 4-0 to accept the Minutes as published.

Item #2 Review of 2022 Committee Accomplishments Annual Report and vote to forward it to the City Council as a communication.

Ms. Davis noted that this is an annual document highlighting the Committee's work for calendar year 2022, for which staff is asking for a vote to forward it to the City Council as a communication. She thanked both Lori Paulette and Victoria Volent for their assistance in getting this document prepared.

Chair Councilor Ali opened the meeting for public comment. Seeing now, the public comment session was then closed.

On motion made by Councilor Zarro, seconded by Councilor Rodriguez, the Committee voted 4-0 to forward the Annual Report to the City Council as a communication.

Item #3: Review of Fiscal Year End 2022 Annual Tax Increment Financing (TIF) Report and vote to forward it to the City Council as a communication.

Ms. Davis again noted that this is an Annual Report of TIF Activity, which staff is requesting that the Committee vote to forward to the City Council as a communication. Some of the highlights of the report are: during FY2022, the City Council approved amending the Downtown TOD TIF to take out 73 and 91 Winter Street from the District, and then approved Affordable Housing TIF Districts at both properties, which are located in back of the former Mercy Hospital on State Street; statutory limits on acreage allows the City to TIF an additional 240 acres, and has the ability to add an additional $447 Million of property value in TIF Districts; tax sheltering savings are estimated at $3.85 Million; and, the City currently has three area-wide Districts – Bayside, Waterfront, and Downtown which is also a Transit Oriented Development (TOD) TIF District, 17 active Affordable Housing TIF Districts, 3 commercial TIF Districts, and 1 TOD TIF District at Thompson's Point. Ms. Davis thanked Lori Paulette for her work in preparing this Annual Report.

Chair Councilor Ali thanked Ms. Davis and then opened the meeting for public comment. Seeing none, the public comment session was closed.

On motion then made by Councilor Zarro, seconded by Councilor Rodriguez, the Committee voted 4-0 to forward this Annual Report to the City Council as a communication.

Item #4: Executive Session: Pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119-A, the Committee will go into executive session to provide direction to staff on negotiations for a proposed Tourism Development District.

Chair Councilor Ali noted for the public that the livestreaming/Zoom meeting will stop when the Committee goes into executive session after which session the Committee will adjourn. No public action will be taken after the livestreaming/Zoom meeting stops. He then opened the meeting for public comment. There being none, he closed the public comment session.

On motion made by Councilor Chong, seconded by Councilor Zarro, the Committee voted 4-0 at 6:37 to go into executive session pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119-A to provide direction to staff on negotiations for a possible Tourism Development District. At approximately 7:23 p.m., the Committee came out of executive session and the meeting then adjourned.

Respectfully, Lori Paulette

DRAFT
Housing & Economic Development Committee
2022 Work Plan Schedule
as of November 15, 2022

January 2023 - Carryover Items.
USL Soccer Proposal
(Public Hearing/Vote) Review and Recommend Approval to the City Council of a Purchase and Sale Agreement for remaining Thames Street City-owned property (tentative)

2022 COMPLETED WORK

<u>January 4, 2022</u>
1. Discussion of Committee priorities for 2022, including housing policy/investment strategies.

<u>January 18, 2022</u>
1. Finalizing Committee priorities for 2022, including housing policy/investment strategies.
2. (Public Hearing) Review, Vote to Recommend Approval to the City Council of the HUD Citizen Participation Plan
3. Executive Session: Discussion of Possible Disposition of City-owned property on Great Diamond Island.

<u>February 1, 2022</u>
1. (Public Hearing) Review and Vote to Recommend to the City Council – FY23 Housing Program Budget
2. (Public Hearing) Review and Vote to Recommend to the City Council – 2022 Jill C. Duson Housing Trust Fund Annual Plan
3. (Public Hearing) Review and Vote to Approve to Issue - Affordable Housing TIF CEA and Affordable Housing Development Fund Application for City Housing Trust and HOME Funds

<u>February 15, 2022</u>
1. Presentation of Part I of the 2021 Housing Report
2. Update from the Portland Harbor Common Working Group
3. Harbor Dredge Project Status and Funding - Applications due 4/14/2022 for RAISE
4. Executive Session re: Fort Mckinley Property Sale Opportunity

<u>March 1, 2022</u>
1. Presentation of Age-Friendly Portland and the Portland Age-Friendly Business Program
2. Update and Discussion on use of TIF funds to invest in workforce training (including a possible collaboration between Portland Adult Ed and PATHS).
3. Communication Item re: Minimum Wage Ordinance; are amendments permitted after 2020 referendum

<u>March 22, 2022</u>
1. (Public Hearing) Review and Vote to Recommend Approval to the City Council of the Draft 5-Year HUD Consolidated Plan and FY23 HUD Annual Allocation Plan
2. Presentation and Committee Direction to Staff re: Food Truck Plan for the Eastern Prom
3. Update, Review, Committee Direction to Staff re: Tourism Improvement District
4. (Public Hearing) Review and approval of a Purchase and Sale Agreement for City-owned property at 622 Auburn Street and 0 Gray Road, Falmouth and amendments to the 165 Lambert Street Purchase and Sale Agreement

<u>April 5, 2022</u>
1. Review and Approval to Issue RFP for the Sale and Redevelopment of City-Owned Property - Diamond Cove Former Fort McKinley Hospital Property
2. Communication Item: Community Development Week – April 11-15/Fair Housing Month

3. Communication Item re: Additional Guidance from Corporation Counsel regarding the City's Minimum Wage Ordinance
4. Communication Item: Housing Safety Office and Rent Board - Overview of Roles and Responsibilities

<u>April 19, 2022</u>
1. Presentation and Committee Discussion regarding preliminary findings of the Analysis of Impediments to Fair Housing.
2. Overview of the Outdoor Dining Permitting and Licensing Program

<u>May 3, 2022</u>
1. Portland Downtown Annual Budget, Work Plan and City Agreement
2. Presentation by Waterstone Properties re: Future Development Plans for Rock Row
3. Review of Affordable Housing TIF CEA and Housing Development Fund Requests

<u>May 17, 2022</u>
1. Execute Session regarding negotiations of Seadogs Lease and Purchase and Sale Agreement for the sale of a portion of City-owned Thames Street Property
2. Outdoor Dining Follow-Up
3. Review of Public Restroom Plan for Downtown Portland
4. (Public Hearing) Review and Vote to recommend to the City Council a Purchase and Sale Agreement for Land Bank Commission's purchase of Redlon Woods property.

<u>June 7, 2022</u>
1. Presentation, Annual Overview and Report from Permitting and Inspections Department re: Short-term and Long-term Rental Housing Safety & Inspection Program
2. Communication Item: Update on Final HUD Allocations for FY 2023

<u>June 21, 2022</u>
1. Panel Discussion re: Minimum Wage
2. Presentation of Part II of the 2021 Housing Report, including an interim review of the Green New Deal impacts on housing production.

<u>July 5, 2022 (canceled)</u>

<u>July 19, 2022</u>
1. (Public Hearing) Review and Vote to Approve Affordable Housing TIF CEA Application for the 45 Dougherty Project at 43 & 91 Douglass Street
2. (Public Hearing) Review and Vote to Approve Additional Funding Request for the Phoenix Flats Project at 83 Middle Street.

<u>August 2, 2022 (canceled)</u>

<u>August 16, 2022 (canceled)</u>

<u>September 6, 2022 (canceled)</u>

<u>September 20, 2022</u>
1. (Possible Public Hearing/Vote) Update, Review, Committee Consideration and Possible Vote to Recommend to the City Council re: Tourism Improvement District Proposal
2. Review and Committee Direction to Staff re: Funding Requests Received through the Affordable Housing Development Applications (Jill C. Duson Housing Trust Fund and HOME Program Funds) and ARPA

Housing Requests

October 4,2022 (canceled)

October 18, 2022

1. Executive Session USL Soccer Lease terms
2. Communication Item - Housing Data Update

November 1, 2022 - (canceled)

November 15, 2022

Joint Meeting with Sustainability & Transportation 5:00 pm - 6:00 pm

1. Review of 2022 Food Truck Pilot Program and Staff Recommendations for 2023 Food Truck Program

Housing & Economic Development Committee Meeting 6:00 pm - 7:00 pm

1. Review of 2022 Committee Accomplishments Annual Report – Issue to the City Council as a communication
2. City Annual TIF District Activity Report – Issue to the City Council as a communication
3. Executive Session - Discussion of terms for a Tourism Improvement District

December – No Committee meeting

CITY OF PORTLAND
Housing and Economic Development Department
Mary P. Davis, Interim Director

MEMORANDUM

TO: Chair and Members of the Housing and Economic Development Committee

FROM: Mary Davis, Housing and Economic Development Interim Director

DATE: November 11, 2022

SUBJECT: **HEDC 2022 Accomplishments**

The following will provide you with the Housing and Economic Development Committee accomplishments, by subject area, during calendar year 2022:

Real Estate Transactions

Review and Approval of a Purchase and Sale Agreement for City-owned property at 622 Auburn Street and 0 Gray Road, Falmouth; and Amendment to Purchase and Sale Agreement for 165 Lambert Street

The Committee reviewed both of the above items at its March 22, 2022 meeting and voted (3-0) on both items, to forward both to the City Council for approval, which approval occurred at the April 25, 2022 Council meeting.

Review and Approval to Issue an RFP for the Sale and Redevelopment of City-Owned Property at Diamond Cove

The Committee voted (4-0) during its April 5, 2022 meeting in favor of the recommendation to the City Council to authorize issuance of the Proposed Diamond Cove Former Hospital Vacant Building Request for Proposal to solicit proposals to sell the property to support its reuse which approval occurred at the April 25, 2022 Council meeting.

Purchase and Sale Agreement for Redlon Woods Property

The Land Bank Commission voted in favor of the purchase of 2.2 acres of land in the area known as Redlon Woods. The acquisition would occur in three phases; the first would cost $99,000 for

1.185 acres, the second would cost $103,300 for .69 acres, and the third .25 acre parcel is already owned by the City. During their May 17, 2022 meeting, the Committee voted (4-0) in favor to recommend approval of the Purchase and Sale Agreement and placing City-Owned land at Redlon Woods into the Portland Land Bank which approval occurred at the June 20, 2022 Council meeting.

Development Districts and Affordable Housing TIF Districts

Affordable Housing TIF CEA and Affordable Housing Development Fund Application
The Committee reviewed both of the above items at its February 1, 2022 meeting and voted (3-0) to forwarded both to the City Council for approval.

Portland Downtown Annual Budget, Work Plan, and City Agreement

The Portland Downtown Board of Directors voted to approve the FY2023 Budget at its April 21, 2022 meeting. During their May 3, 2022 meeting the Committee voted (3-0) to forward this item to the City Council with a recommendation of approval, which approval occurred at the June 22, 2022 meeting. Approval would authorize the annual special assessment levied to property owners in the District in order for PD to continue its program of services to support downtown cleanliness, safety, and events, and to formalize the Agreement between PD and the City for services. The proposed mil rate is $.66 cents per $1,000 of property value in order to raise the PD Board approved budget of $1.2M.

Tourism Development District

The Committee received a presentation on March 22, 2022, from Visit Portland (i.e. Greater Portland's destination marketing organization) regarding adoption of a Tourism Development District (TDD) to raise funds to generate visitation to Greater Portland through marketing. Currently 5% of the 9% meals and lodging tax collected by the Maine Office of Tourism is shared between eight tourism regions, while members of Visit Portland pay membership dues to raise money for the local tourism region. If Portland adopted a TDD, the identified Hotels with 40 or more rooms would pay an assessment fee which would be collected by the local government and managed by Visit Portland. The next steps for Visit Portland are to coordinate with municipalities to confirm local law formation approach, then draft and approve the TDD. During their September 20, 2022 meeting, the Committee was updated by staff of its steps consider such District in Portland, while noting that legal review was not yet completed. An executive session is planned with the Committee at its November 15, 2022, meeting. .

45 Dougherty TIF CEA Application
During their July 19, 2022 meeting, the Committee was presented with the request for an Affordable Housing Tax Increment Financing and Credit Enhancement Agreement to construct a five-story building with 63 mixed-income rental units at 45 Dougherty. The Committee voted (4-0) to forward this item to the City Council for approval, which approval occurred at the October 17, 2022 meeting.

83 Middle Street Additional Funding Request

Due to the rising cost of construction and unexpected environmental remediation costs, the developer of the 45-unit rental housing project located at 83 Middle Street requested an additional subsidy of $255,800 to fill financing gaps. The Committee voted (4-0) during their July 19, 2022 meeting to approve the additional funding and forward this item to the City Council for approval, which approval occurred at the 9-1-2022 meeting.

FYE2022 TIF Annual Report

This Annual Report is being presented to the HEDC at its November 15, 2022, for review and recommendation to forward the Annual Report to the City Council as a communication item.

<u>Pandemic</u>

Outdoor Dining Permitting and Licensing Program

During their April 19, 2020 meeting, the Committee received an overview of the Outdoor Dining Permit and Licensing Program. Beginning in May 2020 after passage of an emergency order in response to COVID-19, streets were temporarily closed to expand outdoor commercial premises in addition to no cap on the number of parklets, a reduction of fees, and temporary outdoor dining permits to provide support to the restaurant industry. In September 2021, Portland adopted the “Open Air Portland” concept to continue supporting outdoor dining. During the height of the pandemic many temporary outdoor dining permits were issued with enforcement not as strict, to help restaurants survive the pandemic’s economic impact. With the end of the Emergency Order, enforcement will now be based on the Life Safety Code, which means some businesses cannot expand their capacity to the extent they did during the pandemic, or cannot expand at all.

Outdoor Dining Follow-up

The Committee received feedback regarding implementing a Winter Outdoor Dining Program in Portland during their May 17, 2022 meeting. While City staff shares the Committee’s interest in supporting small businesses, the benefits of and demand for such a program do not justify the significant costs. Staff however did recommend expanding the outdoor dining season by an additional month (April 1 to November 15).

<u>Housing</u>

Housing Program Budget/2022 Housing Trust Fund Annual Plan

The Committee reviewed both of the above items at its February 1, 2022 meeting and voted (3-0) to forward both to the City Council for approval, which approval occurred at the March 21, 2022 Council meeting.

2021 Housing Report

Part I of the *2021 Housing Report* was presented to the Committee during their February 15, 2022 meeting. The Report provided an overview of housing activity and accomplishments by the City to address the issue of housing availability and affordability. Highlights from the report included; Planning Board approval of 925 housing units - over three times the annual goal- which includes the planned construction of 66 units for the “missing middle” and 33 low-income units located within 6 market-rate development projects as well as 95 additional subsidized low-income apartments in two buildings to be located on the former Mercy Hospital campus; the completion of 535 rental units; the collection of $602,070 in IZ fee-in-lieu payments and $513,810 in Hotel IZ fee-in-lieu payments. In 2021, the City also advanced its goals around the disposition of city-owned property for the purpose of housing development. Projects on city-owned parcels are projected to add approximately 248-258 new units of market rate and affordable rental, homeownership and cooperative housing to the City's overall housing supply. Part II was presented during June 21, 2022. Highlights from the presentation included; a snapshot of existing housing; policies adopted to encourage housing supply and "naturally -occurring" affordable housing, workforce housing, and low-income housing; housing trends; current housing policy initiatives; inclusionary zoning; state policy changes; and next steps.

Draft 5-Year HUD Consolidated Report and FY 23 HUD Annual Action Plan
The Committee received the above items at its March 22, 2022 meeting and voted (3-0) to forward both to the City Council for approval, which approval occurred at the April 11, 2022 Council meeting. The *5-Year Consolidated Report*, is designed to help communities develop priorities and multi-year goals in coordination with other community plans and resources to make a greater impact within the community. The Fiscal Year 2022-2023 Annual Action Plan outlines the allocations for the programming of the Community Development Block Grant Program, HOME Program, and Emergency Solutions Grant Program received from HUD.

Affordable Housing and TIF Development Funding Request

The Committee was introduced to the five funding requests received in response to issuance of the Affordable Housing and Tax Increment Financing Application. During the May 3, 2022 meeting the housing development projects for 45 Dougherty Street, 43 Douglass Street, Lambert Woods South, 95 Front Street, and Riverton Park were presented.

Review of ARPA Housing Request

During their September 20, 2022 meeting, the Committee was presented with an overview of residential housing funding requests received to date. Available funding totals $3,670,990 while total funding requests total $15,503,800.

<u>Other</u>

Citizen Participation Plan

During its January 18, 2022 meeting, the Committee reviewed the revised *Citizen Participation Plan* to better align with federal requirements and best practices of public notice and participation. The Citizen Participation Plan is a required document that outlines the methods and procedures by which the City would communicate with the public regarding the federal programs administered by HCD including but not limited to the Community Development Block Grant (CDBG), HOME, and Emergency Solutions Grant (ESG). Federal requirements necessitate updates to the Citizen Participation Plan to increase accessibility for low-income individuals and those with limited English proficiency. The Citizen Participation Plan directly affects the City's eligibility for continued federal HUD funding. The Committee voted unanimously (4-0) to forward the recommendations to the City Council with a recommendation for approval, which approval occurred at the February 28, 2022 meeting.

Update on the Portland Harbor Common Park

The Committee received an update during their February 15, 2022 meeting on the concept detailing a new waterfront park (located for the area between Ocean Gateway and the Maine State Pier) for Portland with the working name of Portland Harbor Common. In January, 2022, the working group, consisting of the Mayor and City staff, was formed to meet bi-weekly to seek funding, design services, and conduct neighborhood outreach in order to receive feedback on desired park amenities and design.

Update on the Portland Harbor Dredge Project

The Committee had previously received updates on the Portland Harbor Dredge Project by the Waterfront Coordinator in June 2019, February 2020, and February 2021. An update to the Committee on February 15, 2022 reported on recent progress, funding opportunities, and next steps. To date, a mix of State, Federal, and municipal funding has taken the process from concept to 30% design and permitting. Funding to date includes receipt of $400,000 in US EPA Brownfields funds, $325,000 from the MDOT, $100,000 from the City of Portland, and a $25,000 grant from MTI. Including future soft costs for final engineering and design, bidding document prep, mobilization, and mitigation fees, the Portland Harbor dredge project is estimated to cost +/- $30,500,000 to $35,000,000. The Committee voted (4-0) to recommend the City Council authorize an application of up to $25M in Federal funds for dredging, and development of a Confined Aquatic Disposal (CAD) Cell in Portland Harbor by 2024. Approval occurred on the March 21, 2022 meeting of the City Council. The Federal application was not successful, and staff is working on a future application and other funding sources.

Age-Friendly Portland

The Committee received an update and overview of Age Friendly Communities from the City of Portland's Director of Elder Affairs during their March 1, 2022 meeting. This program helps cities prepare for rapid population aging by promoting healthy and sustained economic growth that provides resources to enhance personal independence, allow residents to age in place, and foster their engagement in the community's civic, economic and social life. Age Friendly Portland (AFP) is certified by AARP and is in the process of conducting a new needs assessment to determine goals for the next five years. AFP is applying for grants to assist Portland businesses with the costs of installing handrails, ramps and buzzers to improve accessibility.

