

Could You Bnb My Neighbor?

A planner's take on the sharing economy. By Jeffrey Goodman

SINCE I LIVE IN NEW ORLEANS, I live near a bar. People are always walking by my house to this bar, so perhaps one day I start offering beer to passersby from my porch. Maybe I sell a beer or two—I could always use the money—and people here have always sold drinks as a hustle during Mardi Gras, so what is the difference?

Perhaps eventually I sell beer all the time and people start coming to my house instead of the bar and maybe I pick up a sponsorship and a little press. Soon, people are coming from miles around to my house, spending money at shops in my neighborhood; everything's great. If I were then to go my local alcohol board, or my zoning board, or my neighborhood association, and argue that since my house-bar is so popular, the rules need to be rewritten to accommodate me—well, I would be run out of town on a rail.

Yet in some ways, this is the path taken in regulating another controversial industry: short-term rentals. Backed by billions of investment dollars and an aggressive strategy of “disruption” that favors expansion above cooperation, companies like Airbnb, VRBO, and others have generated as much controversy as they have profits, stubbornly resisting cities' attempts to rein the industry in.

Of course, what these platforms offer is nothing new; home owners have taken in lodgers since the first settlement of cities. But with such a huge scope—over 34,000 cities on Airbnb alone—how do we balance the potential benefits of these businesses with their real impacts on our communities?

Opposing narratives

Because the debate over short-term rentals intersects with so many issues—the role of government, what constitutes a business, the rights of neighbors, and on and on—attempts at regulation can generate impassioned responses from hosts and residents alike. These narratives can be difficult for planners to reconcile.

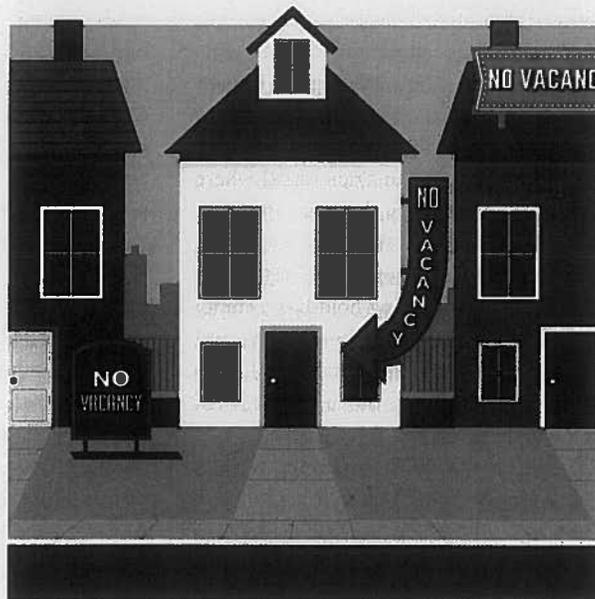
In the view of short-term renters, hosting has been a great boon for individuals to make a little extra money, for neighborhoods to see tourist dollars, and for cities to promote tourism. The kindly old woman with a bedroom to let to excited millennials: This is the narrative that Airbnb and others focus on when expanding and promoting their services.

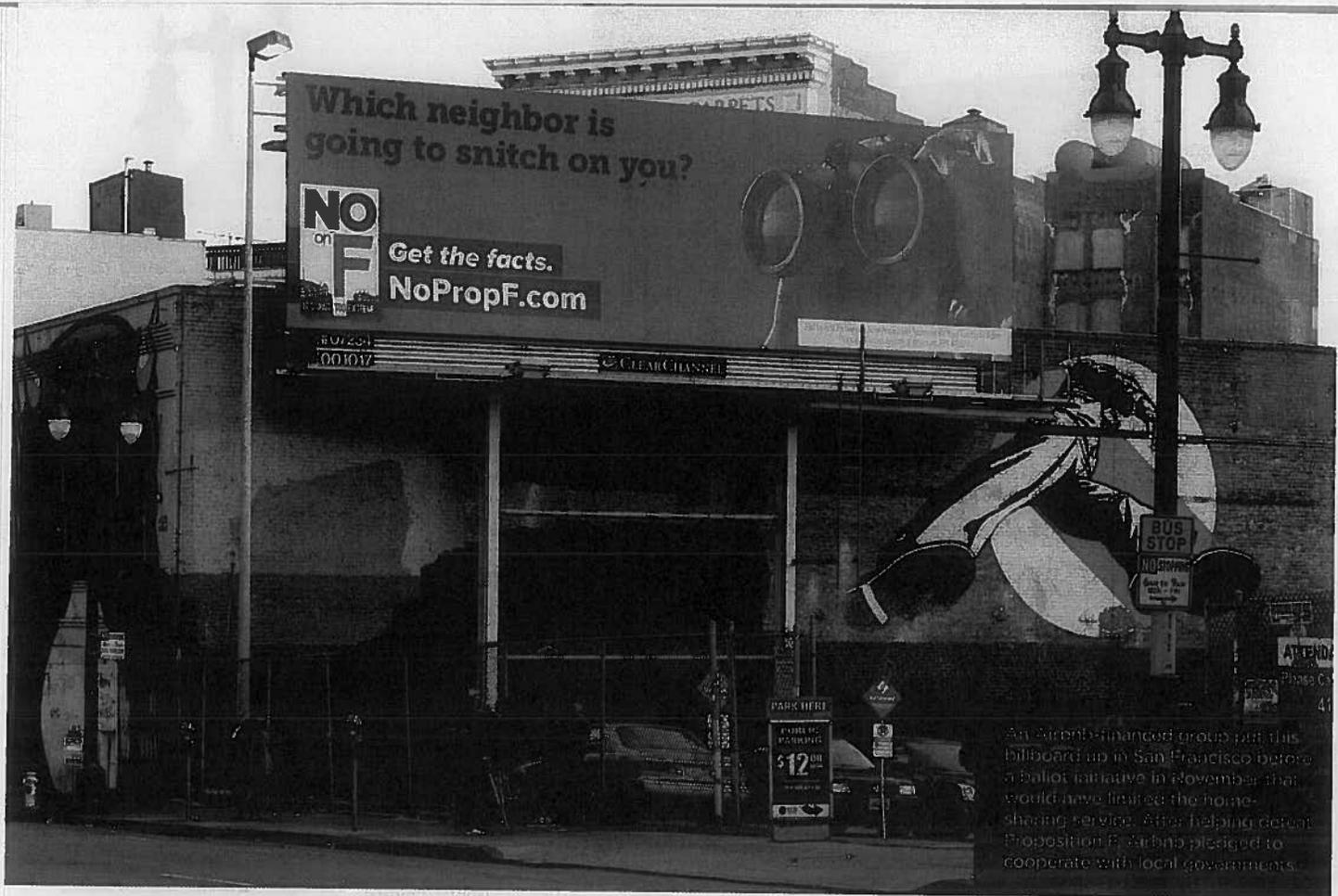
Regarding a San Francisco ballot measure, an Airbnb spokesperson was quoted in the *Wall Street Journal* as saying, “This initiative, at the end of the day, is an attack on the middle class of San Francisco, who share their homes to help make ends meet. Home-sharing in this city is a lifeline for thousands.”

However, to opponents, Airbnb's hoodie-and-flip-flops vibe obscures a \$25 billion behemoth whose business model has depended on ignoring local regulations in the name of growth and profit. Abetted by these platforms, hosts flout safety, housing, and zoning codes, turn quiet homes into

frat parties, drive up rent by displacing residents, outcompete bed-and-breakfasts, and fail to pay their share of taxes.

The narrative of opponents focuses on the absentee landlord with a portfolio of crash pads for bachelor parties; they say this is the reality ignored by Airbnb that planners have to clean up. As one exasperated neighbor in Austin told a *New York Times* reporter, “[Hosts] are leveraging our neighborhood for their profit,





An Airbnb-financed group put this billboard up in San Francisco before a ballot initiative in November that would have limited the home-sharing service. After helping defeat Proposition F, Airbnb pledged to cooperate with local governments.