Portland Adult Education's FY22 TIF-supported Workforce Training Programs

The Committee received an update during their March 1, 2022 meeting regarding the above mentioned program including outcomes. PAE enrolled 41 students in TIF funded programs, between July 1, 2021 through February 2022, from 14 distinct countries of origin. For fiscal year 2023, the goal is to have a total of 120 students enrolled. PAE requested a $200,000 TIF-investment for FY23 to continue programs and expand in key areas, specifically Commercial Driver's License training, Clean Energy training in partnership with PATHs and ReVision Energy, and ESOL instruction. Based on Committee feedback in support of the $200,000 TIF workforce funding requests, staff forwarded this recommendation to the Finance Committee.

Minimum Wage Ordinance

During their March 1, 2022 meeting the Committee received and discussed the communication item from Corporation Counsel regarding the Committee's inquiry into amending the local minimum wage ordinance in light of the recent citizen initiative. Based on City Code Chapter 9 (Section 9-46), the Council may not amend ordinance language enacted by citizen initiative for a period of five years. During their June 21, 2022 meeting the Committee received presentations from the Maine Center for Economic Policy, and the Portland Regional Chamber of Commerce regarding the minimum wage in Portland.

Food Truck Plan for the Eastern Prom

During their March 22, 2022 meeting, the Committee reviewed and provided feedback on two proposals from Parks, Recreation, and Facilities to address the concern of negative impacts (pedestrian safety, carbon emissions, root zone compactions, and excessive litter/trash removal needs) from the increased presence of food trucks on the Eastern Prom. During their November 15, 2022 meeting, the Committee, together with the Sustainability and Transportation Committee,is expected to receive a presentation on the Pilot Food Truck Program on the Eastern Prom and staff recommendations regarding a 2023 Food Truck Program.

Community Development Week

National Community Development Week brings national attention to the Community Development Block Grant (CDBG) Program and HOME Program. Typically each year a proclamation is made publicly recognizing Community Develop Week. Prior to the pandemic, the HCD office would organize several public events during the week. Staff is hopeful that we will be able to return to a more robust, public celebration of National Community Development Week in 2023. During their April 5, 2022 meeting, the Committee voted (4-0) to accept recommendation to the City Council issuance of a Proclamation regarding National Community Development Week.

Housing Safety and Rent Board- Overview of Roles and Responsibilities

Both the Rental Housing Advisory Committee (RHAC) and the Rent Board are tasked with addressing policy changes, including recommending changes to Chapter 6 provisions that govern landlord and tenant policies in the City of Portland which may lead to duplication of efforts or recommendations that conflict. To identify any redundancies, an internal staff working group is auditing roles and responsibilities towards formulating a recommendation to the Committee for review. During this April 5, 2022 presentation, the Committee also heard from the Director of Permitting and Inspections regarding the Housing Safety Office and the Rent Board.

Impediments to Fair Housing

During their April 19, 2022 meeting the Committee received a report regarding an assessment of fair housing policies in the City of Portland and Cumberland County meant to inform the *2022-2026 Consolidated Plan.* In addition to focus groups and interviews, 828 residents participated in a survey. The data will be compiled into a report for the City and County for their review, along with recommendations on how to address any identified issues.

Presentation: Future Development Plans for Rock Row

During their May 3, 2022 meeting, Waterstone Properties presented an update to the plans for Rock Row, the open-air innovation district and multi-use community located in Westbrook. Retail development for the "Neighborhood on the Main" is completed. The next stage of development includes a medical campus, 350 units of housing, restaurants, and walking trails (for 2024), office/lab, mixed retail, innovation hall, and 117-room hotel (for 2025), and a conference and event center, office space, 280 units of housing, and GMP Facility (for 2026).

Review of Public Restrooms Plan for Downtown Portland

City staff presented the Summer 2022 Public Restrooms Pilot Program to locate new facilities for residents and visitors in downtown Portland during the May 17, 2022 Committee meeting. Public feedback highlights the lack of publicly available restrooms which in response, the Council allocated $600K in ARPA funding towards "expanding public restrooms in the City". The Central Fire Station, Fish Pier entrance, and City-owned property at the corner of Free and Cross Streets were identified as proposed locations.

Overview and Report Regarding Short-Term and Long-Term Rental Housing Safety and Inspections

The Director of Permitting and Inspections provided an overview and highlights from the Licensing and Housing Safety Division to the Committee during their June 7, 2022 meeting. Highlighted topics included; long-term and short-term rental registration, 2022 inspections, rent board, joint Housing Safety and Fire Prevention meeting, and a comparison of services and inspections conducted by five local municipalities regarding rental registration and inspections.

HEDC 2022 Annual Accomplishment Report

The *HEDC 2022 Annual Accomplishment Report* will be reviewed at the November 15, 2022, Committee meeting, with a vote expected to forward it to the City Council as a communication item.

2022 Housing and Economic Development Committee Work Plan November 15, 2022

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
ECONOMIC DEVELOPMENT POLICY				
a. City/School-wide approach to procurement focusing on locally owned businesses (Phoenix AZ as example) (carried over from the 2021 work plan) b. Explore and expand relationship with Portland Buy Local			AZ	
Explore Neighborhood Identity/Branding (carried over from the 2021 work plan)			TC	
Review Tax Increment Financing (TIF) investment in workforce training for FY2023 funding.		X		✔
Explore TIF investment options to increase annual TIF support to Creative Portland (CP) (raise the funding floor from $155k to $200k) and to support performing art centers and the arts eco-system, which makes Portland unique as a destination for visitors and local residents.		X	TC	✔
Explore designation of a Tourism Improvement District		X	TC	
Research and present options for public-private partnerships to support parking garage and possible new affordable housing - City-owned Bayside Lot 6, (corner of Somerset & Chestnut St) acquired by the City Council through eminent domain		X		
Update on Harbor Dredge Status and Funding		X		✔
Review Outdoor Dining Permitting & Licensing Program			PA/AZ	✔
Explore the possibility of creating a workforce training program between Portland Adult Ed and Portland Technology High School .			PA	✔
Increase to minimum wage (discuss if permitted under 2020 citizen referendum?)			AZ	

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
AFFORDABLE HOUSING POLICY AND BUDGETS				
Policy Discussion re: (1) Impacts of 2020 Referendum (Green New Deal) on housing development, (2) Guidelines and Priorities for the allocation of city resources for housing development		X	TC	(2)✔
Encourage developers seeking assistance through the City's Affordable Housing Development and/or TIF Programs to participate in the Section 8 Family Self Sufficiency Program.			TC	✔
Encourage housing development that supports the Comprehensive Plan goal for development along major thoroughfares off peninsula.		X	TC	✔
Review of FY 2023 Housing Program Budget (February)	X			✔
Review of 2022 Jill C. Duson Housing Trust Fund Annual Plan and the 2022 Affordable Housing Development Application (February)	X			✔
Host a Housing Summit (similar to one held in 2016)			PA	
Review of Short Term Rental Registration Program			PA	✔

AFFORDABLE HOUSING PUBLIC-PRIVATE PARTNERSHIPS				
Review and Vote to Approve Funding Requests Received from (1) the Affordable Housing Development Applications for City Housing Trust and HOME funds and (2) Affordable Housing TIF CEA Requests. (May)	X			
Review City surplus property to sell/lease to support affordable housing		X	PA	

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
REAL ESTATE TRANSACTIONS				
622 Auburn Street and 0 Gray Road P&S Agreement		X		✔
Purchase and Sale Agreement for the sale of a portion of City-owned Thames Street Property		X		
Kennebec Street Realignment (from Brattle to Forest)		X		

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
ANNUAL REPORTS AND ACTIONS				
Presentation of 2021 Housing Report (February) Part I and Part II	X			Part I ✔
5-Year HUD Consolidated Plan and FY223 Annual Allocation Plan (Jan-April) (1) Analysis of Impediments to Fair Housing & (2) Amendments to the HUD Citizens Participation Plan		X		Con Plan✔ (2)✔
Presentation, Annual Overview and Integrated Report from Permitting & Inspections and Fire Department re: Short-term and Long-term Rental Housing Safety & Inspection Program - Implementation and Financial Report (April)	X		Process established under prior Housing Committee	✔
Fair Housing Month (April) Community Development Week Activities (April 11-15, 2022)	X	X		✔
Portland Downtown Annual Budget, Work Plan and City Agreement (May)	X			✔
City TIF District Annual Activity Report (November)	X			✔
Committee Annual Accomplishment Report (November)	X			✔

DRAFT
Housing & Economic Development Committee
2023 Work Plan Schedule
as of January 13, 2023

<u>January 17, 2023</u>

1. Facilitated Work Plan Discussion

<u>February 21, 2023</u>

1. Workshop - Responsibilities of the Housing and Economic Development Department
2. (Public Hearing) Review and Recommendation to the City Council Regarding establishing a Tourism Improvement District.
3. (Public Hearing) Review and Recommendation to the City Council – FY23 Housing Program Budget
4. (Public Hearing) Review and Recommendation to the City Council - HOME-ARP Program Plan

<u>March 21, 2023</u>

1. (Public Hearing) Review and Recommendation to the City Council – 2022 Jill C. Duson Housing Trust Fund Annual Plan
2. (Public Hearing) Review and Vote to Approve the Issuance of 2023 Affordable Housing TIF and Affordable Housing Development Fund Application for the Jill C. Duson Housing Trust Fund, HOME Program
3. (Public Hearing) Review and Recommendation to the City Council to continue to Participate in the Cumberland County HOME Consortium
4. (Public Hearing) Review and Recommendation to the City Council - Amendment to the City's Tax Increment Financing Policy

<u>April 18, 2023</u>

1. (Public Hearing) Review and Recommendation to the City Council - Report to HUD on Analysis of Impediments to Fair Housing
2. Workshop - Portland's Waterfront

<u>May 21, 2023</u>

1.

<u>June 20, 2023</u>

1.

<u>July 18 2023</u>

1.

<u>August 15, 2023</u>

1.

<u>September 19, 2023</u>

1.

<u>October 17, 2023</u>

1.

<u>November 21, 2023</u>

1.

<u>December 19, 2023</u>

1.

2023 Housing and Economic Development Committee Draft Work Plan January 13, 2023

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
ECONOMIC DEVELOPMENT POLICY				
Review Tax Increment Financing (TIF) investment in workforce training for FY2024 funding.		X		
Vote on Tourism Improvement District proposal		X		
Research and present options for public-private partnerships to support parking garage and possible new affordable housing - City-owned Bayside Lot 6, (corner of Somerset & Chestnut St) acquired by the City Council through eminent domain		X		
Waterfront Activity Workshop including - Harbor Dredge Project, Portland Harbor Commons, Off-Shore Wind, and other items		X		

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
AFFORDABLE HOUSING POLICY AND BUDGETS				
Policy Discussion re: (1) Guidelines and Priorities for the allocation of city resources for housing development	X	X		
Review of FY 2024 Housing Program Budget	X			
Review of 2023 Jill C. Duson Housing Trust Fund Annual Plan and the 2023 Affordable Housing Development Application	X			

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
AFFORDABLE HOUSING/ECONOMIC DEVELOPMENT - PUBLIC-PRIVATE PARTNERSHIPS, REAL ESTATE TRANSACTIONS				
Review and Vote to Approve Funding Requests Received from (1) the Affordable Housing Development Applications for City Housing Trust and HOME funds and (2) Affordable Housing TIF CEA Requests.	X	X		
Review City surplus property to sell/lease to support affordable housing		X		
Portland United Soccer League Proposal				
Purchase & Sale Agreement - Sale of a portion of City-owned Thames St. Property		X		
Kennebec Street Realignment (from Brattle to Forest)				

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
ANNUAL REPORTS AND ACTIONS				
Presentation of 2022 Housing Report Part I and Part II	X			
FY24 Annual Allocation Plan (Jan-April) (1) Analysis of Impediments to Fair Housing	X	X		
Presentation, Annual Overview and Integrated Report from Permitting & Inspections and Fire Department re: Short-term and Long-term Rental Housing Safety & Inspection Program - Implementation and Financial Report	X		Process established under prior Housing Committee	
City TIF District Annual Activity Report (November)	X			
Committee Annual Accomplishment Report (November)	X			

Lori Paulette <ljn@portlandmaine.gov>

Analysis of housing opportunities created in the Franklin St master plan

Markos Miller <markossmiller@hotmail.com> Sat, Jan 14, 2023 at 11:32 AM
To: "edd@portlandmaine.gov" <edd@portlandmaine.gov>

Councilor Ali et al,

I understand the Housing committee will be finalizing their list of 2023 committee priorities at your upcoming meeting.
As the former co-chair of Portland's Franklin St redesign committee, I am asking that the committee prioritize an analysis of the housing and development opportunities created by the Franklin St. Master Plan. The plan unlocks up to 6 acres of public land for development. This presents possibilities for hundreds of units of housing, as well as revenue from land sales and future tax revenue.
While nominally a transportation plan, an analysis of the development opportunities will present a clearer understanding of the benefits of the master plan, and put the City in an advantageous position to pursue federal funding. The Federal Reconnecting Communities program offers grant funds to assist with both planning and construction through 2026. If Portland acts now, we could enjoy the full benefit of these funds as an investment in housing, transportation, and environmental improvements that will benefit the community for decades to come.

Our citizen advocacy group, made up of members of the study team, development and affordable housing professionals, and other citizens has been working to develop an high level analysis of housing and economic opportunities in the corridor. We would be happy to share this with the committee at the appropriate time.

Thank you for your service to our city.
Markos

Markos Miller
207 807-2681
Sent from my iPhone
Please excuse any typos

Begin forwarded message:

> **From:** noreply@civicclerk.com
> **Date:** January 13, 2023 at 3:12:51 PM EST
> **To:** markossmiller@hotmail.com
> **Subject: Citizen Notification - Agenda Packet Published**
>
> Agenda Name: Remote Housing and Economic Development Committee
> Created By: Lori Paulette, Senior Executive Assistant
> Cutoff Date: 01/17/2023
>
> Click to View Agenda

Lori Paulette <ljn@portlandmaine.gov>

Fwd: 2023 Housing & Ec Dev Committee Work Plan

Mary Davis <mpd@portlandmaine.gov> Tue, Jan 17, 2023 at 8:44 AM
To: Lori Paulette <ljn@portlandmaine.gov>

FYI public comment for HEDC meeting.

Mary P. Davis
Interim Director, Housing and Economic Development Dept.
207-874-8711

---------- Forwarded message ---------
From: **Wendy Cherubini** <wcherubini@gmail.com>
Date: Mon, Jan 16, 2023 at 9:50 AM
Subject: 2023 Housing & Ec Dev Committee Work Plan
To: Pious Ali <pali@portlandmaine.gov>
Cc: roberto Rodríguez <rrodriguez@portlandmaine.gov>, <rphillips@portlandmaine.gov>, <mdion@portlandmaine.gov>, Mary Davis <mpd@portlandmaine.gov>

Councilor Ali and Members of the City Council Housing and Economic Development Committee,

As you finalize the Committee's 2023 work plan I hope you will prioritize analysis of housing and development opportunities created by the Franklin Street Master Plan. Implementing the Franklin Plan will open up to 6 acres of publicly owned land for development along the Franklin corridor, in addition to knitting the neighborhoods along it back together and reclaiming part of Lincoln Park lost during urban renewal. The housing potential alone could be hundreds of housing units on the peninsula where it is needed most.

The Franklin Plan is more than a transportation plan; it is a housing, economic and community development plan.

I have asked the Sustainability and Transportation Committee to support a City application for federal Reconnecting Communities grant funds in 2023 and ask that you do so too. The Federal Reconnecting Communities program offers grant funds to assist with both planning and construction through 2026. Planning can include housing and development analysis as well as transportation work. Portland needs to act now to enjoy the full benefit of these funds as an investment in housing, transportation, and environmental improvements that will benefit the community for years to come. Work on a 2023 application needs to start early. It can not wait for a new city manager.

We need your leadership and vision to move the Franklin Plan forward.

Thank you for your service to the City of Portland.

Wendy Cherubini
99 Federal Street Unit 302
Portland, ME 04101
207-450-2962

Mary Davis <mpd@portlandmaine.gov>

Tonights meeting and the coming year work plan

1 message

John Anton <antonatlarge@gmail.com> Tue, Jan 17, 2023 at 6:46 PM
To: Mark Dion <mdion@portlandmaine.gov>, Regina Phillips <rphillips@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Roberto Rodriguez <rrodriguez@portlandmaine.gov>, Mary Davis <mpd@portlandmaine.gov>

HEDC members -

I had hoped to offer comments at tonight's meeting encouraging the committee to amend the Short Term Rental (STR) ordinance. I have been watching but it does not look like there will be an opportunity for me to speak so I thought it would be more efficient to send you this email.

It is my opinion that the STR needs amending in order to restore apartments to our limited supply. In my opinion, the current ordinance is both too permissive amd vulnerable to evasion and misrepresentation, with the result being too many apartments being lost to STR conversion (legal and otherwise).

I believe that two simple changes to ordinance can reduce both the number of apartments lost to STR and the administrative burden on staff.

First, the definition of owner occupancy should be changed to mean those households that qualify for and have received the Homestead Exemption. At present, owners requesting owner occupancy status for the purpose of STR regulation complete an affidavit declaring themselves to meet the definition under the STR ordinance. Changing the owner occupancy definition to the Homestead Exemption would allow staff to rely on the Assessor's Office's more rigorous but not unduly burdensome determination rather than using a parallel, "honor system" process.

Second, non-owner occupied Short Term Rentals should be restricted only to multi-unit buildings where the building's owner is an Owner Occupant as defined above. In my opinion, STRs in owner-occupied multifamily buildings are one of the few instances where the overall benefits of STRs outweigh the social cost. Owner-occupants of small multi-families are not investors seeking to maximize return but permanent residents of our community working to make ends meet. For those folks, STRs can provide the revenues necessary to make expensive capital improvements needed to maintain their homes.

I look forward to discussing these ideas further with the Committee. I understand the competing demands on your time; I hope that this relatively modest proposal will yield meaningful benefit and can be achieved alongside your other work.

In the meantime, I have attached a couple of policy documents on the topic that I found useful.

Thanks for listening and thank you for your service on the Council,

John

--
John Anton
(207) 650-8979

2 attachments

Regulating Short-Term Rentals a Guidebook for Equitable Policy - SELC.pdf
6368K

Short-Term-Rental-Regulations.pdf
7204K

NATIONAL LEAGUE OF CITIES

CENTER FOR CITY SOLUTIONS

Short-Term Rental Regulations:

A GUIDE FOR LOCAL GOVERNMENTS

NLC NATIONAL LEAGUE OF CITIES
CENTER FOR CITY SOLUTIONS

About the National League of Cities

The National League of Cities (NLC) is the voice of America's cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions.

NLC's Center for City Solutions provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues, and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

Authors

Tina Lee, Senior Research Specialist, National League of Cities

Lauren Lowery, Director, Housing & Community Development, National League of Cities

Lena Geraghty, Director, Sustainability and Innovation, National League of Cities

Kyle Funk, Program Specialist, National League of Cities

Samantha Carr, Housing & Community Development Intern, National League of Cities

Acknowledgments

The authors wish to recognize **Matthew Disler** of the Harvard Berkman Klein Center for Internet & Society for his contributions to this report and **Kristin Szakos** for copy editing. The authors also wish to thank the city staff and elected officials who agreed to be interviewed to inform this report, including those from **Fayetteville, AR, San Diego, CA, Charleston, SC, Lake Placid, NY, Columbus, OH,** and **Henderson, NV.**

INTERACTIVE
Contents

Foreword

IN RECENT YEARS, short-term rentals have increased in cities, towns and villages across the United States. As a result of this growth, local leaders have had to grapple with competing benefits and challenges – in particular, how to ensure a healthy stock of affordable housing and how to support local tourism and economic development opportunities. One of the top priorities for city leaders today is to ensure that residents and visitors to their communities have access to safe, affordable lodging.

These competing priorities make passing regulations difficult, which is why it's not surprising that short-term rentals have become a common topic of discussion among our members at the National League of Cities (NLC). Members faced with these challenges often ask us: "What tools are available to assist me with regulating short-term rentals in my community?"

This persistent question led NLC to research short-term rental regulations in cities across the country and ultimately produce Short-Term Rental Regulations: A Guide for Local Governments. Based on an analysis of 60 short-term rental ordinances, this action guide lays out a detailed overview of best practices for cities to develop and pass short-term rental regulations in their communities.

While no two municipalities face the same opportunities and challenges when it comes to regulating short-term rentals, this research provides insight into how to chart a path forward successfully. This guide recommends local leaders create and enforce firm and fair regulations by focusing on clear policy objectives, centering racial equity as a critical component in their planning and actively engaging with relevant stakeholders throughout the process.

Short-term rentals can open a swath of opportunity for homeowners looking to make additional dollars, while also providing economic development opportunities in neighborhoods that may not generally see high levels of tourism. By bringing community and industry leaders together, local leaders can create policies that work for both – and maximize the potential value of short-term rentals for hosts, guests and neighbors alike, all while protecting the affordability of neighborhoods.

While short-term rentals are a prominent issue today, this challenge is not a new one for local leaders. There are often difficulties that come with maximizing economic growth while protecting community interests. Mayors, councilmembers and other local elected officials are well-equipped to help bring stakeholders together to understand and navigate potential trade-offs.

Local leaders have an incredibly important role to play in capitalizing on the benefits of short-term rentals and minimizing potential negative impacts. I hope this resource will help your community make decisions about short-term rentals that are best for your residents.

Clarence E. Anthony

CEO AND EXECUTIVE DIRECTOR
National League of Cities

Introduction

THE RAPID GROWTH of short-term rentals in cities, towns and villages across the U.S. has caused much controversy. From contentious City Hall meetings where residents advocate for more stringent or more relaxed regulations to lengthy and expensive legal battles between cities and short-term rental platforms, cities can get caught in the cross-hairs of a complicated policy issue. Short-term rentals present no shortage of challenges for local leaders, as they can affect housing availability and affordability, local tourism and economic development, neighborhood wellbeing, and health and safety. However, many cities have learned important lessons in navigating these complex issues and offer some best practices for others to learn from.

Regulation of short-term rentals has proven to be an important and effective tool in making short-term rentals work for all parts of the community. Regulations that define what short-term rentals are and have appropriate mechanisms in place should intervention be necessary have helped city leaders steer the conversation toward solutions and meeting community needs. The purpose of regulating short-term rentals is not to be overly punitive or to prohibit them, but to put safeguards and appropriate enforcement mechanisms in place for when problems arise.

This Action Guide will not settle debates about the specific impacts of short-term rentals on each community. Instead, it aims to equip local leaders with appropriate information and tools to adopt or amend ordinances that serve their community best: policies that are equitable; that protect municipal interests such as health and safety and housing affordability; that preserve the residential quality of neighborhoods; and that enable responsible and eligible residents to earn some additional income.

Defining Short-Term Rentals

What is a Short-Term Rental?

In general, short-term rental (STR) refers to an activity in which one party, the "host," agrees to rent out all or part of a home to another party, the "guest," on a temporary, time-limited basis. The precise legal definition of a short-term rental varies by community. Most short-term rental ordinances include details on the following types of provisions that define short-term rentals for a particular community:

LOCATION AND USE:
Where and how many short-term rentals are allowed

TIMING:
How long short-term rentals can be rented for

MANNER OF RENTAL:
Additional requirements for hosts and guests

What Can Communities Regulate?

Regulations vary, depending on the needs of the locality issuing them. In a community where vacant properties are a problem, regulations might focus on upkeep and oversight. In a community where housing stock is scarce, regulations might be put in place to limit the number of properties lost to residential rentals.

Generally, however, regulations include some combination of the following provisions:

PROVISIONS	DETAILS
LOCATION AND USE	**Geographic limits:** Cities can decide to limit the availability of STRs in specific areas of cities, such as particular residential areas or neighborhoods with specific historic character. **Commercial-residential distinctions:** Cities can establish different rules for properties in residential and commercial areas to account for the different interests of communities in each of these areas.
TIMING	**Primary residence requirements:** Cities can require that the STR is occupied by the host for most of the year, and/or that the rental is in or part of the owner's primary residence. **Day limits:** Cities can include provisions capping the number of days per year that hosts can rent their STR.
MANNER OF RENTAL	**Registration and licensing:** Cities can require hosts to register their properties with the city and can require rental platforms (e.g., Airbnb, Vrbo, etc.) to ensure that properties listed on their sites are properly registered. **Taxes:** Cities can require that hosts pay transient occupancy taxes, which are taxes on what guests pay for temporary lodging in the city and are usually collected and remitted by hotels, motels and similar businesses. Cities can also work with STR platforms and other third-party providers to minimize the burden of tax remittance. **Occupancy limits:** Cities can limit the number of guests per stay, usually by establishing a guests-per-bedroom or per-property cap. **Health and safety regulations:** Cities can require STRs to have fire safety equipment and carbon monoxide detectors; display emergency information for guests; adopt measures to maintain a sanitary residence; and adopt plans for emergencies, among other requirements. **Noise and event regulations:** Cities can restrict the use of STRs for large gatherings and events, and they may explicitly require that guests comply with existing noise, trash and parking ordinances.

The Issue

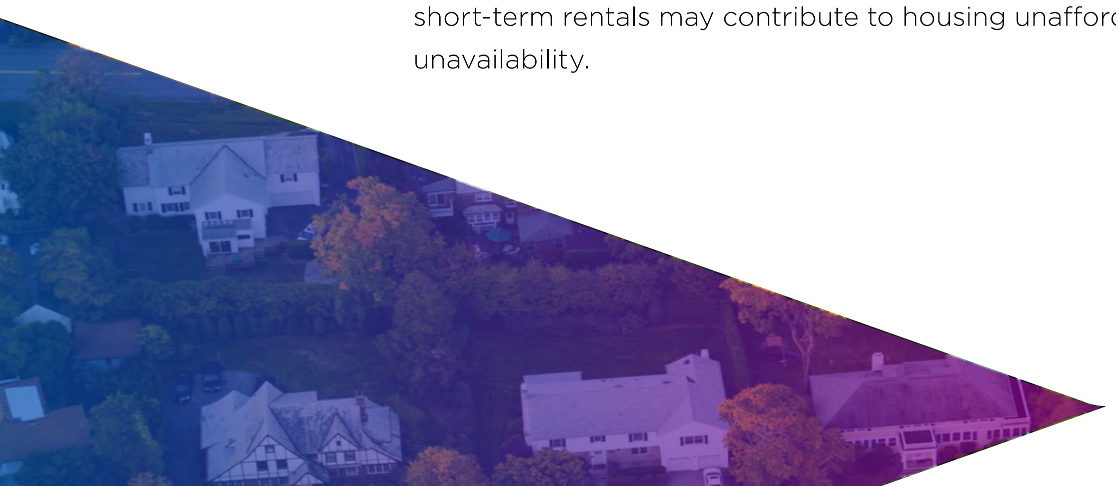
Short-term rentals are not a new concept. Companies like Vrbo, HomeAway, Couchsurfing and Craigslist have offered consumers short-term rental options since the late 1990s without much controversy.[1] The meteoric growth of the short-term rental industry in the 2010s changed that. Companies like Airbnb, Vrbo, HomeAway and FlipKey grew in popularity while consumer appetite for more original, authentic and local experiences increased, driving demand higher.

As short-term rentals become more accessible to both hosts and users, use skyrocketed over a short period. But the meteoric success of short-term rental platforms has not been welcomed unreservedly. Common complaints are that short-term rentals can drive up local rents, limit the availability of long-term residential rentals, attract an influx of tourists and create excessive noise.[2]

Local leaders attempting to chart the pathway forward for short-term rentals in their communities must respond to many competing interests, making passing regulations and balancing those interests difficult. Some of these issues that must be considered include:

Housing

The research is divided on whether short-term rentals contribute to the housing crisis. Regardless of whether the exact impact on the housing market is measurable, it is undeniable that many cities in the U.S. face a housing crisis – due to a shortage of affordable housing, steady decline in federal investment in low-income housing, wage growth stagnation, etc. – and that short-term rentals may contribute to housing unaffordability and unavailability.



Tourism

Short-term rentals outside of the typical tourism areas in cities can be a boon to local economies, spreading dollars across the cities in ways that traditional lodging accommodations do not. On the other hand, cities with high tourism rates face a greater share of the negative impacts of short-term rentals in communities. In high-tourism communities, large numbers of whole home rentals can affect neighborhood cohesion, as they may stand empty for weeks at a time or experience high turnover in guests.

Preemption

Preemptive state laws can limit cities' ability to regulate short-term rentals. The impacts of preemptive laws can range from a complete inability to regulate, to restrictions on the kinds of regulations that can be imposed.

Public Health and Safety

Poorly regulated and unsupervised short-term rentals can threaten the safety of neighborhoods for residents and guests alike. Party houses have become a significant point of contention in some communities. Guests may ignore or be unaware of noise, trash and parking ordinances.

For myriad reasons — both within and outside of city control — cities may find it difficult to enforce the regulations they do have. Some ordinances are difficult for hosts and residents to understand and difficult for the city to enforce because they are overly complicated or poorly publicized. In other instances, cities may have no systematic way to identify hosts who are not in compliance or to keep track of what properties are being used for short-term rentals, and when. Understanding the most common barriers to effective regulation — unclear rules and lack of data — is key to making sound policy choices. Despite the limitations and challenges that city leaders face, local leaders can pass regulations that effectively balance competing interests, fit community needs, and most critically, are enforceable.

Recommendations: Short-Term Rental Regulations

This Action Guide will help local leaders break down the process of developing a short-term rental ordinance, provide relevant city examples and identify key tips. The following recommendations are a menu of policy principles and good practices that cities should explore when establishing or updating their regulations, based on research into short-term rental ordinances and policies across the country.

THE NATIONAL LEAGUE of Cities analyzed 60 short-term rental ordinances to inform this report across 30 indicators, including the legal definition of short-term rentals, regulations and enforcement. At least one city, town or village was selected in each state, with two cities, towns or villages selected for the top ten states by population (California, Texas, Florida, New York, Pennsylvania, Illinois, Ohio, Georgia, North Carolina and Michigan) to ensure that a diversity of local context was represented in the analysis.

The recommendation sections (Understand the Landscape, Develop and Pass Regulations, Enforcement, and Revisit and Adapt) are meant to build off each other and should therefore be executed in chronological order. They are detailed in the section below.

UNDERSTAND THE LANDSCAPE

- Gather Data
- Engage a Diverse Group of Stakeholders
- Identify Policy Goal(s)

DEVELOP AND PASS REGULATIONS

- Apply a Racial Equity Lens
- Pass Regulations Early
- Craft Simple Regulations
- Institute a Permit Requirement
- Determine Fines and Fees
- Establish a Clear Taxing Model
- Negotiate an Agreement with Platforms

ENFORCEMENT

- Dedicate Resources to Enforcement
- Ensure Extensive Communication and Marketing
- Move Registration and Administration Systems Online

REVISIT AND ADAPT

- Establish a Feedback Loop

UNDERSTAND THE LANDSCAPE

Before passing regulations, understand the local short-term rental landscape. This should involve extensive information gathering and thorough engagement with relevant stakeholders. Be mindful of what issues are associated with short-term rentals in your community to determine the goals your policy should meet.

GATHER DATA

While anecdotes are powerful, they are not a proxy for actual data to estimate the number and location of short-term rentals operating in a community. In some cases, data may be available through third-party platforms such as Inside Airbnb or AirDNA. Knowing approximately how many units may be on the market is critical to understanding the scope of the issue.

KEY DATA POINTS INCLUDE:

How many short-term rentals are operating in your community?

What is the breakdown between hosted room rentals vs. whole home rentals?

Where are short-term rentals operating in your community?

What neighborhoods are most affected?

What is the average daily price of short-term rentals vs. hotels?

What is the occupancy rate of short-term rentals vs. hotels?

How much revenue are short-term rental properties generating vs. hotels?

Additional data sources that can help supplement short-term rental-specific data to develop a comprehensive picture of the local landscape can include tourism, housing and complaint data. Connect with local tourism boards to gather information such as how much money visitors are spending, where visitors are spending their money, where they are staying, where they are spending their time and how long they are staying. Leverage data sources such as the American Community Survey to understand the breakdown in renter vs. homeownership rates, vacancy rates and demographic information in different neighborhoods to contextualize short-term rentals in the broader housing landscape. Records of noise and nuisance complaints (e.g., through 311 calls or similar complaint or service request software) can also help cities understand where these complaints are filed and what they are.

ENGAGE A DIVERSE GROUP OF STAKEHOLDERS

Engage a network of stakeholders, including but not limited to tenants, landlords/homeowners, hotel and motel industry representatives, neighborhood organizations, housing advocates, tourism agencies and short-term rental platforms. This mix will look different for each city, but identifying relevant stakeholders will be key to understanding the challenges and opportunities each city faces.

Hold virtual or in-person town hall meetings, drop in on various group meetings (e.g., landlord associations, property owner groups, neighborhood associations, etc.) and solicit comments from members of the public to gauge the perceptions of short-term rentals directly from community members. Cities can, for example, work with neighborhood associations to map areas especially strained by short-term rentals or tourism. Residents have the closest ear to the ground. City leaders should leverage this knowledge to their advantage.

Cities have a lot to gain by partnering with platforms, but the relationship-building process can be contentious at times. These relationships are more likely to be positive when cities come to the discussion table with a clear goal in mind and communicate it with the platforms.

POTENTIAL STAKEHOLDERS INCLUDE:

- Motel and lodge union or association
- Hotels or hotel union or association
- Realtor groups or associations
- Restaurant associations
- City Council
- Local planning groups and organizations
- Existing short-term rental operators
- Platforms (e.g., Airbnb, Expedia, etc.)
- Neighborhood associations
- Housing advocates
- Tourism agencies

CITY SPOTLIGHT:
FAYETTEVILLE, AR

In 2018, the City of Fayetteville's Sustainability Department worked with the University of Arkansas' Public Policy Department to explore short-term rentals. The students leveraged data sources such as AirDNA to gather the following information:

- Active rentals
- Average booked properties
- Occupancy rate
- Average booking rate per night
- Average Airbnb private room price (Fayetteville)
- Average hotel room price (Fayetteville)
- Average Airbnb private room price (Downtown Fayetteville)
- Average hotel room price (Downtown Fayetteville)[3]

Based on this information, the students generated maps of short-term rental locations in the Fayetteville area, noting a large concentration of Airbnb rentals in the downtown area. This analysis was presented to city staff and elected officials in December 2018 to inform their discussion on short-term rentals in Fayetteville.

CITY SPOTLIGHT:
SAN DIEGO, CA

While drafting its short-term rental ordinance, the City of San Diego engaged a wide variety of stakeholders including:

- Unite Here, a union for motel/lodges
- Neighborhood groups
- Hotel stakeholders, including the hotel/motel association
- Realtor groups and associations
- The restaurant association
- City Council
- Local planning boards and organizations
- Pre-existing STR operators
- Expedia Group and Airbnb

A staff member from the San Diego City Council conducted meetings with the stakeholders. The meeting format and length varied. The city representative sometimes met stakeholders individually or invited them to speak at public meetings. Those interested in engaging longer-term were invited to a permanent stakeholder group. The stakeholder group continues to provide input on short-term rental regulation implementation.

Compromise was eventually reached, most notably in the form of a memorandum of understanding (MOU) between Unite Here and Expedia Group. Through the MOU, these two major stakeholders with different perspectives agreed to partner to help regulate the short-term rental market. The MOU also laid the foundation for the regulations that the city would push forward when engaging with other stakeholder groups. Following this engagement process, the ordinance was presented to the public, Planning Commission, mayor and Coastal Commission. The city found that putting the time in to build relationships and establish trust between the municipality and short-term rental platforms was essential to the ordinance's success. Further, going into the process with a clear goal, while being mindful of what compromises could be made, allowed the city to achieve buy-in from a diversity of stakeholders.

IDENTIFY POLICY GOAL(S)

Develop a clear and concise policy goal for the short-term rental ordinance, driven by the city's overarching goals and community input. Review strategic city plans (e.g., comprehensive housing plans, 5- and 10-year city visions, master plans) and identify top city priorities that may dovetail with priorities for short-term rentals. For example, a city may have a broader goal to advance housing affordability and may choose to focus on preserving the stock of affordable housing as a policy goal. Or a city may have the broader goal to attract more tourism and choose to focus its regulations on enabling short-term rentals with appropriate guardrails in place as the tourism industry continues to grow.

Cities should be intentional about setting a goal or priority before drafting regulations. Without a clear "end goal," cities can pass regulations that may not align with community priorities, and do not have effective mechanisms to accomplish them. By deciding on a policy and community goal, cities can craft a simpler and more targeted ordinance.

Common goals, based on NLC's analysis of 60 cities, include:

- Prevent the loss of rental housing stock
- Support tourism in a balanced way
- Combat displacement
- Preserve the residential quality of neighborhoods
- Ensure health and safety for guests and residents
- Balance the needs and rights of property owners and neighbors
- Allow economic gain for residents
- Capture tax revenue
- Slow or prevent the overgrowth of STRs

KEY CONSIDERATION

Balance competing expectations. By their nature, short-term rentals can be a contentious issue, with strongly vested interests on all sides. Each stakeholder will have to make concessions from their vision of "ideal" regulations, so helping the community and STR platforms understand that compromise is needed is critical to setting realistic expectations. Having a clear policy goal will also help coalesce stakeholders around the city's broader vision and help justify policy choices.