Ultimately, despite all the hype about the so-called “sharing economy,” short-term rentals are fundamentally a commercial use, one that cities have regulated successfully in the past as bed-and-breakfasts, inns, motels, hotels, or SROs.

telling people to come stay in this beautiful place . . . and they are making people miserable.³²

These competing identities have meant particularly contentious fights over regulation. In San Francisco, a proposed short-term rental ordinance led to 12-hour public meetings, allegations of vote tampering, and a \$9 million proposition fight. (Though Airbnb and the other short-term rental companies prevailed in the end, Airbnb’s ad campaign for the proposition essentially told San Franciscans where they could stick the tax money the company pays. People were not amused.)

There is no monolithic “short-term host” but a spectrum of users (couch-surfing holdovers, empty nesters, young couples, and, yes, speculators and profiteers) and a spectrum of uses (occasional hosting, seasonal hosting, and, yes, the faux-hotel.) All of them, to some degree or another, have taken advantage of a regulatory Wild West in order to make money without proper oversight and without proper accountability.

Getting past the noise

In order to regulate an industry effectively, planners need to understand how these platforms are being used and by whom, and what kinds of impacts they have on neighborhoods.

This is somewhat easier said than done; Airbnb and other companies do not freely release data, citing privacy concerns. When they do use data, the companies present a glowing picture of their

activity, one that seems irresistible: Airbnb guests stay twice as long and spend twice as much as a typical visitor, with nearly half of all spending occurring in local neighborhoods.

According to the company, more than half of its hosts are “low to moderate income” and say hosting helped them stay in their homes. In New York City, Airbnb claims to have generated \$632 million in economic activity in one year alone. Opponents note, however, that the company has no reason to release numbers that paint their activity and their tactics in a negative light.

In order to get a clearer picture of the realities on the ground, researchers have had to rely on other means of gathering information, largely by “scraping” the public listings of these websites. (Airbnb, in turn, claims that this type of data collection is flawed.) Another option is to sue for access to the data, which is what the New York State Attorney General did, discovering that as many as 72 percent of Airbnb reservations violated New York law. Despite an effort to be “open and transparent” with cities, even under subpoena Airbnb only releases anonymized data to city governments—no addresses, no names.

Either by automated tools or through simple spreadsheets, trolling through Airbnb can give planners at least a broad outline of their local market, from average price per night (useful in calculating tax revenue) to the characteristics of the units available, like number of bedrooms, amenities, and safety

equipment. Even a general map view can help planners see which neighborhoods are most affected or need greater enforcement.

Using these approaches, researchers have undercut Airbnb's narrative. The *Real Deal*, a New York-based real estate journal, found short-term rentals caused residents of some neighborhoods to pay up to an extra \$825 a year in rent by removing units from the market. In New Orleans, far from helping a broad group of residents, nearly 50 percent of all bookings came from just six percent of listings, with some hosts making hundreds of thousands of dollars from dozens of properties without paying a cent in occupancy tax, according to one report.

While Airbnb claims that hosts, on average, book only six days a month, that average conceals a huge spectrum from abandoned listings to faux-hotels. Using the number of reviews as a proxy for activity, planners can start to separate the mom-and-pops from the professionals.

More damningly, some reports cut at the heart of Airbnb's supposed benefits: tourism dollars. San Francisco's Office of Economic Analysis, considering the reduction of long-term residents and housing caused by full-time hosting, wrote that for every 1,000 units lost to short-term tourist rentals, the city's economy loses more than \$250 million each year, far exceeding the benefit from visitor spending and hotel taxes.

This is not to say short-term rentals are all bad or all good, just that the reality of these marketplaces is complex. Planners have to get into the data, fragmented though it may be, in order to begin to categorize activity for regulation.

How to regulate?

For planners, the way forward with regulation is a three-part process.

PART 1

ESTABLISH A BASELINE LEVEL OF SAFETY AND ACCOUNTABILITY. In its Terms of Service, Airbnb is very clear, repeatedly, that the hosts on its platform are 100 percent responsible for following local laws on everything from safety and zoning to taxation and sex offender registries. While any short-term rental should have to conform to local building, occupancy, health, and safety codes, it is up to the local planner to ensure properties are compliant.

The safety of guests, hosts, and neighbors is the highest priority in regulating the short-term rental market. Airbnb and other companies, as part of their response to local pushback about safety, have adopted a policy of assisted self-policing for their hosts by offering free smoke detectors or fill-in-the-blank emergency plans. But a host does not actually need to prove the existence or operation of any safety feature in order to list. When I created a test

listing, I was able to simply click "Next."

Similarly, Airbnb has slowly evolved on the issue of insurance, shifting some responsibility away from the hosts. In late 2015, the company augmented a "million dollar host guarantee" to protect against damage caused by its service—which does not cover personal liability, shared or common areas (a big issue for condos) and is specifically described as "not insurance"—to a limited million-dollar policy backed by Lloyd's of London. This system creates a strange network of legal entanglements as Airbnb is both the policyholder and claims administrator for local hosts, who themselves have their own separate insurance.

But because many home insurance companies consider short-term renting a commercial use—and thus not covered under the standard policies—hosts may find themselves at the center of a huge and complicated fight that would make a trial lawyer drool; if a guest booked on Airbnb burns down a condo building and a firefighter is injured in the process, how is that legal mess going to sort itself out? Additionally, any damages and liabilities beyond a million dollars—assuming Airbnb even pays out—will fall on the hosts. The easiest solution is to require short-term renters to carry the appropriate insurance, one that specifically covers their activity and their level of risk.

But being a good host also means taking steps to avoid imposing on your neighbors' quality of life. No one wants to deal with loud guests, or litter, or parking issues, whether from a long-term or a short-term tenant.

Beyond strengthening and enforcing existing nuisance laws, some cities such as Portland, Oregon, and Santa Monica, California, have tried to include more direct accountability into their regulations; basic ideas like having hosts give out contact information to neighbors to report bad guests or only allowing owner-occupied rentals. In this scheme, serial offenders could face punishments that disincentivize their behavior, such as the loss of short-term rental or commercial permits, escalating fines, or code enforcement actions.

Ultimately, despite all the hype about the so-called "sharing economy," short-term rentals are fundamentally a commercial use, one that cities have regulated successfully in the past as bed-and-breakfasts, inns, motels, hotels, or SROs. In places that have traditional bed-and-breakfasts, innkeepers complain that competing with unregulated Airbnb units harms them doubly—as small-business owners and as residents.

Since the act of hosting is the same regardless of how a unit is booked, then the issues—from safety to zoning to garbage fees to taxes—are as well. Planners should simply hold a short-term rental unit to the same standards as any other similar business.

Where Does Airbnb Pay its Share?

Airbnb, as part of a "Community Compact" released in November 2015, promises to now "pay its 'fair share' of hotel and tourist taxes in cities that have them" though the mechanism for doing so, or the way for cities to participate, remains unclear. In most places, the company relies on hosts to pay all taxes, but agreements in a handful of cities and states require the company to collect and remit taxes, chiefly hotel or transient occupancy taxes (as high as 14.5 percent), but also sales and tourism development taxes. The locations are:

Malibu, California

Oakland, California

Palo Alto, California

San Diego

San Francisco

San Jose, California

Santa Clara, California

Santa Monica, California

Chicago

Florida

Multnomah County and Portland, Oregon

North Carolina

Philadelphia

Phoenix

Rhode Island

Washington State

Washington, D.C.

SOURCE: AIRBNB.COM

Durango's Street Segment Cap

IN ORDER TO MITIGATE the effects of short-term rentals and preserve housing availability, Durango's Land Use and Development Code creates density limits for these rentals in residential zones. Only one permit is allowed per street segment. (For corner lots, the permit counts against both adjacent street segments and the intersection.) While there is no citywide cap on permits, there is a maximum number of permits available in residential districts.

- ★ PERMITTED VACATION RENTAL
- ✘ NOT ALLOWED TO HAVE A VACATION RENTAL
- AFFECTED STREET SEGMENT(S)
- OTHER STREET SEGMENTS



STREET FRONTAGE



AVENUE FRONTAGE



CORNER FRONTAGE

SOURCE: DURANGO PLANNING DEPARTMENT

PART 2

MOVE PAST SIMPLY YES OR NO. When pressure to “do something” about short-term rentals comes down from City Hall or up from neighbors, the debate is often framed as a yes or no; “anything goes” or “not in my backyard.” The answer will probably be somewhere in between, and while it can be a laborious process, tailoring regulation to your city’s particular situation can pay dividends.