CITY SPOTLIGHT:
CHARLESTON, SC

The City of Charleston began regulating short-term rentals in 2012, when it adopted regulations that allowed commercially zoned properties to be rented as short-term rentals in the Cannonborough Elliotborough neighborhood. The goal of the regulation was to bring reinvestment into vacant, abandoned and distressed properties in the neighborhood. In subsequent years, the city saw an increase in the number of short-term rental units in Cannonborough Elliotborough and throughout Charleston. With a growing number of short-term rentals and an incoming mayor interested in revisiting short-term rental regulations, the policy moved to the forefront of Charleston's agenda again.

In 2016, the mayor and City Council began the process of updating short-term rental regulations by appointing a committee of local citizens to study and provide recommendations on short-term rentals. The committee included residents, representatives of the city's preservation and historical societies, and tourism interests. Over time, a consensus was built around the goal to preserve the historic nature of downtown Charleston and allow short-term rentals to contribute to the local tourism economy, but only in such a way that did not alter the character of the city and negatively affect residents' quality of life.

Based on this consensus, the city developed a category-based short-term rental permitting system that requires most short-term rentals to be owner-occupied, and details additional requirements for properties located in downtown Charleston or in properties listed with the National Register of Historic Places.

DEVELOP AND PASS REGULATIONS

As the short-term rental industry continues to mature, it has become clear that complex regulations are not only cumbersome for hosts and residents of the city but are also unenforceable. Policies with clear goals, fair implementation and mechanisms for enforcement will help everyone.

APPLY A RACIAL EQUITY LENS

One of the most commonly cited benefits of short-term rentals is that they allow hosts to generate extra income from existing assets. While this may be true, hosting is most commonly available to those who own a home. Homeownership is inseparable from race and inequality in America. According to the latest estimates from the U.S. Census Bureau, the homeownership gap between White and Black households was 30 percent in 2020.[4] According to NLC's ordinance analysis, only 38 percent of cities surveyed specifically allowed tenants to host a short-term rental. Even then, cities that do explicitly state that tenants are allowed to host require them to acquire written consent from their landlords or a have a rental contract that allows them to sublet their unit. Tenants face a high barrier to host even in the minority of cities that allow them to.

38% of cities surveyed specifically allowed tenants to host a short-term rental.

The ability of short-term rentals to democratize the tourism industry is overstated when a majority of Black, Indigenous and People of Color (BIPOC) do not have access to homeownership. Given the divide in homeownership in America, the direct economic benefit of short-term rentals may exacerbate existing inequality. There is also evidence that hosts may discriminate based on race and ethnicity. A 2017 study of Airbnb data found that "applications from guests with distinctively African-American names are 16 percent less likely to be accepted relative to identical guests with distinctively White names."[5] Airbnb has since made moves to fight bias and discrimination, including changing when guest pictures are shown to a host in the booking process.[6] The city of Columbus, OH, passed a discrimination clause in its ordinance stipulating that a host shall not decline a potential guest, impose different terms or conditions, or discourage or indicate a preference for or against a guest based on race, gender, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, familial status or military status.[7]

KEY CONSIDERATION

Recognize the role that short-term rentals play in exacerbating housing unaffordability. Consider dedicating some portion of STR permit or tax revenue towards affordable housing funds or homeownership opportunities, or earmarking general fund dollars for similar programs. Boulder, CO stipulates in its ordinance that "after administration expenses are met, any additional funds shall be placed in the city's affordable housing fund."[8]

PASS REGULATIONS EARLY

The short-term rental industry is rapidly growing**. Given the complexity of the policy and regulatory space, be proactive and establish regulations before short-term rentals have a negative impact on the community.** Establishing regulations gives cities the power to intervene when necessary. It is much easier to limit the spread of short-term rentals before they have proliferated than it is to retroactively remove them from the market. Establishing regulations also becomes increasingly controversial as more stakeholders have a vested interest in seeing them maintained. Even cities that have not yet faced the negative impacts of short-term rentals should pass regulations to regulate the STR market before they proliferate.

KEY CONSIDERATION

A common hurdle that cities face is what to do with pre-existing short-term rentals once a new ordinance is passed. In 58 percent of the cities reviewed in the NLC ordinance analysis, cities required existing hosts to comply with regulations or apply for a permit or license. Cities must communicate early and clearly with existing hosts about their responsibilities under a newly passed or revised ordinance to give them time to meet new regulations.

CRAFT SIMPLE REGULATIONS

Craft simple ordinances that are clear about policy goals. This will better equip leaders to engage in conversation with platforms, residents, property owners and other stakeholders invested in the ordinance outcome. Below is a list of common goals found in the ordinance analysis, and key ordinance elements to achieve those goals.

Policy Levers to Pull to Achieve Common Policy Goals

POLICY GOAL	POLICY LEVERS
PREVENT THE LOSS OF RENTAL HOUSING Prevent long-term rental properties from being converted to short-term rentals.	Adopt a permit requirement and institute a host residency requirement, which should prevent homeowners from renting properties solely as short-term rentals and prevent properties from being purchased for the sole purpose of operating as short-term rentals.
SLOW OR PREVENT THE OVERGROWTH OF STRS Prevent residential neighborhoods from being "overtaken" by guests to the detrimental of the neighborhood and residential feel of a neighborhood.	Adopt a permit requirement and set a specific quota (number or percentage) on the number of short-term rental permits that will be distributed in a particular geographic area (e.g., neighborhood, census tract, ZIP code, etc.).
COMBAT DISPLACEMENT The presence of short-term rentals can be particularly contentious in certain neighborhoods (e.g., neighborhoods that are experiencing displacement).	Adopt a permit requirement and set a quota on the number of short-term rentals that are allowed to operate in a specific zoning district or neighborhood, particularly areas of the city that are at risk of, or are currently experiencing displacement pressure. Beware that such quotas can limit existing low-income homeowners' ability to earn revenues from their homes. Therefore, consider how to equitably distribute permits. Consider dedicating some revenue generated from permit fees or taxes to affordable housing or home-ownership programs. Explicitly restrict affordable housing units from being rented out as short-term rentals.
PRESERVE THE RESIDENTIAL QUALITY OF NEIGHBORHOODS Limit problem properties such as party houses or houses with complaints.	Adopt a permit requirement and include a limit to the number of people that can stay in a short-term rental. This limit can be tied to the number of bedrooms in a short-term rental, or a total cap on the number that can stay in any type of property. A common limit that cities institute is two adults per bedroom. Require that short-term rental hosts provide their guests with a "Good Neighbor Guide" that summarizes all ordinances that guests are required to comply with during their stay (e.g., noise, trash, parking, etc.). Set restrictions on the number or percentage of short-term rentals that are allowed to operate in a particular neighborhood (or other geographic areas, such as census tract, ZIP code, etc.).
BALANCE THE NEEDS AND RIGHTS OF PROPERTY OWNERS AND NEIGHBORS While lawful hosts have the right to rent their properties out, they should not infringe on the rights of neighbors. Enable hosts to rent out their homes while also ensuring that residents know where and how to file a complaint.	Adopt a permit requirement and establish a process for revoking permits from properties in violation, such as a "three strikes" rule. If three verified complaints are filed within a certain time, the city can revoke a host's permit. Establish a 24/7 hotline that residents can phone to report non-emergencies without calling the local police department or law enforcement. Require short-term rental permit hosts to list a local contact who can be reached should an issue arise.[9]

POLICY GOAL	POLICY LEVERS
ENSURE HEALTH AND SAFETY OF GUESTS AND RESIDENTS Ensure the safety of guests and residents, including minimizing public safety risks and noise and trash complaints.	Adopt a permit requirement that requires each listing to include a local contact who can be reached at any time. Use this emergency contact if a complaint is filed. Stipulate that if the registered contact is not responsive, the host's permit risks being terminated. Institute a permanent residency requirement. City leaders report that most complaints come from non-owner-occupied units. Hosts may be more invested in their property if they, too, call it home. Require that short-term rental hosts provide their guests with a "Good Neighbor Guide" that summarizes all ordinances that guests are required to comply with during their stay (e.g., noise, trash, parking, etc.). Require an inspection, or, if the city cannot carry out inspections, stipulate that the city has the right to inspect a property should sufficient suspicion arise that the property is not up to code. Institute a process for revoking permits from properties in violation, such as a "three strikes" rule. If three verified complaints are filed within a certain time, the city can revoke a host's permit.
CAPTURING TAX REVENUE Ensure that revenue is being collected.	Adopt a permit requirement that will make it easier to identify whether hosts are complying and paying the appropriate taxes. Use permit and tax revenue to either hire additional staff or a third-party provider to help monitor compliance. Reach an agreement with platforms that requires them to automatically collect and remit taxes back to the city. Be wary of the transparency of the tax remittance process and ensure that the city's enforcement powers are not stifled.
SUPPORT TOURISM IN A BALANCED WAY Tourism is a key component to many local economies and short-term rentals can play a role in facilitating tourism without impacting residents if done in a balanced way.	Adopt a permit requirement and set an annual permit reapplication. Make clear that applications can be denied if regulations change. Adopting a formal permit requirement will not deter hosts from participating, so long as the permitting process is not overly cumbersome. Ensure the permit fees are reasonable and tied to the cost of administering the permit program.
ALLOW FOR ECONOMIC GAIN FOR RESIDENTS Short-term rentals can support wealth building for community members, although city leaders must pay attention to who is eligible to host.	Adopt a permit requirement. The permit system should be simple and easy to navigate, particularly if the city is trying to encourage more permanent residents to host on a part-time basis. If the administrative burden is too high, few will be willing to put in the effort.

INSTITUTE A PERMIT REQUIREMENT

Enforceable short-term rental ordinances require owners who want to host short-term rentals to acquire a permit before renting. In general, a permit requirement allows local governments to create and maintain a database of units and contact information for properties that are operating as short-term rentals. **The information provided in an application is key to enforcing the ordinance, allowing the city to have a point of contact to check in with when a property is not in compliance.**[10] Without information on who is operating short-term rentals, cities are effectively rendered helpless in enforcing their regulations. Having an active database of short-term rentals in operation is key to moving from a reactive to a proactive approach to enforcement.

To ensure that hosts are acquiring permits, the city must have a mechanism to check to ensure compliance. Some cities, like San Francisco, have negotiated agreements with platforms that require the platform to put a permit number on the host listing.[11] In other cases, cities have hired third-party platforms to aid their enforcement efforts. The City of Nashville, TN, uses Granicus's Host Compliance, a short-term rental compliance monitoring platform, to support enforcement efforts. According to Nashville officials, the Code Department was struggling to enforce its regulations when they were relying on a complaint-based process. The city was manually identifying STR addresses. With more than 60 active rental websites and private addresses and contact information, it proved to be too herculean an effort to maintain. Host Compliance's online portal enables the city to identify illegal operators before there is a complaint, moving from reactive to proactive enforcement. Since implementing Host Compliance, Nashville has more than doubled its compliance rate to 91 percent.[12]

KEY CONSIDERATION

Without a clear and streamlined application or licensing process, applications may backlog. This leads to an unhappy and distrustful community and may encourage illegal rentals to operate while they are in the process of being considered for a permit. In some cases, operators will purposely and continuously file for permits and operate while under consideration.

Always tie the permit to the person, not the parcel. This will allow for natural attrition over time (e.g., someone sells their home, and the new owner must reapply for a short-term rental permit).

DETERMINE FINES AND FEES

Many cities adopt fine structures to incentivize compliance by short-term rental hosts. According to NLC's analysis, fines range from $200 a day to $2,000 per violation, which may escalate each day. Beyond deciding the fine structure, cities must have adequate staff and resources to identify hosts who are not in compliance and communicate to hosts how to stay in compliance and avoid violations.

Fines should be proportionate to or more than the economic gains that potential violators can realize from breaking the rules, and should escalate for repeat violators, including the threat of revocation of a permit or license. Host Compliance offers the following fines and fees schedule for cities to consider:

Example Fine Schedule

	1st violation	2nd violation	3rd violation	4th 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.

Source: Host Compliance

CITY SPOTLIGHT:
LAKE PLACID, NY

The Village of Lake Placid collaborated with its justice court to define a short-term rental fine structure based on other successful cases. Lake Placid's short-term rental fines range from $350 to $1,000 for the first violation plus the costs that the village has incurred for enforcement (e.g., staff time and attorney fees). Each week that the violation is not remedied constitutes a separate offense. The second violation that occurs within five years will incur a fine of between $1,000 and $3,000. Short-term rental violations can be appealed within 30 days to the joint Town of North Elba/ Village of Lake Placid Short-Term Rental Appeals Board by either the short-term rental property owner or the complainant.[13] In most cases, hosts do not intentionally violate regulations, and disputes are often settled without the host incurring a fine.

ESTABLISH A CLEAR TAXING MODEL

Be mindful that there are multiple ways to capture revenue. In most cases, the owner/host is responsible for remitting taxes back to the city; however, several cities are trying to move the collection burden from hosts to the platforms. According to NLC's analysis, 82 percent of surveyed cities require the host to remit taxes directly to the city, while just 5 percent require the platform to collect and remit taxes on their behalf.

82%
of cities require the host to remit taxes directly to the city, while 5 percent require the platform to collect and remit taxes of hosts behalf.

Cities like Annapolis, MD, and Charleston, SC, require platforms to remit taxes back to the city on behalf of hosts, automatically collecting tax revenue from a booking when it is made. While it may be easier for cities to require platforms to remit taxes, beware that there is some ongoing controversy around whether cities get back all the taxes they are owed. Several cities in South Carolina, including Charleston, are suing platforms, alleging that they are not remitting full taxes.[14]

In addition to the transient occupancy tax, some city councils may add an additional tax or surcharge on short-term rentals. For example, Chicago, IL, passed a 4 percent surcharge in 2016 and another 2 percent surcharge in 2018.[15] The surcharge funds supportive homelessness services and enforcement of the ordinance.[16]

KEY CONSIDERATION

Be mindful of how difficult it may be for hosts to remit taxes to the city. If a host has to remit taxes directly, consider how to make that process as simple and streamlined as possible. This not only makes it easier for hosts but ensures that the city is capturing more of the tax revenue it is owed. Include clear and concise instructions on how to remit taxes on the city's webpage and a user-friendly platform to make payments. Consider sending notifications to all short-term rental hosts about upcoming tax payments.

NEGOTIATE AN AGREEMENT WITH PLATFORMS

Cities have had varying success in building helpful agreements with platforms. Cities have a lot to gain by partnering with platforms; however, the relationship-building process can be contentious at times. These relationships are more likely to be positive when cities come to the discussion table with a clear goal in mind and communicate it with platforms. Cities may have the opportunity to negotiate agreements with platforms, such as voluntary collection agreements (VCAs) or memorandums of understanding (MOUs).

Voluntary Collection Agreements

A Voluntary Collection Agreement (VCA) typically involves a short-term rental platform agreeing to collect and remit transient occupancy taxes on behalf of its hosts. Agreements generally allow local governments to audit the platform, rather than the operator, but do not allow local governments to access information that could identify operators outside of the terms of the agreement.

Voluntary Collection Agreement (VCA): A VCA typically involves a short-term rental platform agreeing to collect and remit transient occupancy taxes on behalf of its hosts.

Many short-term rental platforms have agreements with local governments. As of March 2019, Airbnb had more than 350 VCAs with state and local governments in the U.S.[17] While VCAs allows local governments to receive a steady stream of transient occupancy taxes, officials in several states have expressed concerns that these agreements allow platforms to remit less to governments than they owe, a problem compounded by VCA provisions that hinder tax authorities' ability to audit platforms.[18] *See the Appendix for more information on VCAs.*

Memorandum of Understanding

A memorandum of understanding (MOU) typically focuses on issues such as disclosing data, posting property registration numbers and removing illegal listings. Be aware that an MOU can include provisions that limit cities' enforcement power or create additional duties for cities. For example, in its draft MOU with the City of Denver, Airbnb included provisions that would have made the MOU confidential and require the city to resort to arbitration to resolve disputes. Together, these provisions would have limited transparency and hampered the city's ability to use the courts for its enforcement actions. Denver rejected the draft.[19]

Memorandum of Understanding (MOU): A MOU typically focuses on issues such as disclosing data, posting property registration numbers and removing illegal listings.

MOUs may create additional duties for cities, such as when an MOU requires a platform to take down listings for unregistered properties but places the burden on cities to inform the platform about suspicious properties — a resource-intensive task. Cities may attempt to shift some of these burdens onto the platform. In one settlement with New York City, Airbnb agreed to automatically provide information for certain listings that met specific criteria.[20] In the City of Portland, OR's MOU with Airbnb, the two parties share duties: Airbnb is responsible for regularly reporting data about hosts and properties, and Portland is responsible for using the information it receives to verify that hosts have properly registered.[21]

KEY CONSIDERATION

Approach negotiated agreements well informed and with a clear policy goal in mind. Because VCAs and MOUs tend to be offered with standard language and provisions that benefit platforms and hinder city oversight efforts, cities should be prepared to analyze the agreements and decide whether and how to negotiate more favorable conditions.

ENFORCEMENT

The purpose of regulations should not just be to capture additional revenue but to minimize and mitigate the negative side effects associated with the uncontrolled growth of short-term rentals. Cities need to move away from reactive to proactive enforcement when possible. Effective enforcement is key to an ordinance's success. Without regulations that clearly define what a short-term rental is, a database of units being operated, and contact information for those units, cities are effectively rendered helpless in enforcing their regulations.

DEDICATE RESOURCES TO ENFORCEMENT

Dedicated resources, time, staff and money are necessary for successful enforcement. Short-term rental regulation enforcement can be revenue neutral or positive for municipalities when license, permit and tax revenue offsets costs.[22] In some cases, cities can also leverage existing resources such as 311 service to take in short-term rental complaints.

Some examples of key enforcement components that require dedicated resources include:

- Hiring additional code enforcement officers to identify and flag repeat offenders
- Hiring a third-party platform to help with data collection and enforcement
- Hiring a web developer to create a "one-stop-shop" website for STR hosts and residents
- Hiring additional staff to set up and service a complaint hotline
- Instituting (re)inspections for violating properties

CITY SPOTLIGHT:
COLUMBUS, OH

The most recent ordinance amendment in the City of Columbus allows the licensing department to deny, revoke or suspend a permit if there are three or more emergency calls made on a specific property in the previous 12 months (i.e., "three-call rule"). To help facilitate this system, the city's technology department created an internal database that connects the 311 service with the city's computer-aided dispatch software to allow enforcement to search the address on the map and know what type of emergency service was requested. City staff reference this database when an application is made or when a complaint about a property is filed. This allows the city to identify properties that have violated the ordinance or have passed the "three-call rule."

ENSURE EXTENSIVE COMMUNICATION AND MARKETING

Transparent and clear communication and marketing are critical to the success of an ordinance. Clear communication will support the ordinance's success (e.g., hosts, guests and residents know what the rules and regulations are) and is key to preventing community backlash when an ordinance is established or revisited.

Consistent contact with landlord associations and property owner groups allows the city to convey to hosts how to remain in compliance. This may be an opportunity to develop relationships with trusted voices in key groups who can serve as a liaison with the broader community and as a spokesperson for good hosting etiquette.

Regular contact with residents means that cities can convey the best way to file nuisance and safety complaints should there be a violation at a short-term rental. This helps communities feel like they have a trusted partner in the city to ensure community safety.

KEY CONSIDERATION

Consider hiring or assigning specific city staff to be liaisons with the community. Doing so may help establish trust among hosts, residents and the city, making room for more constructive conversations should something go awry. In addition, developing relationships with specific community members (e.g., hosts or residents) can help broaden the city's reach into the community. For example, hosts who have good relationships with the city can promote good hosting etiquette in the community.

MOVE REGISTRATION AND ADMINISTRATION SYSTEMS ONLINE

To the extent possible, cities should limit the administrative burden on city staff and platform users. Moving registration or licensing systems online (while keeping the paper application option open) makes the process more seamless for hosts and less cumbersome for city staff who process those applications.

Beyond moving the registration or licensing system online, consider launching a centralized, accessible and easy-to-use webpage with all relevant short-term rental information. One common complaint that cities receive is that short-term rental regulations are difficult to understand. In most cases, it is not that the regulations themselves are too complex, but that regulations are not transparent and explained in an accessible way. Launching a webpage that is regularly updated keeps the community informed. According to a recent 2022 report and survey from Rent Responsibly and the College of Charleston, 49 percent of surveyed short-term rental hosts got information from government websites about local regulations that affect short-term rentals.[23] Furthermore, this webpage can serve as a resource for city staff who are not experts on short-term rentals but may be required to liaise with the public about them.

CITY SPOTLIGHT:
HENDERSON, NV

The City of Henderson set up an easily navigable webpage with information on short-term rentals, including application materials and answers to frequently asked questions.[24] This webpage serves as a "one-stop-shop" for hosts, residents and staff. The short-term rental webpage has the second-highest number of hits on the Henderson website.

On the webpage hosts can:

- Find the most up-to-date short-term rental ordinance and state laws that apply to short-term rentals
- Register their short-term rental
  - Find city contact information to support them through the registration process
  - Find clear lists on how to apply and what documents are needed
  - Find application forms that are easy to download or file online
- Renew their short-term rental registration
- Pay their transient lodging tax and fees
  - Find tax forms that are easy to download

On the webpage residents can:

- Find relevant short-term rental regulations, including the city ordinance and state laws that apply to short-term rentals
- Locate the complaint phone hotline to report any illegal short-term rental or to file noise, trash, parking, occupancy or other nuisance complaints
- Access the complaint website to submit a complaint online

REVISIT AND ADAPT

The short-term rental market is consistently in flux, meaning regulations may have to change to meet the market and evolving community needs. Regularly revisit your ordinance to ensure that it still has the right balance of competing expectations and alignment with city goals.

ESTABLISH A FEEDBACK LOOP

Particularly when first passing an ordinance, be intentional about setting metrics of success that align with policy goals. These qualitative and quantitative policy goal-aligned metrics will determine how performance is evaluated. Setting a dedicated evaluation period following the passage of a short-term rental ordinance will allow for better evaluation and help generate ideas of how to improve an ordinance. Make sure the public and the hosts understand that the regulation may change at the end of the evaluation period.

Build in a recurring check-in with relevant stakeholders to determine whether the short-term rental ordinance is meeting the city's originally stated goal, and if not, what needs to be adjusted. This is where the feedback loop is particularly important. Keep an open line of communication with relevant stakeholders (e.g., landlord associations, property owners, residents, housing advocates, community groups, hotels, tourism agencies, etc.) to better understand how the implementation of the ordinance is playing out.

In Fayetteville, AR, the city authorizes a 20-month sunset clause in its ordinance, allowing city leaders to conduct regular review and reauthorization of the ordinance.[25] Some adjustments have been made following these regular review periods, including increasing the occupancy tax rate to better fund the cost of enforcement, adjusting the cap on the number of short-term rentals allowed in the community and requiring a unit inspection.

KEY CONSIDERATION

If there is a recurring evaluation period for the ordinance, tell the community early on. Transparency is key to making sure hosts and residents know that regulations may change in the future. This may limit the potential backlash of changing regulations after passing them.

Conclusion

SHORT-TERM RENTALS ARE here to stay and, when regulated with care and the proper safeguards in place, can be integrated into the fabric of a community. STRs can enhance tourism, stimulate economic growth in targeted neighborhoods and give residents a way to supplement their income, but can also exacerbate racial inequity, put pressures on affordable housing and disrupt neighborhoods. With proper regulation, cities can enjoy the benefits of STRs and limit their negative impacts.

Regulating short-term rentals is not about limiting their potential, but about enacting the appropriate mechanisms to keep competing priorities and interests balanced. As cities consider regulations to address short-term rentals in their communities, it is important that they act promptly, remain focused on a clear policy objective, consider racial equity, actively engage with relevant stakeholders, develop and enforce clear regulations, and provide continuous review of ordinances. The resources found in this Action Guide can help our communities find the proper balance to effectively support and regulate this growing industry.

Appendix

Voluntary Collection Agreements (VCAs)

	COMMON PROVISIONS	THINGS TO WATCH OUT FOR
COLLECTION AND REMITTANCE	Platforms agree to collect transient occupancy taxes from guests and remit the amount collected to the government taxing authority.	Without this provision, the platform may refuse to collect the tax, arguing that hosts are responsible for collection. Even with the provision, some platforms have been accused of under delivering taxes remitted to cities.
REPORTING AGGREGATE INFORMATION	The platform agrees “reasonably to report aggregate information” related to its collection and remittance of transient occupancy taxes to the tax authority. Aggregate information includes the total amounts of receipts, exemptions, adjustments and so forth, but does *not* include individualized information for specific properties.	Aggregate information does not allow cities to gather individualized information on particular properties.
DETERMINING LIABILITY FOR TAXES	The platform agrees to be held legally responsible for failure to report, collect or remit the transient occupancy taxes, and the tax authority agrees not to hold individual hosts responsible for reporting, collecting or remitting taxes on their property.	
WAVIER OF LOOK-BACK	The tax authority agrees not to pursue any actions to recover unpaid taxes that had been due before the date the agreement went into effect.	If the city has not yet received payments from a large proportion of STRs, then waiving all claims on taxes owed before the VCA’s implementation will result in the city potentially forfeiting a significant amount of tax revenue. On the other hand, a city may not have the capacity to go after back taxes, and be mostly concerned with collection of future taxes, making waiver of past tax liability a lower priority.
NOTIFICATION TO HOSTS AND RENTERS	The platform agrees to notify hosts and renters that it will be collecting and remitting transient occupancy taxes for their transactions.	

	COMMON PROVISIONS	THINGS TO WATCH OUT FOR
AUDITING	The tax authority agrees to audit the platform on the basis of its tax returns and supporting documentation, rather than on audits of individual renters or hosts. Some VCAs also state that the tax authority cannot audit individual renters or hosts until it has finished auditing the platform and a tax issue remains unresolved. All transaction and tax data reviewed by a city tax authority must be anonymized. If the city suspects wrongdoing on the part of a specific host, it must first audit the anonymous data, then pick out suspicious transactions, and then finally obtain a subpoena to get identifiable data from the platform. The tax authority agrees to limit the number of times it will audit the platform (e.g., to only audit the platform once every two years, and to only audit transactions conducted over a 12-month stretch.)	This may limit the tax authority’s access to data and ability to audit individual hosts and affect city efforts to enforce home-sharing laws. Cities such as Culver City, CA, have negotiated alternative provisions ensuring that they can continue to audit individual hosts if they receive information about the property’s violations from another source.[26] Anonymized data may mean that cities can only use *aggregate* information, which prevents cities from investigating individual cases of violation. For example, Snowmass, CO, states that it will audit “on an anonymous numbered account basis,” suggesting that disaggregation is not required.[27] Cities can also suggest alternative kinds of privacy protection that allow for individualized reports, such as pseudonymizing information. VCAs typically provide that all information about hosts and guests will remain *anonymous* unless the city has completed an audit of the platform and served the platform with a subpoena or similar legal process. Cities may want to negotiate changes to this provision to allow them to ensure that properties are registered. For example, if cities have already passed ordinances requiring registration, their audits might request information about the registration number. Cities can negotiate limits on audit frequency to allow for more frequent and tailored enforcement efforts. For instance, the audit frequency in Pacific Grove, CA, is once every 36 months; although this period may still be too long for many cities to effectively audit home-sharing, it does indicate that VCAs’ time provisions can vary.[28]

Endnotes

[1] *The history of short-term rentals (n.d.).* Keycafe Blog. https://web.archive.org/web/20220310191702/https://blog.keycafe.com/the-history-of-short-term-rentals/

[2] Barron, K., Kung, E., & Proserpio, D. (2020, March 4). The effects of home-sharing on house prices and rents: Evidence from Airbnb. *Marketing Science, 40*(1), 1 – 191. http://dx.doi.org/10.2139/ssrn.3006832

[3] Resolution: 172-19 A Resolution to Request That City Staff Study and Develop an Ordinance to Regulate Short-Term Rentals in the City of Fayetteville (2019, July 16). Fayetteville City Code. https://web.archive.org/web/20220310192617/https://www.fayetteville-ar.gov/DocumentCenter/View/19304/Short-Term-Rentals-Study-SIGNED-RES-172-19

[4] U.S. Census Bureau. (n.d.). *Quarterly homeownership rates by race and ethnicity of householder for the United States: 1994-2020*. https://www.census.gov/housing/hvs/data/charts/fig08.pdf

[5] Edelman, B., Luca, M., & Svirsky D. (2017). Racial discrimination in the sharing economy: Evidence from a field experiment. American Economic Journal: Applied Economics, 9(2), 1–22. https://doi.org/10.1257/app.20160213

[6] Airbnb. (2019, September 2019). *An update on Airbnb's work to fight discrimination.* https://news.airbnb.com/an-update-on-airbnbs-work-to-fight-discrimination/

[7] Chapter 598 Hotel/Motel and Short-Term Rental Operations (2018, January 30). Columbus City Codes. https://library.municode.com/oh/columbus/codes/code_of_ordinances?nodeId=TIT5BURELICO_CH598HOMOSHRMREOP

[8] Chapter 15 - Short-Term Rental Tax: Legislative Intent (2015, September 1). City of Boulder, Colorado Charter and Revised Code. https://library.municode.com/co/boulder/codes/municipal_code?nodeId=TIT3RETA_CH15SHRMRETA_3-15-6--3-15-12RE

[9] Binzer, U. (n.d.). *A practical guide to effectively regulating short-term rentals on the local government level.* Host Compliance. https://web.archive.org/web/20220317135940/https://www.cityofsantacruz.com/home/showpublisheddocument/57754/636177355568470000

[10] Binzer, U. (n.d.). *Home-sharing & short-term rentals regulations FAQs.* Granicus. https://granicus.com/pdfs/Home-Sharing-Short-Term-Rentals-FAQ.pdf

[11] *San Francisco's registration process: Frequently asked questions*. (n.d.). Airbnb. https://www.airbnb.com/help/article/1849/san-franciscos-registration-process-frequently-asked-questions

[12] *Nashville, Tennessee: How the codes department achieves 90%+ compliance with Host Compliance.* (n.d.). Granicus. https://granicus.com/how-the-codes-department-achieves-90-compliance-with-host-compliance/

[13] A Local Law "Amending the Village of Lake Placid/Town of North Elba Land Use Code to Add Regulations Pertaining to Short-Term Rentals (2020). Village of Lake Placid/Town of North Elba Land Use Code. http://www.northelba.org/files/TownLocalLawSubmissiontoNYSDOS.pdf

[14] Brown, A. (2021, July 1). SC cities sue Airbnb and other short-term rental companies for not paying local taxes. T*he Post and Courier.* https://www.postandcourier.com/business/real_estate/sc-cities-sue-airbnb-and-other-short-term-rental-companies-for-not-paying-local-taxes/article_f44f0f60-9bb9-11eb-a4b5-636eb8976c0f.html

[15] Amendment of Municipal Code Section 3-24-030 Regarding Surcharge Associated with Vacation Rentals and Shared Housing Units (2018, June 27). Municipal Code of Chicago. https://www.civicfed.org/sites/default/files/o2018-4988.pdf

[16] Reuters, T. (2016, November 3). *Chicago passes short-term rental ordinance.* Hospitality Lawyer. https://hospitalitylawyer.com/chicago-passes-short-term-rental-ordinance/

[17] Martineau, P. (2019, March 20). Inside Airbnb's 'guerrilla war' against local governments. *Wired.* https://www.wired.com/story/inside-airbnbs-guerrilla-war-against-local-governments/

[18] Bucks, R. D. (2017, March). *Airbnb agreements with state and local tax agencies. A formula for undermining tax fairness, transparency and the rule of law.* https://www.ahla.com/sites/default/files/Airbnb_Tax_Agreement_Report_0.pdf

[19] Swanson, C. (2020, February 14). Frustrated Denver officials reject deal with Airbnb. *The Denver Post.* https://www.denverpost.com/2020/02/14/denver-airbnb-agreement

[20] Martineau, P. (2019, May 24). Airbnb and New York City reach a truce on home-sharing data. *Wired.* https://www.wired.com/story/airbnb-new-york-city-reach-truce-on-home-sharing-data/

[21] Templeton, A. (2019, September 4). *Portland reaches rental data sharing agreement with Airbnb.* Oregon Public Broadcasting. https://www.opb.org/news/article/portland-airbnb-reaches-rental-data-sharing-agreement/

[22] Binzer, U. (n.d.). *Home-sharing & short-term rentals regulations FAQs.* Granicus. https://granicus.com/pdfs/Home-Sharing-Short-Term-Rentals-FAQ.pdf

[23] Rent Responsibly & College of Charleston. (2022, January). 2022 report state of the short-term rental community. https://www.rentresponsibly.org/wp-content/uploads/2022/01/2022-State-of-the-STR-Community-Report-January-2022.pdf

[24] City of Henderson, NV. (n.d.). *Short-term vacation rentals.* https://www.cityofhenderson.com/government/departments/community-development-and-services/short-term-vacation-rentals

[25] Short-Term Regulations (2021, April 20). Fayetteville City Code. https://www.fayetteville-ar.gov/DocumentCenter/View/23281/Ordinance-6427-Short-Term-Rental

[26] Voluntary Collection Agreement for City of Culver City, California, Transient Occupancy Tax (2018, September 25). https://www.culvercity.org/files/assets/public/documents/city-manager/short-term-rentals/vca-agreement-with-airbnb_1.pdf

[27] Voluntary Collection Agreement for Town of Snowmass Village Sales and Lodging Taxes (2016, November 30) http://nwccog.org/wp-content/uploads/2018/07/AIRBNB-Voluntary-Collection-Agreement.pdf

[28] Mayberry, C. (2017, October 19). Pacific Grove's new short-term rental policy includes agreement with Airbnb. *Monterey Herald.* https://www.montereyherald.com/2017/10/19/pacific-groves-new-short-term-rental-policy-includes-agreement-with-airbnb/

NATIONAL LEAGUE OF CITIES

CITIES STRONG TOGETHER

Sustainable Economies Law Center

REGULATING SHORT-TERM RENTALS:

A Guidebook for Equitable Policy

March 2016

CREDITS

Authored by:

YASSI ESKANDARI-QAJAR
Policy Director, Sustainable Economies Law Center

JANELLE ORSI
Co-Founder and Executive Director, Sustainable Economies Law Center

With input from*:

JESSICA ARENA
ELIZABETH BURNETT
EUNICE KWON
RICARDO NUNEZ
CAMERON RHUDY
SARA STEPHENS
CASEY STRONG
NEIL THAPAR
CHRIS TITTLE

Design lead:

EUNICE KWON

About SELC:

Sustainable Economies Law Center (SELC) is a nonprofit that charts the legal territory of the new economy, educates people about the possibilities and limits of creative economic structures, and advocates for laws that clear the way for community resilience.

**(this publication does not necessarily represent their positions)*

TABLE OF CONTENTS

EXECUTIVE SUMMARY

Sooner or later, nearly every city will need to address the rapid spread of short-term rentals. Though the activity itself is not new, in recent years, companies including Airbnb, VRBO, Flipkey, and Homeaway have facilitated and mainstreamed short-term rentals to a point where local governments are taking note, and taking action.

Sustainable Economies Law Center (SELC) offers the following recommendations to assist policymakers with the process of drafting a local short-term rental ordinance. SELC's goal is for local governments to craft short-term rental policies that generate inclusive opportunities for local wealth-creation, while balancing the needs of all members of the community. Ideally, the result will be an equitable policy that protects public interests, including housing affordability, health and safety, neighborhood quality, and municipal revenues, while retaining reasonable latitude for city residents to host and earn money from short-term guests.

A short-term rental (STR) refers to a room or housing unit that is rented to a person or group for a short period of time, typically under 30 nights. The legality of STRs is being questioned in cities across the country because most local planning codes define STRs as a commercial activity akin to bed and breakfasts or inns, and typically prohibit them in residential areas without proper permitting and licensing.

In addition to legal questions, STRs raise important questions about local priorities and the larger role STRs play in cities and neighborhoods. The staunchest proponents of STRs argue that hosting short-term guests enables residents to offset the cost of housing, make efficient use of otherwise unused space, and benefit directly from tourism dollars and cultural exchange. Others are less convinced of the benefits of STRs, arguing that the short-term rental of residential units negatively impacts local housing stock, neighborhood quality, public tax revenues, and conventional hotels.

In cities with high housing demand, the most contentious issue tends to be the impact of STRs on housing availability and affordability. Though STRs may help some hosts occasionally rent a portion of their primary residence, thus offsetting mortgages and rent with the added income, a significant number of hosts are using STR platforms to rent multiple homes or entire apartment complexes to transient occupants instead of housing local residents. In many cases, STRs create a monetary incentive to shift the use of housing from long-term residential use to transient use, and without appropriate regulation, STRs will continue to reduce the amount of housing available to long-term residents – thereby increasing the cost of owning or renting in any impacted area.

In light of the complexity of STR issues, SELC sees a need for municipalities to respond with nuanced and comprehensive public policy. We offer this set of issue analyses and policy recommendations to assist policymakers, advocates, and residents in shaping such regulations. We emphasize that there is no one-size-fits-all STR regulation. In fact, of the existing local STR regulations, no two are exactly alike – and for good reason. Each city must regulate STRs according to its unique set of circumstances and priorities, and should arrive at an appropriate and equitable policy through open dialogue with the diversity of stakeholders involved. The following are key considerations cities should factor into an STR ordinance. In crafting an equitable STR policy, we recommend that municipalities focus on how STRs:

- Impact the supply and affordability of housing;
- Provide economic benefit to those with economic need; and
- Affect neighborhood quality.