As I learned at last year’s APA conference in Seattle, the experience of a few Colorado destinations can serve as examples of adapting regulation to local needs.

Durango, a small city that serves as a regional center for the Four Corners, faced tremendous housing pressures after growing

rapidly over the past decade. With vacancy rates dipping below one percent in some neighborhoods, and rents high and incomes flat, groups like college students, retirees, and service industry workers had increasingly limited options within the city.

At the same time, Durango welcomes thousands of tourists each year, drawn to the nearby natural beauty, redeveloped downtown, and seasonal festivals. Short-term rentals catered to some visitors, and the popularity (and notoriety) of these units led Durango’s city government to develop new regulation. Through research and a series of community meetings, Durango’s planners were able to identify three main areas that needed addressing in their city: impacts on tourism, impacts on neighborhoods, and—most important—impacts on housing.

A neighborhood encompassing much of the downtown and the local university had an especially tight market, and neighbors expressed concern about “dark blocks,” where the spread of short-term rentals on specific streets left few permanent residents.

Durango’s solution limits the density of allowed short-term units within groups of blocks, effectively preventing clustering while still accepting the use as permissible. By making a determination that preserving housing availability was the ultimate community goal, one that both transcended and intersected with short-term renting, Durango’s planners could fit the discussion over Airbnb units into a larger narrative about the future of their city.

Aspen had a different problem: empty units. A world-famous destination with seasonal ebbs and flows of tourists, the city is burdened by a hodgepodge of residential properties—condos, ski villages, second homes—that sit disused much of the year. By legalizing and standardizing requirements for short-term rentals, Aspen’s planners were able to enhance the city’s tourist economy while still maintaining control over important issues like permitting, taxation, and safety of individual units.

Both Durango and Aspen found the key to controlling these concerns was treating short-term rentals as small businesses, allowing them to justify the use of their regulatory tools like zoning and licensing in ways that were consistent, understandable, and enforceable.

PART 3

ENSURE ENFORCEMENT ON THE GROUND AND ONLINE. For short-term rentals, as for anything, regulation is only as good as its enforcement. Cities have struggled in this regard, creating huge opportunities for abuse while frustrating city officials and neighbors alike when long-debated ordinances do little to quiet complaints.

Though it is often spoken of as one concept, the short-term rental industry is really made up of two interrelated markets. One is the multitude of local hosts that interact directly with neighbors. They have to navigate (or disregard) local ordinances and are, even as absentee investors, a part of the community.

The other market, the listing companies like Airbnb and VRBO, has been harder to engage in enforcement efforts or tax collection, repeatedly pushing all responsibility to local hosts and governments.

This policy line—that Airbnb, despite any illegal activity on its site, is essentially blameless—results in awkward complications for enforcement. In New Orleans, for example, Airbnb has a special tab on its website giving tips about how hosts can follow city rules: get a permit, pay your taxes, report nuisances, etc. What it leaves

out is telling: that renting for less than 30 days is illegal.

Instead of either confirming permit holders or hard-wiring the law into their business—and thus cutting down the amount of activity that violates local rules—Airbnb punts. It makes it so that a host would have to manually set a minimum stay of 30 days on the Airbnb platform to be compliant—no proof of permit needed.

In other major cities, new short-term rental ordinances become undone by flaws in enforcement. In San Francisco, a much-discussed ordinance only led to 282 applications—out of 6,000 listings—in the first three months, with only 27 units delisted for bad behavior—evidence, critics say, that the self-policing and self-reporting model pushed by Airbnb (and the mayor's office) is deeply flawed.

In Austin, after a *New York Times* expose found some party houses continue to rage on even after racking up 60 code violations, finger-pointing ensued: Airbnb blames the city for allowing serial violators to continue operation, while Austinites wonder why Airbnb keeps letting the houses list.

A simple option, like requiring a listing company to match a permit number to a city database in order to list, would immediately curb many of the worst abuses and reduce the number of listings that need monitoring. Unable to convince Airbnb to collaborate on such a system and frustrated by only one in 10 hosts having permits, Portland, Oregon, threatened fining all the listing companies \$500 per violation per day for every listing that was not permitted. (Though the city has yet to fully curb illegal listings on Airbnb, Portland did sue Homeaway for \$2.5 million for refusing to pay lodging taxes and ensuring proper permit inspections.) The enforcement officer's message was clear: If a city goes through the hassle of writing a new ordinance, why should anyone without a permit be allowed on these sites?

At the end of the day, the antagonistic system—this sharing economy Wild West in place today—simply does not work for city governments to enforce their laws, does not help legitimate hosts compete with “bad actors,” and, ultimately, does not allow Airbnb and other short-term rental companies to live up to their own rhetoric of “belonging everywhere.”

Rental units need to be fairly treated as a business, regulations need to be tailored to each city's unique situation, and enforcement needs to hold everyone accountable. Whether in Silicon Valley or Main Street USA, the old adage is still true: Good fences make good neighbors. ■

Jeffrey Goodman is an urban planner and graphic designer based in New Orleans. His work focuses on the sharing economy, community participation, and data-driven regulation. He has contracted with both the city of New Orleans and Airbnb, and advised researchers on short-term rentals in San Francisco, Portland, New Orleans, and New York. Contact him through JBGoodman.com.

RENT YOUR DRIVEWAY *By Kristen Pope*

Rooms to rent on Airbnb, VRBO, and other sites aren't the only things up for grabs in many urban neighborhoods. Another hot commodity going to the highest bidder: parking spaces.

Innovative app developers came up with a solution to this dilemma by creating a slew of apps to rent out spaces to parking-hungry drivers. However, app designers soon discovered a hitch: It was illegal in many locations.

Most of these early apps and parking space brokers worked on the premise that a driver about to leave their public, on-street parking space would log on and let other app users know the location of the soon-to-be-vacant spot, giving another user first dibs (for a fee) on snagging the spot. The new parker's fee, typically between \$5 and \$30, would be split between the departing motorist and the app company.

Since many of these apps were essentially renting out public, on-street parking spaces, municipalities worked quickly to block them. In San Francisco the big players were MonkeyParking, Sweetch, and ParkModo, and the city attorney sent several such apps cease-and-desist letters in 2014, threatening to fine drivers up to \$300 and the companies up to \$2,500 per violation. The letters also noted a lawsuit was imminent if the apps continued operation in the city.

Then a new—legal—wave of apps came to the city, including SpotHero, ParqEx, and ParkWhiz, allowing people to rent or exchange private parking spaces, including those in parking garages. Paul Rose, chief spokesperson for the San Francisco Municipal Transportation Agency, notes these transactions aren't a concern if they don't impinge on public safety.

“Any [safety] concerns will come out of blocking the right of way, preventing people from walking on the sidewalks, or if parking going on in a driveway causes people to walk out into the street,” he says.

However, the transaction itself isn't an issue for the agency. “[If] they're leasing spaces that are a part of private property, that's not something that we would necessarily get involved in,” Rose says.

Likewise, Boston officials aren't too concerned about apps that rent out private property. Public property, however, is another matter. In 2014, the city passed an ordinance effectively banning the Haystack app, which let users notify other users—who paid a fee—when they were about to leave a public parking space. The app claimed it was in the business of exchanging information rather than selling public property, but the city disagreed.

However, as long as apps comply with city regulations, they're not a problem, according to the Boston Press Office, which said, “Generally, parking apps that allow a private property owner to rent his or her parking space facilitate a private transaction that does not implicate the city's rules and regulations.”

Portland, Oregon, has a far more restrictive policy than Boston or San Francisco. Its zoning rules deem residential neighborhoods—all single-family and most multifamily zones—unfit for many types of commercial activity, including renting out parking spots.

However, Jill Grenda, supervising planner for Portland's Bureau of Development Services, notes that enforcement is driven by complaints. “Like any other zoning violation, it's a complaint-driven enforcement system,” she says. “So the city wouldn't know about it unless a grumpy neighbor called our code enforcement line and said, ‘My neighbor has different people parking in their driveway every single day, and I know because I live next door. Can you come and investigate?’”

Kristen Pope is a Jackson, Wyoming-based freelance writer and editor who writes about planning, science, conservation, and the outdoors, among other topics. Visit her at kepo.com.