To address these issues, we recommend that municipalities take the following measures, where appropriate:

- Set clear definitions that distinguish STRs from commercial hotels;
- Limit STRs to primary residences, distinguishing them from vacation rentals;
- Require registration and recordkeeping;
- Institute a cap on rental nights per year;
- Establish protections and complaint procedures for guests and neighbors;
- Limit crowding, noise, and parking strains; and
- Collect transient occupancy tax.

I. INTRODUCTION

Sooner or later, nearly every city will need to address the rapid spread of short-term rentals, such as those facilitated by online platforms including Airbnb, VRBO, Flipkey, and Homeaway. To help local policymakers and advocates draft comprehensive and equitable short-term rental ordinances, Sustainable Economies Law Center (SELC) has conducted a broad survey of local short-term rental policies that have emerged over the past four years, offering this set of issue analyses and recommendations. SELC's goal is for STR policies to generate inclusive opportunities for local wealth-creation, while still balancing the needs of all members of the community.

SELC's goal is for STR policies to generate inclusive opportunities for local wealth-creation, while still balancing the needs of all members of the community.

To create an equitable and appropriate short-term rental policy, each city must regulate short-term rentals according to its unique social and economic circumstances and priorities, and should craft solutions through open dialogue with the diversity of stakeholders involved. Ideally, the result will be a policy that protects public interests such as housing affordability, municipal revenues, health and safety, parking, and the quality and character of neighborhoods, while retaining reasonable latitude for city residents to host and earn money from short-term guests.

II. BACKGROUND

WHAT IS A SHORT-TERM RENTAL?

A short-term rental (STR) refers to a room or housing unit that is rented to a person or group for a short period of time, typically under 30 nights. STRs are distinct from long-term rentals in that the room or unit is rented on a nightly or weekly basis, whereas long-term rentals must exceed the minimum number of nights required by local laws. Due to the brief nature of STR stays, STR guests are typically transient occupants such as travelers who would otherwise stay in a hotel or similar accommodation. Long-term rentals, on the other hand, typically house individuals who work, attend school, or otherwise wish to "permanently" reside in the city.

STRS ARE NOT NEW

STRs are garnering more attention by the day, as are the online platforms that facilitate connections and/or payments between STR guests and hosts. But hosting short-term guests is not a new phenomenon, nor was it invented by these platforms. Before these platforms became available, travelers who wanted a different type of vacation experience were already opting to stay with locals rather than in hotels, in order to more fully experience the culture, food, and lifestyle of the region. Locals who hosted backpackers, "couch surfers," pilgrims, and touring cyclists often did and continue to do so in exchange for money or skill trades, to be an ambassador of their locale, or simply to interact with visitors from faraway places.

STRS ON THE RISE

Within the past several years, both the *number* of properties available for short-term rental, and the *frequency* with which they are rented, have skyrocketed, transforming the activity from a casual and occasional practice to an increasingly formalized and pervasive activity in cities from San Francisco to Paris. Online platforms have played an essantial role in the STR boom, enabling millions of people around the world to list and browse rentals, and to connect, coordinate, and transmit payments through one interface.

The most popular platform, Airbnb, self-reported that from 2013 to 2014, STR bookings in Nashville increased 365 percent, stays in New Orleans increased by 340 percent, and stays in Portland, Maine increased by 328 percent.[1] With such a sudden increase in STR activity and lack of corresponding regulatory action, it's no wonder cities are now feeling the effects of STRs on housing and rental markets, public tax revenues, and neighborhood quality.

San Francisco is one of many cities where STRs have caused heated controversy, particularly around tenant evictions and conversion of residential units to commercial use. A

1. Airbnb Unveils Top 10 Trending U.S. Travel Destinations for Summer 2014, Airbnb (May 1, 2014), https://www.airbnb.com/press/news/airbnb-unveils-top-10-trending-u-s-travel-destinations-for-summer-2014.

recent memo from the San Francisco Budget and Legislative Analyst states that between November 2013 and February 2015, the city had an estimated 5,249 to 6,113 Airbnb listings – all during a time when STRs were still illegal.[2] Not including STR units listed on other platforms or sites, Airbnb units alone were said to amount to 11 to 23.2 percent of the city's vacant units, entire homes listed on Airbnb were estimated to remove 14.8 percent of the total rental housing available for rent citywide, and private and shared rooms that might otherwise be occupied by roommates were estimated to take even more units off the rental market.[3] The same memo stated that STRs could lead to tenant evictions, because hosts have a financial incentive to leave the long-term rental market and enter the short-term rental market. In fact, the memo revealed that neighborhoods with the most intense STR activity also had high numbers of evictions.[4]

Numerous other studies and data scraping exposés have continued to illustrate the scope of STR use and impact in other cities including San Francisco, New Orleans, Nashville, New York, and Los Angeles.[5] New York state Attorney General Eric Schneiderman, known for his early investigation of the STR impacts, released a report showing that Airbnb rentals in New York City increased from 2,650 in 2010 to 16,500 in 2014, with nearly three-quarters of these listings in violation of city or state laws.[6] A Los Angeles study showed that 90 percent of Airbnb revenues are generated not by hosts who share a room in their homes, but by hosts who rent out *entire* units, and by leasing companies who rent out two or more entire units.[7] Short-term renting in Los Angeles has also removed 7,316 rental units from the market, which amounts to the equivalent of seven years' of affordable housing construction.[8]

Because STR platforms refuse to release detailed usage data, the full extent of STR impacts is still unclear. Despite that, the handful of public and independent investigations into STR impacts on housing, neighborhoods, and tax revenues – though painting only a partial picture –provide valuable insights into how STRs are changing cities on the ground. These investigations also provide clues about what cities can do to encourage fair use of STRs, minimize harms, and penalize those who violate regulations.

---

2. San Francisco Budget and Legislative Analyst's Office, Analysis of the impact of short-term rentals on housing, 11 (May 13, 2015), available at http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=52601.
3. Ibid.
4. Ibid at 30-31.
5. See, for example: Anti-Eviction Mapping Project. Last viewed November 24, 2015. http://www.antievictionmappingproject.net/airbnbmap.html. Inside Airbnb. Last viewed November 24, 2015. http://insideairbnb.com. And, Airbnb and San Francisco: Descriptive Statistics and Academic Research. Alex Marqusee. April 12, 2015.
6. Office of New York State Attorney General Eric Schneiderman, Airbnb in the city, 6 (October 2014).
7. Roy Samaan, Airbnb, Rising Rent, And The Housing Crisis In Los Angeles, 3 (March 2015), available at http://www.laane.org/airbnb-report.
8. Ibid.

III. POSITIVE & NEGATIVE IMPACTS OF SHORT-TERM RENTALS

STRs can have a positive impact on cities, in that they can:

- **Contribute to local wealth** by giving residents the opportunity to earn money from hosting tourists. Fewer tourism dollars go to large corporate hotel chains, and more dollars stay within the community;
- **Make efficient use of space** by allowing residents to host guests in a room or unit when it might otherwise be unused;
- **Prevent economic hardship and displacement** by allowing some residents to use STR revenue to make ends meet and stay in their homes;
- **Provide both tourists and hosts with valuable social and cultural exchange**; and
- **Spread tourist dollars beyond typical hotel and tourism districts** by attracting travelers to less frequented neighborhoods and businesses.

At the same time, STRs can have a negative impact on cities, in that they can:

- **Take long-term rental units off the market,** creating a scarcity of housing options, and pushing up prices;
- **Incentivize property owners to keep rooms and units vacant or even evict long-term tenants** in order to make higher profit per night from short-term renters;
- **Unfairly compete with established hotels, inns, and bed and breakfasts** when STRs are not subject to the same level of taxation or regulation;
- **Reduce transient occupancy tax, or "hotel tax" revenues for the city** when STR hosts evade the tax or avoid remitting the tax on the grounds that they are not operating a hotel;
- **Violate residential zoning codes** that are intended to limit noise, traffic, parking shortages, and activities incompatible with the character of a neighborhood;
- **Adversely impact community cohesion** because vacation rentals house a revolving circuit of transient occupants who are not connected to or invested in the community; and
- **Reinforce class, gender, and racial inequities**, because online platforms make it easy for users to act on biases when selecting hosts or guests, and because the opportunity to rent living space to short-term guests, like most other economic opportunities, disproportionately privileges the privileged.

IV. CURRENT LAW

Many municipal codes prohibit residents from hosting short-term guests in exchange for payment unless residents comply with all regulations applicable to commercial hotels and bed and breakfasts. These laws tend to require zoning approval, compliance with health, building, and safety laws, and payment of a transient occupancy tax (TOT), also known as a "hotel tax." Given that such laws are generally designed for commercial hotels, in the absence of a local ordinance that tailors such laws to STRs, these local laws effectively ban STRs.

Interestingly, of the dozens of new and emerging STR laws around the U.S., no two regulations are exactly alike. Indeed, the differences among them may lend valuable insight into each city's political priorities, social and economic values, and in some cases, their most influential stakeholders.

Meanwhile, a growing number of cities and counties have crafted local ordinances that both legalize some form of STRs and impose limitations and regulatory processes that protect public interests. These cities and counties include Austin, San Francisco, Portland, Nashville, Santa Monica, Madison, and many others. Interestingly, of the dozens of new and emerging STR ordinances around the U.S., no two regulations are exactly alike. Indeed, the differences among them may lend valuable insight into each city's political priorities, social and economic values, and in some cases, their most influential stakeholders. Each municipality should calibrate its STR ordinance to its particular social and economic circumstances, but there are several basic considerations that all cities and counties should take into account when drafting such a policy. These considerations are outlined below.

V. SELC'S RECOMMENDATIONS: THE BASIC COMPONENTS OF AN STR ORDINANCE

Local governments can benefit from adopting more nuanced regulations that simultaneously lift any outright ban on STRs, channel STR income-earning opportunities to those who need them, and restrict STRs in ways that reduce negative externalities. We believe that such short-term rental regulations must be comprehensive. Therefore, in this section, we highlight some of the key elements of a short-term rental policy, and include examples from local STR regulations throughout the county. Policymakers and advocates should adapt these recommendations to local contexts, and involve a diverse set of stakeholders in doing so. The result should be an STR regulation that fairly and accurately reflects local needs and priorities.

Though adoption of these or similar recommendations ultimately depends on local context, we encourage policymakers to still consider the principles that underlie these recommendations. That includes setting definitions that effectively frame the issues; creating restrictions that preserve housing affordability; devising registration, record-keeping, and reporting processes that encourage compliance and facilitate effective enforcement; and including measures to ensure the safety of guests, the preservation of neighborhood quality, and the protection of public revenues.

A. ESTABLISH CLEAR DEFINITIONS

We recommend that municipalities establish clear definitions that distinguish a "Short-Term Rental" from a long-term rental, as well as describe the qualities that set STRs apart from their more commercial counterparts, including a "Hotel," "Motel," "Boarding House," or a "Bed and Breakfast." In addition to drawing distinctions between STRs and other activities or establishments, regulators must also address variations among STRs, including whether or not the unit is a the host's primary residence, and whether or not the STR is occupied by the host during a guest's stay. Though a municipality's definition of STRs can include more embellishment, our recommended basic definition of STRs and STR subcategories are as follows:

Short-Term Rental (STR) is the rental of a primary residence or portion there of for a period of less than 30 nights, for which the guest compensates an owner or lessee of the unit.[9]

Primary Residence: A housing unit in which an owner or lessee resides for the majority of the year.[10]

Hosted Primary Residence STRs: An STR unit is a Hosted Primary Residence STR if the owner or lessee who is hosting a short-term guest occupies that dwelling unit as his or her primary residence for the majority of the year, and if the owner or lessee hosts one or more guests in a bedroom or some portion of the unit and is generally present for the duration of the rental period.[11]

Un-Hosted Primary Residence STRs: A unit is an Un-Hosted Primary Residence STR if the owner or lessee occupies the dwelling unit as his or her primary residence for the majority of the year, but leaves his or her unit for a period of time – for example, over a weekend, when traveling for work, or while on vacation – and rents out all or part of the unit in his or her absence.

Vacation Rentals: A Vacation Rental is an entire residential unit that is not a primary residence and is rented to guests on a short-term basis, typically under 30 nights.[12]

B. REQUIRE REGISTRATION AND RECORDKEEPING

Proof of Primary Residency:

We recommend that all STRs be limited to primary residences. As defined above, a primary residence is a housing unit in which a renter or owner resides for the majority of the year. By definition, a person may have only one primary residence, and it follows that a person may have only one STR address.

9. Though we define short-term as less than 30 nights, a common requirement for tenancy, the minimum number of nights for tenancy could be based on existing local tenancy laws if those are more appropriate.
10. We suggest defining majority as a minimum of nine months, with variations depending on local circumstances. If a municipality has an existing definition of primary residence, it could be referenced here.
11. We define "generally present" as having the host present for an average of 6 hours out of any 24-hour period.
12. The Sustainable Economies Law Center does not consider Vacation Rentals to be short-term rentals, but considers them a separate category of transient accommodations. See "Setting Caps on the Number of Rental Nights Per Year" in Section C for a description of how Austin, TX, and Nashville, TN regulate vacation rentals as a separate and distinct activity. See: Austin, Tx., City Land Development Code § 25-2-793 (2014), and Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.Q. (2015).

An STR registration process should require hosts to provide records demonstrating that the unit is their primary residence. We recommend that cities follow the example of San Francisco and require hosts to show that the unit is listed as the applicant's residence on at least two of the following documents in order to register: motor vehicle registration, driver's license, voter registration, or a utility bill.[13] Though the documents listed in San Francisco's administrative code should provide sufficient evidence of primary residency, cities could add to the list of acceptable documentation federal and state tax returns that reflect the address of the residential unit in question. If primary residency is in dispute, regulators could resort to using the various factors that the IRS uses to determine principal residency.

Registration:
Enforcing the provisions of an STR ordinance, particularly caps on the number of units per host, rental nights per year, payment of transient occupancy taxes, and other recommendations outlined below, necessitates that hosts be accountable to some form of local oversight. By requiring STR hosts to register with the Planning Department or some similar office, cities will identify a unit being used for short-term rental, a point person for complaints, and a party who will be held liable for violations. We suggest that cities keep the registration process relatively simple to encourage participation. A primary objective of registration should be to collect basic information from hosts and to open a line of communication between hosts and the city. As discussed below, we do not recommend that approval of registration be contingent on inspection.

Cost of Registration:
We suggest that cities keep both registration costs and subsequent renewal fees as low as possible by relying on registration fees only to cover the administrative cost of processing registrations, as in Anaheim, CA.[14] If registration costs are kept low, cities can factor the costs of fielding complaints and enforcing STR laws into the tax rate and fines for violations. That way, hosts who comply with the law or only engage in short-term rental occasionally will not bear the cost of oversight for those who do not comply.

Registration Renewal:
Registration renewal could be required yearly (as in Anaheim[15] and Dana Point,CA[16]), every two years (as in St. Helena, CA[17] and for Type A STRs in Portland, OR[18]), or follow a model like Maui County, HI, where permits are valid for one year but are extended to two years if there are no recorded complaints.[19] We recommend that cities follow a responsive approach similar to Maui County's, where permits are valid for two years unless

13. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5.(g)(3)(A) (2015).
14. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.090 (2014).
15. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.070 (2014).
16. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.055 (2013).
17. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.060(F) (2012).
18. Portland, Or., City Code & Charter ch. 33.207, § 33.207.040(C) (2015).
19. Maui County, Haw., County Code ch. 19.65, § 19.65.070(A) (2012).

there are complaints of violation, in which case permits would have to be renewed more frequently. Unless regulators rely on yearly permit renewals to inform them of the number of active STRs, this process would be an effective way to reward law-abiding hosts and reduce paperwork for regulators.

In an effort to encourage compliance with its short-term rental laws, Portland, OR has included a provision in its permitting policy wherein an STR permit can be revoked for failure to comply with the city's set of STR rules.[20] We recommend that cities adopt a provision similar to Portland's, including withholding permit renewal for a certain amount of time after a host is found to be in violation of STR laws.

Reporting and Recordkeeping:

To assist with the oversight and enforcement of ordinance requirements, a city may want to require hosts to keep records of guest names, guest contact information, dates of stay, indication of the host's presence or absence during the stay, and revenue earned. Cities already requiring this level of detail in recordkeeping include Madison, WI[21] and Portland, OR, the latter requiring hosts to also maintain guests' license plate numbers (if traveling by car) and a record of the room assigned to each guest.[22] Cities could require hosts to maintain the records for at least two years and make them available to the city upon request when the host is suspected of a violation, or in the event of a randomized inspection.[23] An alternative process could require hosts to regularly submit reports to the city regarding the number of hosted and un-hosted nights the STR was rented, as is required in San Francisco.[24]

However, the major online STR platforms already collect host, guest, and usage information, and if a city decides to require hosts to record and report that data, it could also require the STR intermediaries themselves to make some information – such as the number of STR units per host, and the number of nights rented per unit – available to the Planning Department or other oversight office as a condition for operating in their jurisdiction. Cities could require platforms to regularly submit a blanket report of all STR activity in their jurisdiction, or to submit the information of suspected violators only as requested by the city. Santa Monica, CA requires STR intermediaries to "Disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay."[25] We recommend that other cities wishing to improve recordkeeping and reporting follow suit.

Requiring STR platforms to report the information of their customers to local government could cause concerns about the information privacy of STR platform users. To

20. Portland, Or., City Code & Charter ch. 33.207, § 33.207.040(D) (2015).
21. Madison, Wis., Code of Ordinances ch. 28 § 28.151 "Tourist Rooming House" (h) (2014).
22. Portland, Or., City Code & Charter ch. 33.207, § 33.207.060 (2015).
23. Cities may want to require STR hosts to retain records for more than two years in some circumstances, such as if they city adopts a private right of action.
24. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5(g)(3)(C) (2015).
25. Santa Monica, Cal., Municipal Code ch. 6.20, § 6.20.050(b) (2015)

address privacy concerns, these intermediaries could require all users, prior to starting or continuing to use the service, to authorize the platform to share STR usage data with local governments, either regularly or in the event of a suspected violation. If a provision for STR intermediaries to report data were added to a local ordinance, it would also make sense for a host to list, on the municipality's STR registration application and in subsequent reporting and permit renewal, all the platforms that he or she uses to book an STR. Adding this question to STR registration would help authorities to cross check the self-reported information of suspected violators with data on multiple platforms – improving both the reliability of information and facility of enforcement.