PAS Essential

INFO PACKET

PAS EIP-37

December 2015

Regulating Short-Term Residential Rentals

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American Planning Association

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December 2015

PAS EIP-37

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Regulating Short-Term Residential Rentals

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American Planning Association

205 N. Michigan Ave., Suite 1200, Chicago, IL 60601-5927

1030 15th St., NW, Suite 750 West, Washington, DC 20005-1503

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Foreword

The concept of renting rooms or homes on a temporary basis is not new. Vacation rentals have long been common in beachfront communities, resort towns, and other destination hotspots. But with the recent rise of web-based booking services such as Airbnb or HomeStay, the number of short-term residential rentals (usually defined as rentals of less than 30 days) has grown dramatically and heightened awareness of this practice within more communities. And in addition to more traditional, commercially focused vacation rental properties, more and more home owners (and in some cases tenants) are offering the use of their residences — or rooms within their residences — as temporary rentals, either sporadically or on an ongoing basis.

In the pre-Airbnb era, many tourism-based communities addressed vacation rentals in their codes directly through licensing or zoning requirements to allow this important local economic activity to occur while mitigating any potential negative impacts. Typical standards for these short-term rentals often require property owners to obtain short-term rental permits and business licenses; establish minimum and maximum rental timeframes and maximum occupancies for rental units; address potential nuisance issues such as noise, parking, and trash removal; and in some cases require one-time or annual inspections.

The post-Airbnb era has brought new opportunities and challenges, however. Advocates praise the new prospects arising for owners to supplement their incomes and make use of underutilized spaces by offering rooms or entire homes to visitors for remuneration, and they promote the economic ripple effects of housing tourists in neighborhoods throughout a city rather than in a single hotel district. Detractors point to the potential nuisance impacts of new short-term residential rentals on adjacent homes and apartments, have concerns about the economic impacts of unregulated competition to hotels and traditional bed and breakfast establishments as well as the loss of local revenue from transient occupancy taxes, and question the bigger impacts of short-term residential rentals on local rental housing markets and affordability.

From a regulatory standpoint, local governments without short-term rental provisions in their codes have no way to address concerns, while those with existing vacation rental ordinances find most Internet-mediated rentals to be illegal units whose owners have not obtained required licenses or paid required taxes (and who may not even realize such requirements exist). Industry advocates propose establishing a new use category for this new species of Internet-mediated short-term residential rentals to differentiate it from bed and breakfast, boarding house, or hotel uses, and recommend adopting regulations sanctioning short-term rentals with an easy-to-complete registration with the locality, a modest permit fee, and the payment of all applicable taxes.

An ever-increasing number of communities across the country are examining this issue and adopting ordinances addressing short-term rentals. Most of these ordinances follow the general framework described above: they define short-term residential rentals as a distinct use and establish licensing, permitting, or taxation requirements, as well as operational or procedural standards to protect safety and mitigate potential nuisances. But nearly every community has its own twist. Some differentiate between traditional vacation rental properties and rentals of owner-occupied units; some base their requirements on whether the owner is present in the home during the rental or whether the entire unit or individual rooms are being rented. Some communities have passed zoning amendments specifying permitting requirements for short-term residential rentals and imposing performance standards or separation requirements on these units; others simply use business licensing ordinances to focus on registration of units and payment of any applicable taxes and fees.

Practically speaking, the key is coming up with regulations that are clear, easily enforced, and do not make residents out to be scofflaws unnecessarily. The use of these online booking sites is growing and shows no sign of slowing down, making it a drain for communities to enforce blanket prohibitions or onerous regulations. Though some communities have hired additional code enforcement officials to scan online hosting platform postings and carry out proactive "sting" operations, most communities rely on a complaints-based system to enforce compliance.

This Essential Info Packet provides a wide-ranging look at the topic of short-term residential rentals and how communities are addressing this issue. A section of background resources provides articles, reports, and websites that examine the potential impacts of short-term residential rentals on communities, analyze the ways in which local governments are responding, and advocate for various ways to address short-term rentals in local codes and ordinances. The next section offers a number of staff reports from a number of local governments, both those that are just beginning to explore the issues involved with regulating short-term rentals as well as those who have drafted and adopted new regulations for this use. These reports provide a comprehensive look at the many issues surrounding short-term rentals and the costs and benefits local governments are weighing as they contemplate and move forward with regulatory actions. And finally, a collection of sample zoning and licensing ordinances from more than 20 cities and counties across the country demonstrates the many ways in which local governments have codified regulatory controls on short-term residential rentals. Where city websites offer a webpage for information on short-term rentals, those URLs have been included.

Short-term residential rentals are a hot topic and a dynamic area of discussion and regulatory action. Though all the ordinances presented in this packet were current as of publication, many of the cities represented told PAS that updates to adopted ordinances were either already in process or being contemplated by local officials. As it appears that codes will be changing especially quickly around this topic, be sure to check municipal websites or code hosting sites for the most up-to-date versions going forward.

Background Resources — APA

Merriam, Dwight H. 2015. "Peering into the Peer Economy: Short-Term Rental Regulation." *Zoning Practice*, October.

- Article discusses short-term residential rentals in the context of the sharing economy and explores the issues involved in regulating them.

Background Resources — Additional Online Resources

California Legislative Analyst's Office. 2015. *Overview of Sharing Economy and Short-Term Rentals*. Sacramento: Legislative Analyst's Office.

http://lao.ca.gov/handouts/state_admin/2015/Sharing-Economy-Rentals-031815.pdf

- Briefing paper summarizes how short-term rentals are affecting the lodging industry in the state, and lists attributes and concerns of short-term rentals from a public policy standpoint.

Napa Valley Vacation Rental Alliance. 2010. *Codifying Vacation Rentals Now Is Common-Sense Public Policy When Millions Are At Stake*. January.

www.white.com/nvvra/media/WHY%20CODIFYING%20VACATION%20RENTALS%20NOW%20IS%20GOOD%20PUBLIC%20POLICY.pdf

- Position paper advocating for a permissive approach to short-term rentals in Napa County, California.

National Association of Realtors. 2015. "Field Guide to Short-Term Rental Restrictions."

www.realtor.org/field-guides/field-guide-to-short-term-rental-restrictions

- Website offers a collection of articles and other resources discussing issues related to short-term rentals.

New York State Office of the Attorney General. 2014. *Airbnb in the City*. Albany, N.Y.: Office of the New York State Attorney General. www.ag.ny.gov/pdfs/Airbnb%20report.pdf

- Report examines data from 2010 to 2014 on short-term residential rentals in New York City and shares key findings on the industry's impacts on housing in the city.

Robinson and Cole. 2011. *Short-Term Rental Housing Restrictions*. Prepared for National Association of Realtors. www.realtor.org/sites/default/files/reports/2011/short-term-rental-housing-restrictions-white-paper-2011-09.pdf

- White paper examines short-term rental restrictions, looking at impacts of rentals, legal issues raised by restrictions, and strategies for regulating these units. Includes a typology of regulations.

Samaan, Roy. 2015. *Airbnb, Rising Rent, and the Housing Crisis in Los Angeles*. Los Angeles: Laane. www.laane.org/wp-content/uploads/2015/03/AirBnB-Final.pdf

- Worker advocacy group's paper examines the history of Airbnb and its impacts on the housing market in Los Angeles; argues that short-term rental policies should protect neighborhoods and force Airbnb to share enforcement burdens.

Short Term Rental Advocacy Center. www.stradvocacy.org/

- Information clearinghouse created by partnership of Airbnb, HomeAway, TripAdvisor, and FlipKey to help "responsibly foster this growing industry." Includes case studies and "best practices" promoted by the short-term rental industry.

Staff Reports

Arroyo Grande (California), City of. 2014. "Memorandum: Consideration of Development Code Amendment 14-002 Regarding Vacation Rentals and Homestays; Location – Citywide; Applicant – City of Arroyo Grande." May 27.

- Staff report discusses a range of considerations relating to a proposed ordinance sanctioning owner-occupied homestays and non-owner occupied vacation rentals in residential districts.
- See adopted ordinance below.

Berkeley (California), City of, Department of Planning and Development, Land Use Planning Division. 2015. "Staff Report: Draft Ordinance on Short-term Rental Regulations." September 16.

- Staff report discusses potential definitional and code enforcement concerns with proposed ordinance-in-progress as the city begins thinking about how to regulate short-term residential rentals.

Charlottesville (Virginia), City of. 2015. "City Council Agenda: Ordinance Adoption, ZM14-00011 – Transient Lodging (Homestay)." August 17. Also, "Memorandum: Proposed Zoning Text Amendment, Tourist (Temporary) Lodging Offered Within Residential Dwellings." December 9, 2014.

- Staff report discusses city's need to regulate the use of residential dwelling units as temporary lodging for tourists or other temporary stays; proposed ordinance regulates "homestays" as a home occupation requiring a provisional use permit.
- See adopted ordinance below.

Mill Valley (California), City of. 2015. "Study Session: Policy Direction for Regulating 'Short-Term' Rentals." July 14.

- Study session staff report discusses three approaches to regulating short-term rentals in the city – allowing them by right, conditionally permitting them, or prohibiting them – and enumerates various regulatory mechanisms that could be further investigated. Staff recommends a pilot program allowing short-term rentals by right with business license registration.
- As an initial step, the city is requiring short-term rental operators to register their units with the city and pay transient occupancy taxes. See city website, "Living Accommodations – Short-Term Rental Requirements": www.cityofmillvalley.org/Index.aspx?page=1679

Pacific Grove (California), City of. 2015. "Agenda Report: Conceptual Modifications To Amend PGMC Chapter 7.40 Regarding Short-Term Rentals." September 16. Also, "A Vision for Pacific Grove in a Sharing Economy." November 4.

- Staff report and paper discuss pros and cons of stricter regulations for short-term rentals, and outline conceptual qualitative and quantitative approaches to regulating these uses.

Piedmont (California), City of. 2015. "Council Agenda Report: Consideration of Short-term Rentals." September 21.

- Staff report for public hearing on short-term rental regulation possibilities. Initial recommendations include considering single-family vacation rentals (unhosted unit rentals) with restrictions and performance standards and prohibiting homestays (hosted room rentals) or considering them with registration and performance standards. Includes extensive matrix of how other California communities address (or do not address) STRs.

San Diego (California), City of, Office of the Independent Budget Analyst. 2015. *Report: Comparative Information on Short-Term Rentals*. April 17.

- Report examines short-term rental regulations in six peer cities, focusing on municipal registration and administration of STRs, as well as collection of appropriate taxes.

San Jose (California), City of. 2014. "Memorandum: An Ordinance Amending Title 20 of the San Jose Municipal Code (Zoning Code) to Allow and Regulate Transient Occupancy as an

Incidental Use to Primary Residential Uses, to Modify Permitting Requirements and Occupancy Limitations for Bed and Breakfast Inns, to Amend and Add Long-Term Room Rental Limitations and to Make Other Technical, Nonsubstantive, or Formatting Changes Within Those Sections of Title 20." November 21.

- Staff reports discussing considerations around and final tweaks for proposed ordinance for short-term residential rental regulations.
- See adopted ordinance below.

San Luis Obispo (California), City of. 2015. "Council Agenda Report: Consideration of an Ordinance Allowing Owner-Occupied Homestay Rentals." January 6.

- Council report discusses proposed ordinance that would permit owner-occupied homestay rentals while prohibiting short-term vacation rentals and regulating bed and breakfast uses. Includes environmental assessment report.
- See adopted ordinance below.

Santa Monica (California), City of. 2015. "City Council Report: Vacation Rentals and Home-Sharing." April 28. Also, "A Vision for Pacific Grove in a Sharing Economy."

- Staff report discusses proposed ordinance to reaffirm city's prohibition against vacation rentals while legalizing and regulating home-sharing uses.
- See adopted ordinance below.

Sample Ordinances*

Ashland (Oregon), City of. 2015. *Ordinance No. 3108: An Ordinance Amending Chapters 18.2.2, 18.2.3, 18.4.3, 18.4.7, and 18.6.1 of the Ashland Land Use Ordinance Relating to Definitions and Accessory Travelers' Accommodations in Various Residential Zoning Districts.*

- 2015 ordinance permits "travelers' accommodations" and "accessory travelers' accommodations." Operators of accessory travelers' accommodations must be present during the rental period; rentals are limited to a single reservation at a time. Both are considered commercial uses in multifamily districts and require conditional use approval and site design review. Standards and business licensing regulations apply.
- See also city website, "Short-term Travelers' Accommodations": www.ashland.or.us/Page.asp?NavID=15727

Arroyo Grande (California), City of. 2014. *Ordinance No. 663: An Ordinance of the City Council of the City of Arroyo Grande Amending Title 16 of the Arroyo Grande Municipal Code Regarding Vacation Rentals And Homestays.*

- 2014 ordinance establishes definitions and performance standards for "vacation rentals" (non-owner-occupied structures) and "homestays" (owner-occupied dwelling units, maximum of two lodging rooms). Both uses require minor use permits; vacation rentals also require business licenses.

Austin (Texas), City of. 2013. *Ordinance No. 20130926-144: An Ordinance Amending City Code Chapters 25-2 And 25-12 Relating To The Regulation Of Short-Term Rental Residential Uses And Other Regulated Lodging Establishments; Authorizing The Limited Refund Or Credit For Certain Fees Paid; And Waiving The Review Requirement Of Section 25-1-502.*

- 2013 ordinance allows for three types of short-term rentals in multiple districts, including single family home districts, with license requirements, \$285 fee, inspection requirements, and tax requirements. Type 1 is for owner-occupied units, and may include rental of less than an entire dwelling unit with the owner present; Type 2 is for non-owner-occupied single-family/duplex units; Type 3 is for non-owner-occupied multifamily units.
- Austin is currently reviewing proposed updates to its short-term rental ordinance.
- See also city website, "Vacation Rental Licensing": www.austintexas.gov/str

Charlottesville (Virginia), City of. 2015. *Ordinance of 9-08-2015: An Ordinance Amending and Reordaining Article IX and Article X of Chapter 34 of the Code of the City of Charlottesville, 1990, as Amended, to Establish a Special Category of Home Occupation to be Known as a "Homestay."*

- 2015 ordinance establishes "homestay" as a home occupation use for a primary residence. Requires a provisional use permit. Establishes occupancy and safety standards, allows for inspections, provides for revocation of permit with complaints.

Dania Beach (Florida), City of. 2015. *Code of Ordinances*. Chapter 16, Vacation Rentals. Tallahassee, Fla.: Municipal Code Corporation.

- 2011 ordinance covers vacation rentals of minimum 5-night stays within single-family, two-family, three-family, and four-family dwellings. Business tax payment and vacation rental certificate required with annual certification fee. Provides requirements for certificate application; inspection of unit required. Provides requirements for vacation rental agents, vacation rental occupants (limited to 2 persons per bedrooms plus two persons, up to a maximum of 10 people), and vacation rental units.

Durango (Colorado), City of. 2014. *Land Use and Development Code*. Chapter 2, Zones, Uses, And Development Yield; Article 2-1, Zones And Land Uses; Division 2-1-3, Use / Zone Matrices; Section 2-1-3-3, Residential, Transient Residential, and Overnight Accommodations Use / Zone Matrix. Article 2-2, Special, Limited, And Conditional Use Standards; Division 2-2-3, Specific Standards for Special, Limited, and Conditional Uses; Section 2-2-3-4, Standards for Transient Residential Land Uses and Overnight Accommodations; part G. Vacation Rental Homes. Chapter 4, Site Design And Natural Resource Stewardship; Article 4-5, Parking And Loading; Division 4-5-2, Parking and Loading Calculations; Section 4-5-2-2, Required Off-Street Parking Spaces (Parking Tables). Chapter 7, Word Usage, Measurements, Calculations, And Definitions; Article 7-3, Definitions; part V. www.EnCodePlus.com.

- 2009 ordinance tightens regulation of vacation home rentals in to mitigate negative impacts of this use on residential neighborhoods. Vacation home rentals require special/conditional use permit; ordinance sets 500' distancing requirement and 1-week minimum rental period, limits renters to 2 per bedroom plus 2 additional, requires local contact person. Provides permit application requirements.
- See also city website, "Vacation Rentals in Durango": www.durangogov.org/index.aspx?nid=800

Encinitas (California), City of. 2015. *Code of Ordinances*. Title 9, Public Safety, Peace, and Welfare; Section 9.38, Regulating Short-Term Rentals. Seattle: Quality Code Publishing.