Some will argue that requiring STR platforms to report host, guest, and usage data to the city would unduly burden only those platforms that collect such data, and cause STR hosts to migrate to platforms that do not collect this information. However, municipalities might consider reporting as a requirement for operating in their jurisdiction, particularly because without this information, local governments would be unable to effectively enforce STR laws. In fact, the San Francisco Planning Department itself admitted only months after the city's STR law went into effect that booking data from STR platforms was necessary for the effective enforcement of yearly caps and other provisions of the ordinance.

Without reporting from the STR platforms, tracking and regulating STR units to ensure hosts are licensed, registered, and in compliance will remain extremely difficult and require significant public resources – something most cities are unable or reluctant to dedicate to STRs.

Advertisement:

To assist with enforcement, a city should require that hosts include the STR registration or permit number on all advertisements. Municipalities that require disclosure of this information on advertisements include Austin, TX,[26] Maui County, HI,[27] Dana Point, CA,[28] San Francisco, CA,[29] and St. Helena, CA.[30] We recommend that cities require all STR advertisements, including listings on STR platforms, to include a valid permit number.

In addition to requiring hosts to verify the legality of their listed STR with a valid permit number, cities could also place responsibility on the STR platforms to list only registered STR units, and to remove the listings of any violators. A 2015 ballot initiative in San Francisco proposed placing such responsibility on any STR platform operating in the city, requiring that all listed units be registered with the city, creating a daily penalty for STR platforms that list unregistered units, and mandating that platforms remove the listing of any unit that has surpassed the yearly rental cap.[31] Maui County places some degree of responsibility on STR platforms by requiring any intermediary advertising an STR-

26 Austin, Tx., City Land Development Code § 25-2-791(F) (2014).
27. Maui County, Haw., County Code ch. 19.65, § 19.65.040(A) (2012).
28. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(8) (2013).
29. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5(g)(1)(F) (2015).
30. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(N) (2012).
31 City of San Francisco Initiative to Restrict Short-Term Rentals, Proposition F (November 2015).

within the county to include or link to the municipality's STR policies.[32] We believe that, in addition to informing their users of the law, STR platforms should also be responsible for requiring proof that listed STRs comply with the law (e.g., by requiring a valid permit number), and removing listings that are in violation of local laws, such as a yearly cap.

C. ESTABLISH PROTECTIONS FOR THE SUPPLY AND AFFORDABILITY OF HOUSING

STRs can escalate housing costs in at least two ways: 1) each room or unit regularly used for STRs removes from the market a room or unit that might otherwise have been offered to a long-term tenant, and 2) the ability to derive income from a housing unit raises its value, raises the tenant's ability to pay for expensive housing, and thereby raises prevailing housing prices.

Cities have the power to protect multiple public interests by, for example, setting caps on the number of allowed STR units per host and number of nights per year that an STR unit may be rented to short-term guests. We recommend that cities allow all residents to engage in a limited amount of STR activity within their primary residences, but to set parameters based on the interests the city is aiming to protect.

Preventing Speculation - STRs for Cost-Sharing, Not Profit-Making:
A San Francisco Planning Commission memo framed the STR issue succinctly: "The critical questions for policy makers seeking to protect housing are: when does STR make more efficient use of unused resources and when does it incentivize the conversion of residential space to tourist use?"[33] If the underlying purpose of STRs is helping residents offset the costs associated with owning or renting their home, an STR ordinance should include provisions that prevent people from buying or renting units with the primary goal of earning STR income.

In order to deter individuals or entities from buying or renting a unit with the intention to subsequently turn a profit from its short-term rental, a city could require that a resident have occupied the unit for a minimum number of months or years before hosting STR guests. San Francisco's STR regulations require residents to have occupied their unit for at least 60 days prior to hosting STR guests, which starts to address the issue, but is ultimately too short a time period to effectively deter such speculation.[34] Furthermore, in cities experiencing rapid gentrification, requiring a certain length of time of owner or tenant occupancy prior to being eligible to host STR guests could channel STR income-generating opportunities to longer-term residents who risk being crowded out by newer and often wealthier neighbors. Cities may find that directing the income-generating power

32 Maui County, Haw., County Code ch. 19.65, § 19.65.040(B) (2012).
33. San Francisco Planning Commission. Administrative Code Text Change Recommendations to Board of Supervisors, 10 (April 23, 2015). See: http://commissions.sfplanning.org/cpcpackets/2014-001033PCA.pdf.
34. San Francisco, Cal., Administrative Code ch. 41A, § 41A.4. "Permanent Resident" (2015).

of STRs to longer-term residents could provide those residents with the economic boost necessary to combat threats of displacement.

In many circumstances, property owners may find STRs to be a more lucrative option than long-term rentals. In order to reduce any incentive to evict tenants, STR regulations must pay special attention to rent-controlled units and units that have recently been subject to an eviction. To preserve the integrity of rent-controlled units, cities can limit the amount that residents of rent-controlled housing may charge for short-term rental of their dwelling. San Francisco's STR ordinance, though it allows renters to host short-term guests, limits the amount that a tenant in a rent-controlled unit may charge short-term guests to the equivalent of what the tenant pays to the landlord each month.[35] In order to reduce a property owner's incentive to evict tenants in order to engage in short-term rental, cities with high housing demand could prohibit units that have recently been subject to an eviction from being registered as an STR.[36] A number of high-level San Francisco policymakers recommended instituting such a limitation, suggesting that units that have been subject to an Ellis Act Eviction within the last five years be barred from registering as an STR. Other California cities with high housing demand could find that adopting a similar restriction on STR registration for recent Ellis Act Eviction units could be a powerful way to prevent the tenant abuses and displacement caused by unfettered STR activity.

> ***If the underlying purpose of STRs is helping residents offset the costs associated with owning or renting their home, an STR ordinance should include provisions that prevent people from buying or renting units with the primary goal of earning STR income.***

Preventing Conversion of Housing Stock & Preserving Residential Use: Cities should adopt regulations that prevent the physical conversion of residential housing to transient use. For example, Portland prohibits remodeling or structurally altering units that would prevent the structure from being used as a residence in the future. Portland even prohibits changes that would make a unit appear "less residential," for example installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.[37]

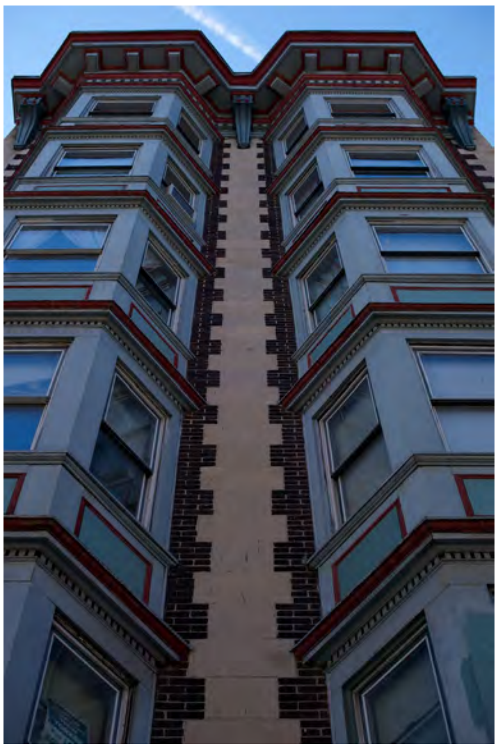
Maui County has attempted to protect housing for permanent residents by deterring

35. San Francisco, Cal., Administrative Code ch. 41A, § 41A.4., § 41A.5. (g)(1)(G) (2015).
36. San Francisco Planning Commission. Administrative Code Text Change Recommendations to Board of Supervisors pp. 2, 16. (April 23, 2015). See: http://commissions.sfplanning.org/cpcpackets/2014-001033PCA.pdf.
37. Portland, Or., City Code & Charter ch. 33.207, § 33.207.050(B)(9) (2014).

the construction of new homes that are primarily intended for rental to transient guests. The region does so by prohibiting short-term rental of single-family structures that were constructed less than 5 years prior to the date of application for an STR permit.[38]

Setting Caps on the Number of Rental Nights Per Year:

In addition to limiting short-term rentals to primary residences, we recommend that all cities (with limited exceptions) set a baseline cap on Un-Hosted STR nights per year. In cities where housing supply and affordability is a primary concern, this cap could be relatively low, for example, 30 nights per year, as is the case in Madison, WI.[39] In cities where housing supply is not a major public concern, these caps could be considerably higher and adapted over time as the housing climate changes. Capping the number of Un-Hosted STR nights per year could encourage residents who leave town for months on end to rent their homes to longer-term tenants, including city residents who are transitioning between rental units, or to workers, students, or academics staying for a season or semester.



Unlike Madison, WI, which limits Un-Hosted STRs to 30 nights per year, but allows an unlimited number of Hosted STR nights per year,[40] and unlike Santa Monica, which prohibits Un-Hosted STRs but allows unlimited Hosted Primary Residence STR nights per year,[41] we believe that the ideal STR ordinance places a *total cap* on both Hosted STR nights per year and Un-Hosted STR nights per year.

We recommend a cap on both Hosted and Un-Hosted STRs for two reasons. The first reason is that regulators currently face a great challenge in distinguishing between STRs with a host present and STRs that are un-hosted. Indeed, since San Francisco legalized unlimited Hosted STR nights per year, the city's Planning Department has reported that it is "virtually impossible" to discern law-abiding hosts from scofflaws, stating that in order to effectively enforce the law, the department would require a straight cap on the number of days any unit can be rented out per year (i.e. a cap on both Hosted and Un-Hosted STRs).[42] As long as STR platforms refuse to make STR records available to regulators, and as long as regulating agencies are limited in staff capacity to audit and confirm self-reported information, this challenge is likely to persist.

---

38. Maui County, Haw., County Code ch. 19.65, § 19.65.030(O) (2012).
39. Madison, Wis., Code of Ordinances ch. 28, § 28.151 "Tourist Rooming House"(e) (2014).
40. Madison, Wis., Code of Ordinances ch. 28, § 28.151 "Tourist Rooming House"(f) (2014).
41. Santa Monica, Cal., Municipal Code ch. 6.20, § 6.20.010(a) (2015).
42. Phil Matier and Andy Ross, 'No way of enforcing' Airbnb law, S.F. planning memo says (March 22, 2015), http://www.sfchronicle.com/bayarea/matier-ross/article/No-way-of-enforcing-Airbnb-law-S-F-planning-6151592.php.

The second reason is that an STR host engaging in Hosted Primary Residence STR activities has one or more bedrooms unused and available for travelers (presuming, of course, that the host is offering an entire room, rather than a living room couch or portion of some other shared space). If a cap were placed on the number of permissible Hosted Primary Residence STR nights per year, and a host reached that cap, the host would be prohibited from renting to transient guests for the remainder of the year, and would have an economic incentive to rent the unused bedroom to long-term tenants.

There may be situations where a city will want to refrain from capping STRs in any form, such as in a city wanting to encourage tourism and where housing is in relatively abundant supply. However, in the absence of adequate protections for housing affordability, STRs could escalate housing costs and ultimately drive out lower-income and even middle-income residents.

The STR regulations in Austin, TX, and Nashville, TN, bring up an interesting question of how to limit STR activity. Austin includes Vacation Rentals as one of several types of STR units, and limits their density by capping the number of permissible rental units per census tract.[43] Similarly, Nashville places a 3% cap on the percentage of non-owner occupied single-family and two-family Vacation Rentals allowed to legally operate in each census tract of the county.[44] Though a density cap may be an approach worth investigating for cities interested in better regulating Vacation Rentals, we do not advocate for caps on the total number of permitted Primary Residence STRs, as that would place a haphazard limit on who can benefit from limited rental of their primary residences to short-term guests. Instead, we recommend that cities wishing to legalize but limit STR activity restrict STRs to primary residences, and then cap the number of permitted STR rental nights per year.

---

43. Austin, Tx., City Land Development Code § 25-2-793 (2014). Austin classifies its STRs into three types, and the density cap applies only to Type 2 STRs. A Type 2 STR is similar to what is referred to in this brief as a Vacation Rental. Type 2 STRs must be single-family, detached residential structures; cannot be not owner-occupied or associated with an owner-occupied principal residential unit; and cannot include the rental of less than the entire dwelling unit. On February 23, 2016, Austin City Council voted to ban all Type 2 STRs, and the City plans to phase out any existing Type 2 STRs in residential areas by 2022. As of this writing, the final ordinance language has not been released.

44. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030(Q) (2015). The Nashville metro area provides an online map illustrating the density of registered non-owner-occupied STRs in each census tract. Property owners interested in applying for a non-owner-occupied STR permit can use this map as a tool to determine their eligibility.

There may be situations where a city will want to refrain from capping STRs in any form, such as in a city wanting to encourage tourism and where housing is in relatively abundant supply. However, in the absence of adequate protections for housing affordability, STRs could escalate housing costs and ultimately drive out lower-income and even middle-income residents.

Below, in Section VI, we explore some creative and as yet untested opportunities for cities to create selective exemptions to STR caps in order to use STRs as a lever for economic development that does not cause or exacerbate resident displacement.

D. CREATE PROTECTIONS FOR THE WELLBEING OF GUESTS

Health and Safety Standards:

Cities should require STR hosts to adhere to basic standards for health and safety of their guests. For example, the city could deny an STR permit to an applicant whose residential unit has outstanding Planning, Building, Housing, Fire, Health, Police, or other applicable City code violations that would make their residence unsafe for short-term guests. In addition, cities could require hosts to apply basic safety precautions such as working smoke detectors in every bedroom, a carbon monoxide detector, and an evacuation plan that identifies all exits.

A city may also want to require that hosts provide guests with basic information, including proof of STR registration, a list of the minimum safety requirements, instructions for lodging a complaint, and the name and contact information for the host and/or another responsible party that could assist guests with any problems that arise during the stay.

Inspections:

Municipalities such as Austin, TX,[45] Tillamook County, OR,[46] and St. Helena[47] and Dana Point,[48] CA require inspection by the Fire Department, Planning Department, Bureau of Development Services, or a building official. Some of these cities provide a building and safety self-check list for hosts to prepare for the inspection.

We do not advocate for an inspection requirement, but might urge cities to create a self-inspection checklist that hosts can submit along with registration. Inspections would greatly raise the administrative costs for the city and hosts, creating undue barriers particularly for people who would only host guests during one to two weeks per year. A city may, however, wish to require inspections when guests file health & safety complaints.

---

45. Austin, Tx., City Land Development Code § 25-2-791 (2014). Note that the inspection requirement applies only to Vacation Rentals and multifamily unit STRs; it does not apply to Hosted Primary Residence STRs.
46. Tillamook County, Or., Ordinance 69, Section 9(a)(B) (2012).
47. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(F) (2012), and at § 17.134.080(B).
48. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(3) (2013).

Where STRs are arranged through select online portals, it is important to acknowledge that the safety and wellbeing of guests is already partially supported by the guests' access to information and reviews of the hosts. As bookings and profits are largely based on good reviews from past guests, hosts are incentivized to provide safe and clean accommodations in order to maintain a good reputation in the review and rating system.

Insurance:

To ensure that guests have recourse in the event that they are injured during an STR stay, cities should require that hosts are covered by an appropriate insurance policy.

Some examples could include general liability insurance, a homeowners' insurance endorsement, coverage through their STR platform, or other insurance appropriate to cover injuries to STR guests or other losses or damages that could result from the operation of an STR. San Francisco requires that hosts carry liability insurance for claims up to $500,000, or to conduct STR transactions through an STR platform that provides equal or greater coverage.[49] Nashville, TN requires STR permit applications to include proof of homeowner's fire, hazard, and liability insurance, with liability insurance covering no less than $1,000,000 per occurrence.[50] Dana Point, CA requires proof of general liability insurance with a minimum of $1,000,000 in coverage, along with an agreement to indemnify and hold the city harmless for any liability claims.[51] Further, the city of Dana Point requires STR permit holders to provide current proof of general liability insurance during each annual permit renewal.[52]

E. ESTABLISH OVERSIGHT, COMPLAINT, AND SANCTION PROCEDURES FOR THE WELLBEING OF NEIGHBORS

Oversight:

Enforcement of an STR ordinance can present challenges, particularly in enforcing a cap on nights rented. Without access to transactional data from online STR portals, cities must rely primarily on hosts' own self-reporting, complaints by neighbors, and its own investigations of suspected violations. As such, a city could require online STR intermediaries to release, regularly or upon the city's request, information about the number of nights per year that any listed unit in their city was rented to short-term guests and the income received by the host. The city could also mandate that intermediaries do all reporting electronically and in a standardized format to make it easier for cities to aggregate data from multiple platforms. Of course, there are already dozens of companies and websites facilitating STRs, and it would be too large a burden on cities to discover and work with all of them. That being said, even just requiring the biggest players to report data could have a big impact on the ability of local regulators to oversee STR activity.

49. San Francisco, Cal., Administrative Code ch. 41A, § 41A.5(g)(1)(D) (2015).
50. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.D.2. (2015).
51. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.050(d) (2013).
52. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.055 (2013).

Avoiding and Addressing Conflict:

Cities should create channels for neighbors to file complaints about nuisance or STRs believed to be in violation of rental caps. To make neighbors aware of area STRs, an STR ordinance could require that residents applying for an STR permit or license notify adjacent neighbors, as is the case in Nashville, TN, where a permit applicant must provide proof of written notification to any property owner sharing a common wall or a common driveway with the applicant's unit.[53]

For cases where neighbors are disgruntled about STR activity, but a host is neither in violation of an ordinance nor creating an objective nuisance, we also recommend that cities help fund community mediation services, to give neighbors low-cost conflict resolution mechanisms.

Complaints and Grievances:

A city should establish an accessible system for guests, neighbors, and other stakeholders to bring to the city's attention any host that is in violation of the ordinance or otherwise creating a nuisance or health and safety risk. Prior to resulting in sanctions, the grievance process should give hosts a reasonable opportunity to respond to the city to demonstrate compliance and/or explain measures the host will take to eliminate the concern. For example, Nashville, TN gives the department of codes administration the ability to revoke a host's STR permit if reports of code violation have been received, but not without providing fifteen days prior written notice of the alleged violations to the host and providing him or her the right to appeal the permit denial or revocation.[54]

In addition to creating such a grievance process, a city may also consider creating a private right of action that gives certain stakeholders standing to bring a complaint in court, provided that the stakeholder has already taken a complaint to the city, and the city failed to respond within a specified amount of time. San Francisco's STR ordinance contains a private right of action wherein, following a determination that the STR ordinance has been violated, an interested party (defined as the city, county, unit owner, certain housing nonprofits, homeowners association associated with the STR unit, permanent resident of the building where the alleged STR is located, or permanent resident or owner of a property within 100 feet of the property containing the alleged STR) can

53. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.D.3. (2015).
54. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, §§ 6.28.030.R.2., 6.28.030.R.3., 6.28.030.R.4. (2015).

bring civil suit against the host for monetary and injunctive relief. In such a suit, the interested party is entitled to attorney's fees if it prevails in the suit.[55]

Sanctions:
We recommend that cities create a graduated scale of sanctions for hosts who are in violation of STR regulations or who are the subject of multiple complaints.