- 2006 ordinance requires permit for short-term rentals of residential units. Ordinance focuses on operational requirements to minimize adverse nuisance impacts of noise, disturbances, disorderly conduct, code violations, parking, and trash disposal. Must pay transient occupancy tax.

Evanston (Illinois), City of. 2013. *Ordinance 50-O-13: Enacting a New Title 5, Chapter 9 of the City Code to Require the Licensing of Vacation Rentals*.

- 2013 ordinance establishes licensing procedures for short-term (less than 30 days) rentals of dwelling units or portions thereof. Includes findings criteria for approving the license; includes requirements and standards, including 24-hour minimum rental period and prohibition of providing food or beverages to any guest.

Madison (Wisconsin), City of. 2013. *File # 31136: Ordinance Amending Sections 28.032, 28.061, 28.072, 28.082, 28.091 28.151, and 28.211 of the Madison General Ordinances to add Tourist Rooming House to the Zoning Code*. Also, "City of Madison FAQ: Tourist Rooming House."

- 2013 ordinance establishes "tourist rooming house" (also regulated by the state) as a conditional use in all districts. Requires licensure with initial and annual fees, registration with the treasurer's office, payment of room tax, and a 500-foot spacing requirement.

- FAQ brochure lists zoning regulations applicable to tourist rooming houses along with other requirements and offers information regarding various short-term residential rental scenarios.

Monterey (California), County of. 2015. *Code of Ordinances*. Title 21, Zoning; Chapter 21.64, Special Regulations; Section 21.64.280, Administrative Permits for Transient Use of Residential Property for Remuneration.

- 1997 ordinance amended in 2009 allows transient use of residential property for remuneration with an administrative permit. Rental periods must be no less than seven and no more than 30 consecutive days. Local contact required; on-site advertising prohibited.
- The county is currently working on an update to the code, as the permit costs established by this version have made the process too cumbersome and expensive to encourage people to apply.

Nashville–Davidson County (Tennessee), Metropolitan Government of. 2015. *Ordinance No. BL2014-951: An Ordinance to Amend Chapter 6.28 of the Metropolitan Code Pertaining to Short Term Rental Property*. Also, *Substitute Ordinance No. BL2014-909: An Ordinance to Amend Title 17 of the Metropolitan Code, Zoning Regulations, Pertaining to Short Term Rental Property (Proposal No. 2014Z-021TX-001)*.

- 2014 ordinances define and allow short-term rental properties ("STRPs") as an accessory use in all zoning districts that allow residential uses with permit. Maximum of 4 sleeping rooms permitted, simultaneous rental to more than one party is prohibited, minimum stay is 24 hours. Annual STRP permit required; may be revoked after 3 complaints.
- See also city website, "Short Term Rental Property: Permit Information": www.nashville.gov/Codes-Administration/Construction-and-Permits/Short-Term-Rentals.aspx

Palm Desert (California), City of. 2012. *Ordinance No. 1236: Adding Chapter 6.10, Short-Term Rentals*. Also, *Ordinance No. 1243: Amending Sections 5.10.050, 8.20.02, 9.24.075 and 9.25.020, Dealing with Property Maintenance Issues*.

- 2012 ordinance highlighted as a "sensible" approach by the Short Term Rental Advocacy Center. Sanctions short-term rentals in residential districts with a short-term rental permit. Requires a minimum 3-day, 2-night stay, caps occupants at 2 per bedroom (with a maximum of 20), and stipulates numerous operational requirements, including a provision that operators must be available to respond to complaints within 60 minutes.
- See also city website, "Short Term Rentals": www.cityofpalmdesert.org/Index.aspx?page=712

Portland (Oregon), City of. 2015. *Municipal Code*. Title 33, Planning and Zoning; Chapter 33.207, Accessory Short-Term Rentals. Also, *Ordinance as Amended 1-14-2015: Amend Transient Lodgings Tax to Add Definitions and Clarify Duties for Operators of Short-Term Rental Locations (Ordinance; Amend Code Chapter 6.04)*.

- 2014 ordinance amended in 2015 sanctions two distinct types of accessory short-term rental uses of primary residences. Type A covers rentals of no more than 2 bedrooms; requires short-term rental permit, notification of adjacent properties. Type B covers rentals with 3 to 5 bedrooms; requires conditional use review and approval.
- Amendment to Special Taxes title requires short-term rental Booking Agents to provide Host information and to collect and remit transient lodging taxes to the city.
- See also city website, "Accessory Short-Term Rental Permits": www.portlandoregon.gov/bds/65603

Saco (Maine), City of. 2014. *City Code*. Part II, General Legislation; Chapter 173, Seasonal Property Rental. Rochester, N.Y.: General Code.

- 2000 ordinance adopted to regulate short-term rentals of residential properties to protect public health and safety. Seasonal rental license with inspection required.

San Buenaventura (California), City of. 2015. *Code of Ordinances*. Division 6, Business Regulations; Chapter 6.455, Short-Term Vacation Rentals. Tallahassee, Fla.: Municipal Code Corporation.

- 2007 business licensing ordinance amended through 2009. Permit, nuisance response plan, and surety bond of \$1,500 required. Detailed performance standards provide restrictions on minimum length of stay and other operational and administrative requirements.
- See also city website, "Short Term Vacation Rentals": www.cityofventura.net/ft/STVR

San Francisco (California), City and County of. 2015. *Administrative Code*. Chapter 41A, Residential Unit Conversion and Demolition. Cincinnati: American Legal Publishing Corporation.

- 2014 ordinance updated in 2015 intended to stop the proliferation of online short-term rentals (and concomitant loss of affordable housing) by requiring all short-term rentals to be registered with the city and comply with business and tax code regulations. Requires online hosting platforms to collect and remit required Transient Occupancy Taxes. Establishes penalties for noncompliance.
- See also city website, "Office of Short-Term Rental Registry & FAQs": www.sfplanning.org/index.aspx?page=4004

San Jose (California), City of. 2015. *Code of Ordinances*. Title 20, Zoning; Chapter 20.30, Residential Zoning Districts; Part 2, Uses Allowed; Section 20.30.110, Incidental Uses. Chapter 20.40, Commercial Zoning Districts And Public/Quasi-Public Zoning District; Part 2, Uses Allowed; Section 20.40.115, Incidental Use, Residential. Chapter 20.70, Downtown Zoning Regulations; Part 2, Uses Allowed; Section 20.70.130, Incidental Use, Residential. Chapter 20.75, Pedestrian Oriented Zoning Districts; Part 3, Use Regulations; Section 20.75.230, Incidental Use, Residential. Chapter 20.80, Specific Use Regulations; Part 2.5, Transient Occupancy as an Incidental Use to a Residence. Tallahassee, Fla.: Municipal Code Corporation.

- 2014 ordinance establishes incidental transient occupancy of primary residences in all districts as a permitted use subject to compliance with performance standards, including limitations on occupancy based on size of unit and whether a host is present and payment of transient occupancy tax.

San Luis Obispo (California), City of. 2015. *Ordinance No. 1611: Amending Title 17 (Zoning Regulations) of the Municipal Code Regarding Homestay Rentals and Approving the Negative Declaration of Environmental Impact*.

- 2015 ordinance creates distinctions between homestays (owner-occupied short-term rentals), vacation rentals (non-owner-occupied short-term rentals), and bed and breakfast (commercial transient lodging in dwellings). Allows homestays with homestay permit, compliances with performance standards; prohibits vacation rentals.
- See also city website, "Permits for Home Owners and Renters — Homestay Applications Now Available": www.slocity.org/how-do-i/apply-for/permits/permits-for-home-owners-and-renters

Santa Fe (New Mexico), City of. 2015. *Land Development Code*. Article 14-6, Permitted Uses and Use Regulations; Section 14.6-2, Use-Specific Standards; part A(5), Residential Uses - Short-Term Rental of Dwelling Units - Residentially Zoned Property.

- 2009 ordinance allows short-term rentals of dwelling units with permits. All residents may rent their units twice in a calendar year without a permit; certain other rentals are allowed (accessory dwelling units, rentals where the owner lives on a contiguous lot, rentals within a resort development); city caps number of additional permits at 350. No more than one rental permitted in a seven-day period; limited to 17 rental periods per calendar year. Permit application requires noticing all neighbors within 200 feet.
- Santa Fe is in the process of amending their ordinance to meet increased demand for short term rental permits while also addressing the problems associated with illegal short term rentals.
- See also city website, "Short Term Rentals": www.santafenm.gov/short_term_rentals

Santa Monica (California), City of. 2015. *Ordinance Number 2484: An Ordinance Of The City Council Of The City Of Santa Monica Adding Chapter 6.20 To The Santa Monica Municipal Code Clarifying Prohibitions Against Vacation Rentals And Imposing Regulations On Home Sharing*. Also, "City of Santa Monica Home-Sharing Ordinance Rules." June 12.

- 2015 ordinance authorizes home-sharing, where a primary resident lives on-site during the visitors' stay, with a business license. Hosting platforms must collect and remit transient occupancy taxes. Prohibits "vacation rental" uses.
- See also city website, "Overview of the Home-Sharing Ordinance": www.smgov.net/Departments/PCD/Permits/Short-Term-Rental-Home-Share-Ordinance/

Solana Beach (California), City of. 2015. *Municipal Code*. Title 4, Business Taxes, Licenses, and Regulations; Chapter 4.47, Short-Term Vacation Rental Permit. Seattle: Code Publishing Company.

- 2003 ordinance to control noise, vandalism, and overcrowding generated by short-term residential rentals. Annual permit required; rentals of fewer than 7 days prohibited. Applicants are expected to prevent unreasonable disturbances and disorderly behavior and to respond to complaints within 24 hours.

St. Helena (California), City of. 2015. *Municipal Code*. Title 17, Zoning; Chapter 17.134, Short-Term Rentals. Seattle: Code Publishing Company.

- 2012 ordinance requires special operator permit and fee for short-term rentals in residential districts; caps total number of permits and requires neighbor notification and hearing for permit approval. Sets operational standards to minimize nuisance potential.
- The city is reviewing this topic and may revise its ordinance in 2016.
- See also city website, "Short-Term Rentals": www.cityofstheleena.org/content/short-term-rentals-0

Tillamook (Oregon), County of. 2012. *Amendment #1, Ordinance #69: An Ordinance Amending Provisions for Regulating Short Term Rentals, Establishing Standards, Providing for a Permit, Establishing Fees and Creating Penalties for Violations of this Ordinance*.

- 2009 ordinance amended in 2012 establishes annual short-term rental permit program overseen by the Building Official. Requires inspection, subjects short-term rentals to a number of standards related to noise levels, safety, maintenance and construction.
- See also county website, "Community Development – Short Term Rental": www.co.tillamook.or.us/gov/comdev/ShortTermRental/STR.htm

**The code excerpts contained in this Essential Info Packet are current as of December 2015, but do not reflect any amendments made after this date. Please visit municipal websites or websites of the code publishers for access to the most current versions of local codes.*

Background Resources

- Merriam, Dwight H. 2015. "Peering into the Peer Economy: Short-Term Rental Regulation." *Zoning Practice*, October.

Additional Online Resources

- California Legislative Analyst's Office. 2015. *Overview of Sharing Economy and Short-Term Rentals*. Sacramento: Legislative Analyst's Office. http://lao.ca.gov/handouts/state_admin/2015/Sharing-Economy-Rentals-031815.pdf
- Napa Valley Vacation Rental Alliance. 2010. *Codifying Vacation Rentals Now Is Common-Sense Public Policy When Millions Are At Stake*. January. www.white.com/nvyra/media/WHY%20CODIFYING%20VACATION%20RENTALS%20NOW%20IS%20GOOD%20PUBLIC%20POLICY.pdf
- National Association of Realtors. 2015. "Field Guide to Short-Term Rental Restrictions." www.realtor.org/field-guides/field-guide-to-short-term-rental-restrictions
- New York State Office of the Attorney General. 2014. *Airbnb in the City*. Albany, N.Y.: Office of the New York State Attorney General. www.ag.ny.gov/pdfs/Airbnb%20report.pdf
- Robinson and Cole. 2011. *Short-Term Rental Housing Restrictions*. Prepared for National Association of Realtors. www.realtor.org/sites/default/files/reports/2011/short-term-rental-housing-restrictions-white-paper-2011-09.pdf
- Samaan, Roy. 2015. *Airbnb, Rising Rent, and the Housing Crisis in Los Angeles*. Los Angeles: Laane. www.laane.org/wp-content/uploads/2015/03/AirBnB-Final.pdf
- Short-term Rental Advocacy Center. www.stradvocacy.org/

ZONING PRACTICE

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PRACTICE SHORT-TERM RENTALS



Peering into the Peer Economy: Short-Term Rental Regulation

By Dwight H. Merriam, FAICP

You will recall, or if you are a millennial (18 to 34 years old), you might have read about the mantra that James Carville dreamed up for President Bill Clinton's 1992 campaign: "It's the economy, stupid."

Today, for planners, thanks to the entirely new perspective brought to us by the millennials, our theme must be "It's the sharing economy, stupid." It is called variously collaborative consumption, the peer economy, and the sharing economy. More than half of millennials have used sharing services. It is permeating our daily lives in many ways.

This new ethic about our relationship to things, to transportation, to where we bed down, and even to other people has taken us away from owning and exclusively using, to not owning, not possessing, and not using alone. We see the sharing economy in three broad spheres—transportation, goods and services, and housing. While our focus here is on short-term rentals, it helps to understand the larger context for "home sharing."

RIDE-SHARING REVOLUTION

Transportation may be the most obvious and most pervasive face of the sharing economy. Millennials own fewer automobiles than other age cohorts. Millennials purchased almost 30 percent fewer cars from 2007 to 2011 (Plache 2013). Why? Because they use short-term car rentals, public transportation, and ride-sharing services. They are less likely to get driver's licenses. One-third of 16 to 24 year olds don't have a driver's license, the lowest percentage in over 50 years (Tefft et al. 2013). At the same time, so we don't get too carried away with this trend, as the millennials age, they will buy more cars. Forty-three percent said they are likely to buy a car in the next five years (Kadlec 2015).



Dwight H. Merriam

➡ This four-bedroom colonial home in Wetherfield, Connecticut, rents for \$385 per night, with a four-night minimum stay.

Ride sharing as a generic term encompasses short-term rentals, making your car available to others, sharing rides, and driving or riding in taxi-like services brokered online through companies like Uber.

Instead of owning a car, you can rent one on a short-term basis from companies such as Zipcar and Enterprise Rent-A-Car. Why own a car when you can conveniently pick one up curbside and use it to run errands for a few hours?

Sharing a ride and splitting the cost is made easier with services like Zimride (also by Enterprise Rent-A-Car), which links drivers with riders at universities and businesses. You boomers will remember the ride-share bulletin boards on campus. Same thing.

Got a car, not making much use of it, and interested in making some money? You can make it available to others on a short-term basis through peer-to-peer car-sharing services including Getaround, which presently operates in Portland, Oregon; San Francisco; San Diego; Austin, Texas; and Chicago. They will rent your car for you while you are away. Cars are covered with a \$1 million policy, and they even clean it for you. RelayRides connects neighbors to let them rent cars by the hour or the day, and if you're traveling more than 14 days, they will take your car at the airport, rent it for you, and pay you. You can even do it for boats with Boatbound. With the help of Spinlister, you can connect with others and rent a bicycle, surfboard, or snowboard.

Dwight Merriam, FAICP, founded Robinson & Cole's Land Use Group in 1978, where he represents land owners, developers, governments, and individuals in land-use matters. He is past president of the American Institute of Certified Planners and received his masters of Regional Planning from the University of North Carolina and his juris doctor from Yale.

Want to make some money by driving others around in your car, or are you a rider who wants to be driven? Just about everyone has heard of Uber, the leader in this form of ride sharing, which includes other services such as Lyft and now Shuddle for ferrying children around and Sidecar for both people and packages. Wireless communications, the internet, and smartphones have made such ride-sharing and delivery services possible. This is a big deal. Lyft and Uber are worth \$2.5 billion and \$50 billion (more than FedEx and 405 companies in the S&P 500) respectively (Dugan 2015; Tam and de la Merced 2015). And want to be a driver but don't have a car? You can rent one from Breeze just for that purpose.