Sanctions might include:

- Reducing the number of nights per year that a host may rent to STR guests;
- Prohibiting un-hosted nights, particularly where neighbors have complained that guests have created a nuisance;
- Inspection of the unit and a requirement that the host pay for costs of inspection;
- Suspension or revocation of the STR registration or permit;
- Fines that increase with the number of violations. For example, Dana Point, CA may penalize a host $250 for a violation. If, within a single year, the host has multiple violations, the fines rise to $500, then to $1,000, and eventually result in revocation of the STR permit;[56] or
- Ineligibility to reapply for an STR permit for some extended period of time. For example, Nashville, TN imposes a one year waiting period on hosts found operating an STR without a permit,[57] and Maui County, HI makes a violator ineligible to apply for a permit for five years.[58]

STR platforms should also be subject to sanctions for violation an STR ordinance. For example, San Francisco's STR ordinance states that any hosting platform violating its responsibilities under the code shall be subject to the city's administrative penalties and enforcement provisions, including payment of civil penalties of up to $1,000 per day for the period of noncompliance.[59]

F. PRESERVE NEIGHBORHOOD QUALITY

Cities play an important role in shaping the livability of neighborhoods, and STRs have the potential to both positively and negatively affect neighborhoods. On the positive side, visitors bring income to a neighborhood, both through payments to STR hosts and by potentially patronizing neighborhood businesses. However, many residential areas are zoned with the goal of preserving a quiet "neighborhood feeling" and promoting social cohesion among neighbors. A constant stream of STR guests can undermine both neighborhood character and simple infrastructure, such as adequate supply of street parking.

55. San Francisco, Cal., Administrative Code ch. 41A §§ 41A.4.; 41A.5.(d) (2015).
56. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.090(b) (2013).
57. Nashville, Tenn., Metropolitan Code Ordinance No. BL2014-951, § 6.28.030.R.6.b. (2015).
58. Maui County, Haw., County Code ch. 19.65, § 19.65.080(D) (2012).
59. San Francisco, Cal., Administrative Code ch. 41A § 41.A.5.(g)(4)(C) (2015).

Limiting Crowding and Noise:

Cities may want to limit the purposes for which residents may host guests. For example, Dana Point, CA,[60] Anaheim, CA,[61] and Maui County, HI[62] all limit or prohibit hosting of weddings, parties, and other similar gatherings. St. Helena, CA further specifies that a party may be no larger than twice the number of guests, with a maximum of 20 party guests.[63] Both Maui County and St. Helena also impose quiet hours at night.[64]

Managing Parking:

In an effort to address parking concerns, Maui County, HI[65], Dana Point, CA[66], and Anaheim, CA[67] have all required hosts to provide off-street parking for STR guests. Because these requirements could bar residents of transit-oriented units, dense developments, or smaller lots from hosting short-term guests, we recommend against off-street parking requirements for STRs.

G. PRESERVE PUBLIC TAX REVENUES AND LEVEL THE PLAYING FIELD BETWEEN STRS AND COMMERCIAL HOTELS

Taxing STRs:

Cities attract visitors by investing in and cultivating welcoming public spaces, tourist attractions, and basic infrastructure. Cities' efforts to create welcoming environments for visitors provide substantial private benefit to hotels, B&Bs, and STR hosts. By charging a Transient Occupancy Tax (TOT) or "hotel tax," cities can recoup part of this benefit and invest travelers' dollars back into the city.

The hotel tax can be a substantial source of income for cities, generating approximately $226 million in annual revenue for Washington D.C., $274 million in San Francisco, and $536 million in New York City in recent fiscal years.[68] Transient occupancy taxes from STR stays hosted through Airbnb are estimated to amount to roughly $11 million per year in San Francisco,[69] and according to a 2014 estimate published by Airbnb, New York City STRs operating through its platform could generate $21 million in annual TOT revenues

60. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(7) (2013).
61. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.100.0107 (2014).
62. Maui County, Haw., County Code ch. 19.65, § 19.65.030(Q)(4) (2012).
63. St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(J)(4) (2012).
64. See Maui County, Haw., County Code ch. 19.65, § 19.65.030(Q)(1) (2012), and St. Helena, Cal., Municipal Code ch. 17.134, § 17.134.040(J)(1) (2012).
65. Maui County, Haw., County Code ch. 19.65, § 19.65.030(Q)(3) (2012).
66. Dana Point, Cal., Municipal Code ch. 5.38, § 5.38.080(a)(5) (2013).
67. Anaheim, Cal., Municipal Code ch. 4.05, § 4.05.100.0105 (2014).
68. Alison Griswold, Why Airbnb Desperately Wants to Pay Hotel Taxes. And why some cities won't let it (February 13, 2015), http://www.slate.com/articles/business/moneybox/2015/02/airbnb_hotel_taxes_why_does_the_sharing_economy_startup_want_to_pay_them.html.
69. Ibid.

for the city.[70] If the projected TOT was calculated for all STR units, including those listed independently or facilitated by platforms other than Airbnb, the amount of annual TOT revenues for municipalities like San Francisco and New York City would likely be considerably higher.

Most cities with new STR ordinances require hosts to pay TOT. Due to the adverse effects STRs can have on housing affordability and displacement, we believe that cities should designate all or most of the TOT collected from STR activity toward affordable housing initiatives and other economic support services for low-income, unemployed, and underemployed residents. This could include investing TOT revenues into community land trusts, which are nonprofit housing providers that create permanently affordable homes for low-income residents.[71] In cities where effective enforcement of STR regulations requires additional funds not provided by sanctions and fees, a municipality might also consider directing a portion of the TOT from STR activity toward improving oversight and compliance.

Collecting Taxes Through Intermediaries:

To ensure payment of taxes, cities should require that the third party facilitators of STRs collect and remit the TOT in the same way that these platforms could be required to report residents' STR activity to cities. STR platforms are in the best position to know who is hosting, which units are being rented, and how much revenue is earned. Additionally, because these platforms transfer payments from guests to hosts, they can withhold and remit the taxes with relative ease.

San Francisco's ordinance was the first to require STR platforms and services to collect the city's 14% TOT from guest fees and remit the revenue to the city. In addition, San Francisco requires STR platforms to maintain and make available to the city a record demonstrating that the TOT has been remitted, and the platforms will remain liable for the failure of a user to comply with the requirements of the Business and Tax Regulations Code.[72] Santa Monica, CA, Portland, OR, and Multnomah County, OR have also required STR intermediaries to collect and remit a TOT.[73]

---

70. David Hantman, $21 million more for New York (April 14, 2014), http://publicpolicy.airbnb.com/21-million-new-york/.
71. Community Land Trusts sell or lease homes to low- and middle-income residents while permanently retaining ownership of the underlying land. Through this dual ownership system, CLTs insulate the value of housing from the fluctuating value of land and can preserve the affordability of housing even in areas with substantial increases in land value.
72. San Francisco, Cal., Administrative Code ch. 41A § 41.A.5.(g)(4)(B) (2015).
73. The City of Santa Monica charges a 14% TOT. (Santa Monica, Cal., Municipal Code ch. 6.20, § 6.20.020(a)(3) (2015), and at ch. 6.68, § 6.68.020 (2004).) The City of Portland charges a 6% TOT, and Multnomah County charges 5.5% TOT. See: http://www.portlandoregon.gov/revenue/29976.

SAN FRANCISCO: A CASE STUDY

For cities wishing to address the housing affordability issues exacerbated by STRs, it is helpful to use San Francisco as a case study of what not to do. Even those elements of San Francisco's STR ordinance that were intended to address housing affordability and availability were included without the reporting and enforcement mechanisms necessary for their success. Added to that, the San Francisco ordinance only focused on preventing *units*, but not *rooms*, from being removed from the long-term rental market.

ATTEMPT TO PROTECT THE SUPPLY OF UNITS: ONE SUCCESS AND ONE FAILURE

San Francisco has attempted to prevent the conversion of residential units into primarily transient use by setting a cap on the number of nights per year that a whole unit may be rented to short-term guests. The city's short-term rental ordinance, which went into effect on February 1, 2015, limits STRs to primary residences, allows an unlimited number of hosted short-term stays (when the host concurrently resides in the unit) and places a 90-night cap on the number of un-hosted nights per year that a unit may be rented to short-term guests.

Though the 90-night cap on un-hosted rentals was likely prompted by the need to prevent the removal of residential units from the market, in the end it is incredibly difficult for regulators to tell the difference between a short-term rental stay that was hosted versus one that was un-hosted, even with regular self-reporting requirements. Some San Francisco regulators say that their ability to reliably distinguish between hosted

SAN FRANCISCO: A CASE STUDY, CONTINUED

and un-hosted short-term rentals, as well as the frequency of use, could be greatly improved with access to booking data from the short-term rental platforms. However, STR platforms have refused to release this data, and the great majority of San Francisco's STR hosts remain unregistered and outside the reach of the city's new rules. As such, and so long as the city lacks mechanisms for reliable reporting and effective enforcement, the provision allowing STR hosts to rent to short-term guests for up to 365 nights per year *so long as they are present during the stay* essentially opens the doors for year-round un-hosted STRs.

In the end, the element of San Francisco's ordinance that would most effectively reduce the conversion of residential units is actually its restriction of STRs to *primary residences*. By restricting STRs to primary residences, the ordinance allows only individuals who actually live in a unit to host short-term guests in an extra room, or to rent out the entire unit to short-term guests for up to 90 nights per year when they are away from their homes. It does not, however, incentivize landlords to eviction tenants or permit individuals who own multiple residential units to keep those units empty of tenants in order to rent to short-term guests.[74]

SAN FRANCISCO'S FAILURE TO PROTECT THE SUPPLY OF ROOMS:
As stated above, allowing hosts to engage in unlimited Hosted Primary Residence short-term rentals can reduce the availability and affordability of housing units if unaccompanied by proper reporting and enforcement mechanisms.[75] But allowing year-round hosted STRs is also problematic for another reason: it creates an incentive for renters and owners to remove rooms from the long-term rental market. If a city does not place a limit on Hosted Primary Residence STRs, people who might otherwise seek a housemate might opt to earn more flexibility or more income per night by using rooms primarily for short-term rental. However bedrooms for rent within a unit are a key source of affordable housing for single individuals, couples, students, and others who cannot afford to rent entire units. Therefore, in cities that are experiencing severe housing pressures, we recommend setting a limit on the number of nights per year that rooms can be rented to short-term guests, whether hosted or un-hosted.

74. Such units would be considered Vacation Rentals, and we recommend that cities where low-income and middle-income households experience difficulty finding affordable housing units strictly limit or even ban Vacation Rentals. See definition of Vacation Rentals in Section V.A.
75. See definition of Hosted Primary Residence STRs in Section V.A.

VI. GOING BEYOND IMPACT MITIGATION: RESTORATIVE APPROACHES TO REGULATING STRS

Although the recommendations above are aimed at mitigating potential harms of STRs, they do not solve the underlying economic imbalances that are damaging communities and motivating the pushback against STR platforms. We believe that it is the responsibility of cities to find ways to address wealth inequality, income inequality, affordable housing shortages, unemployment, under-employment, and poverty. Rather than focusing solely on mitigating the harms of STRs, cities could see STRs as a lever for economic change that can repair persisting economic problems already impacting communities. Indeed, the widespread use of STRs has encroached substantially upon domains under cities' control, namely land use laws and controls on housing supply. For this reason, cities can legitimately maintain their claim on such domains, and perhaps even go as far as prohibit private companies from brokering STRs.

Below, we offer three bold and creative approaches for municipalities interested in harnessing the economic benefits of STRs in addressing local economic issues. That we know of, no city has yet experimented with the following approaches.

Approach #1: Raising STR Caps on the Basis of Financial Need

Gentrification is a powerful economic and cultural process of neighborhood change. The patterns of gentrification can be found in the US and in districts, towns, and cities around the world. Complex and multifaceted, gentrification can occur at differing rates and for different reasons. One main factor, of course, is wealth and income disparities. Cities concerned by the disruptive and exclusionary effects of gentrification could consider STRs as either an agent of gentrification, or a lever against it.

Allowing high-income residents to earn additional income from STRs might intensify the process of gentrification, but allowing low-income residents to earn income from STRs has the potential to protect residents who might otherwise be displaced. Though regulating STRs on a household-by-household basis could be challenging to manage, cities could help low-income long-term residents use STR income to keep pace with increasingly expensive surroundings, remain in place, and benefit from – rather than be displaced by – the economic development of the area.

As STRs have become increasingly popular, many anecdotes have emerged of families, senior citizens, and other individuals avoiding foreclosure or eviction as a result of income generated by hosting short-term guests. Ideally, the potential for residents to use STR income to stay in place would not be fully lost if STR activity was limited by regulation. STR regulation could, in fact, offer cities a lever to create income opportunities for populations that are most impacted by unemployment and underemployment. Cities could even use this lever to selectively raise caps on the number of STR nights per year for households that meet objective financial need criteria.

Granting exemptions to STR caps on a household-by-household basis challenges cities to develop clear objective criteria on which to review applications, and makes the granting of exemptions somewhat more akin to a form of public benefit, like unemployment benefits. An application process might require the applicant to show that he or she has recently become unemployed, recently lost unemployment payments or other public benefits, or recently had a substantial increase in monthly rent. A cap exemption could also be time-limited, recognizing that the exemption acts as a temporary bridge for an individual or household seeking to get back on its feet after a financial blow. Any strategy for raising caps on a household-by-household basis should be carefully reviewed for compliance with constitutional due process provisions.

Selectively raising caps on a household-by-household basis would create substantial administrative costs for a city, but these costs should be seen in the context of the city's economic stabilization and development strategies. Furthermore, the administrative costs of such a program could be offset by TOT if the costs were passed to STR hosts through added STR taxes.

Approach #2: Keeping Wealth Local with a Municipally-Owned STR Platform

In order to recapture wealth that is leaving cities through payments to absentee STR platforms such as Airbnb, cities can prohibit the use of these STR companies, and require that residents use a municipally owned platform with functionality similar to that of Airbnb and other leading STR intermediaries. While this solution may prove difficult to implement at the level of a single city, it would become more financially viable if multiple large cities formed a partnership to jointly invest in the development and ongoing maintenance of the software. The financial return to cities would be nearly guaranteed, given that fees users are accustomed and willing to pay to existing STR platforms would instead go directly to the City, providing funds for administration, affordable housing, or investment in other city programs. A substantial benefit of a municipal STR platform would be its facilitation of oversight and enforcement, because compliance with the law, including TOT remittances, reporting, and permit renewal, could be carried out directly through the platform.

Approach #3: Building Community Wealth Through a Sharing Economy Trust

Another bold strategy for using STRs to build community wealth is for a City to create a permanent trust for the collection, investment, and distribution of fees from STR bookings, much in the same way that the Alaska Permanent Fund pays all Alaska residents annual dividends from mineral, gas, and oil revenues.[76] Such a trust would ensure that all city residents benefit from the economic wealth brought by tourism and travel, and the trust could also align residents around the goal of ensuring an adequate supply of housing for all. Peter Barnes's book, *With Liberty and Dividends for All*, describes a variety of strategies for creating trusts that pay universal dividends derived from fees collected on the use of other assets, such as the atmosphere and intellectual property. In this vision, as the recipients of dividends from multiple sources, citizens would ultimately accumulate what amounts to a universal basic income.

We offer this idea because of its potential political viability in comparison to approaches that focus primarily on setting caps and investing tax revenue in affordable housing development. During a 1999 referendum, 83% of Alaskan voters voted to keep the Alaska Permanent Fund in place, demonstrating the potential for universal dividend systems to inspire support from citizens across the political spectrum.

To illustrate how this might work with STRs: Imagine that the City of San Francisco charters a corporation called the "San Francisco Sharing Economy Trust." The stated purpose of the Trust is to support the long-term creation and preservation of an adequate housing supply for a socio-economically diverse city. Once chartered, the Trust would be somewhat insulated from the dynamics of electoral politics, enabling trustees to make decisions that serve the Trust's purposes, while remaining accountable to San Francisco residents, who are the beneficiaries of the Trust. The Trust could be empowered to determine the City's caps on STR rentals, and, separate from the 14% TOT already collected by the City, the Trust would be empowered to collect an additional percentage of all revenue from STRs. Ideally, the City would mandate that all STR bookings of housing within its borders be made through a municipally-owned or Trust-owned booking platform, rather than a for-profit platform like Airbnb. As such, the 10% to 20% booking fee normally collected by companies like Airbnb could go to the Trust. The Trust could then raise and lower the fee based on the Trust's assessment of housing unit supply in the city. When housing is in short supply, the Trust might raise the booking fee as high

76. For more information about the Alaska Permanent Fund, see http://pfd.alaska.gov/.

as 30% to 40%, thereby giving STR hosts an incentive to put rooms back on the market for long-term rental. Because higher fees could ultimately bring higher dividends to city residents, residents will directly benefit from the Trust's efforts to preserve the housing supply.

There are at least three options for the management of the Trust's funds:

1. The Trust could retain all STR booking income and invest it (in the form of loans) in housing developments and purchases designed to preserve long-term affordability, such as projects stewarded by community land trusts. When the loans begin to pay a return, that income will be divided equally among all city residents and direct-deposited into their bank accounts.
2. The Trust could distribute STR booking income as dividends to residents, without the intermediate step of investing it in affordable housing development.
3. The Trust could strike a balance between the two options above, investing some STR booking income and making direct distributions of the rest.

Like its Alaskan counterpart, the San Francisco Sharing Economy Trust could create an online system to administer the funds. City residents could also use the online system to register and prove their residency in order to receive the dividend deposit. The Trust could set similar eligibility requirements to Alaska's Fund,[77] such as requiring that someone have lived in the city for at least one year prior to receiving a divided.

77. See Alaska's residency verification information here: http://pfd.alaska.gov/Eligibility/EstablishingResidency.

PHOTO CREDITS

Cover - Avmedved. *Historic architecture of Washington DC, USA.* Adobe Stock # 96208528

Page 6 - Hillman, Adrian. *Housing Map*. Adobe Stock # 29116537

Page 10 - Deberarr. *Union Square Park Panoramic Buildings in Manhattan, New York City.*
Adobe Stock # 96990481

Page 11 - Mason, John. *Freedon Tower.* Personal Photograph. https://www.flickr.com/photos/91451979@N00/15669451332

Page 18 - m00by. *Apartments.* Personal Photograph. https://www.flickr.com/photos/m00by/13999128291

Page 22 - Sawyer, David. *House.* Personal Photograph. https://www.flickr.com/photos/18702768@N04/2422497911

Page 26 - Videowokart. *San Francisco street view.* Adobe Stock # 35656177

Page 27 - Zajda, Tomas. *San Francisco Cityscape*. Adobe Stock # 86477655

Page 28 - Burkett, Don. *Apartments.* Personal Photograph. https://www.flickr.com/photos/dtburkett/6736172825