GOODS AND SERVICES PEER TO PEER

Beyond transportation, the sharing economy extends to relationships between people and service providers. There is peer-to-peer or collaborative consumption through services like TaskRabbit and Skillshare which provide help, paid or bartered, or sometimes free. Instacart will grocery shop for you and claims it will deliver to your door in an hour. You can be a shopper and delivery person for them, making up to \$25 an hour.

NeighborGoods lets you share all those things you have but use so little, from leaf blowers, to pressure washers, to . . . well, take a look in your garage, that place where you used to park your car. If you live in Austin, Texas; Denver; Kansas City, Missouri; Minneapolis; or San Francisco, Zaarly seeks to create a marketplace

to help freelance home-service workers connect with home owners.

There seems no end to the sharing. Fon, touting over 7 million members, lets you share your home WiFi in exchange for access. The Lending Club connects borrowers and investors, enabling, so they say, better rates than credit cards and more return for lenders than what banks offer. Over \$11 billion has been borrowed since it started in July 2007, with investors earning a median of 8.1 percent. Poshmark lets you show your unneeded clothing in a virtual closet and get linked with people who share your sense of style. You can even share your dog, or become a sitter, with DogVacay and Rover helping you find a local dog sitter to care for your dog at your home or theirs.

The power of the internet in facilitating collaborative consumption was probably best evidenced first when eBay and Craigslist provided an online marketplace never experienced before. Today, we have web-based services like Freecycle where people can post things they don't want, the remnants of our overconsumption, and others can take that flotsam and jetsam for free. Yes, for free. It solves the donor's solid waste disposal problem and provides free goods for the takers.

SHARING THE ROOF OVER OUR HEADS

That brings us to the subject matter of great interest to planners—the sharing of space.

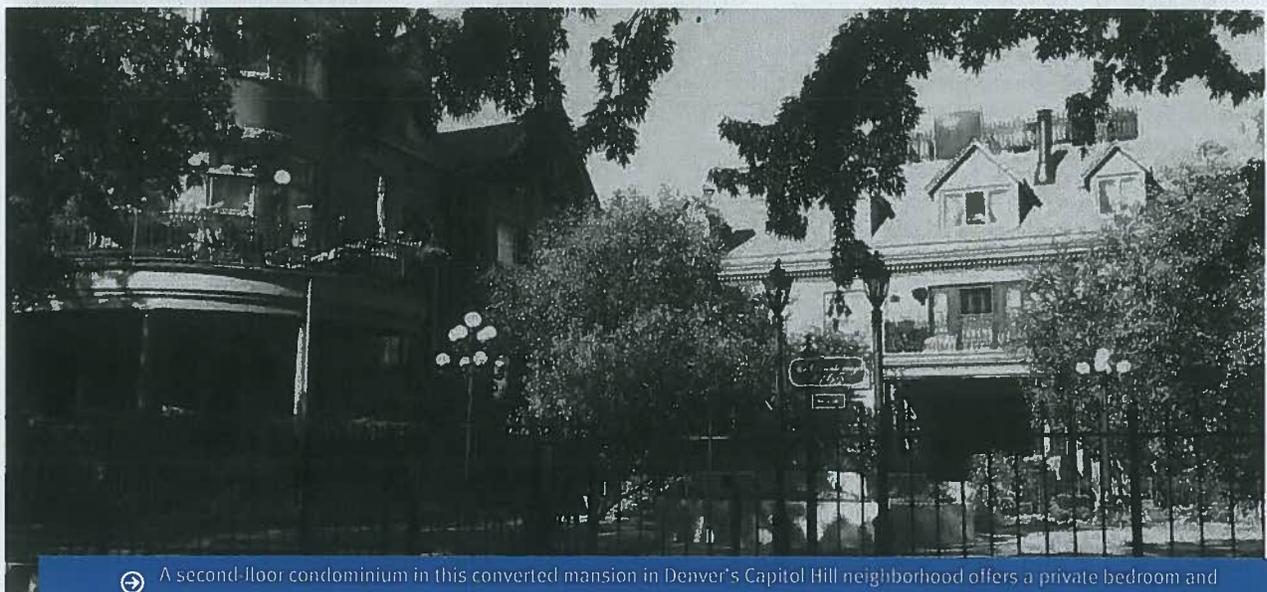
Maybe it began with the sale of timeshares in the United States in 1974. These fractional interests have proved difficult to sell. Short-term vacation rentals emerged as a better way for many, linking property owners with vacationers through companies like HomeAway and its numerous related entities, claiming over one million listings. FlipKey does much the same with what it says are over 300,000 listings in 179 countries.

But Airbnb goes beyond vacation rentals. You can rent a shared or private room for a night, a whole house, an apartment for your exclusive use for a week, a British castle (Airbnb says it has 1,400-plus castles), a teepee, an igloo, a caboose, or an eight-foot by 14-foot treehouse in Illinois (\$195 a night) if you wish.

The company, originally "AirBed & Breakfast," was founded in 2008 by Brian Chesky, Joe Gebbia, and later Nathan Blecharczyk. It began when Chesky and Gebbia, to help pay their rent, rented sleeping accommodations on three air mattresses in their San Francisco apartment living room and made breakfast for the guests (Salter 2012). The company is now worth \$25.5 billion and joins the ranks of the rest of the great ideas we wish we had thought of first (O'Brien 2015).

GOOD OR BAD?

Are short-term rentals good or bad for your community? Like so many things, it depends.



A second-floor condominium in this converted mansion in Denver's Capitol Hill neighborhood offers a private bedroom and bath rental for \$105 per night, with a two-night minimum stay.

Brian L. Connolly



Sorell E. Negro

➔ This three-bedroom home near Miami's Coconut Grove rents for \$325 per night, with a five-night minimum stay.

Affordable Housing

Short-term rentals (STRs) increase the stock of furnished, short-term accommodations. Because many of the rentals involve renting a room in a permanently occupied dwelling, they are often less expensive than commercial lodging. The benefit for home owners or long-term tenants who host STR guests is additional income, which can help offset mortgage or rent payments.

Some contend that STRs may exacerbate the shortage of lower cost rentals because landlords, attracted by the higher revenue stream from STRs, are taking apartments out of long-term rentals, especially in tight markets like New York and San Francisco (Monroe 2014; Moskowitz 2015). Others say high tenant demand and demographics are the cause of the problem, not STRs, which are a small share of the market (Lewyn 2015; Rosen 2013).

Aging in Place

Short-term rentals of rooms in homes and apartments not only provide additional revenue for those aging in place, but they may provide an opportunity for sharing of chores and bartering for services, just as accessory apartments do. This can enable older people to stay in their homes longer before transitioning to an independent or assisted living facility.

Commercial Lodging

The only possible benefit of STRs with regard to existing commercial lodging is that it may stimulate competition and lower prices for the consumer. The negatives are several. Short-



Robert H. Thomas

➔ This condo hotel in downtown Honolulu includes owner- and long-term renter-occupied units, privately owned units available for daily rental through the building's hotel operator, units owned by the hotel operators, and privately owned units available for short-term rental through Airbnb and similar sites.

term rentals may reduce commercial lodging revenues. In many situations STRs have an advantage over commercial lodging because the STRs do not pay the occupancy taxes paid by commercial lodging. Short-term rentals generally do not need the service workers employed in commercial lodging. Unions and service workers often oppose STRs.

State and Local Government

Revenues to state and local government may go down as a result of STRs because, as noted, such rentals usually do not pay the occupancy and other taxes levied on commercial lodging. Airbnb does provide 1099 forms to hosts to report their income, and it has begun collecting and remitting hotel and tourist taxes in San Francisco; San Jose, California; Chicago; and Washington, D.C. (Hantman 2015).

Health and Safety

Much of the STR market today is unregulated. Those who rent typically do not have their premises inspected to determine compliance with health, building, housing, and safety codes. For its part, Airbnb does clearly state in its terms of service that some localities have zoning or administrative laws that prohibit or restrict STRs and that "hosts should review local laws before listing a space on Airbnb."

Airbnb also provides a guide to responsible hosting on its website, and what they do address is good guidance for local planners and regulators, and thus worth reading. How many hosts read and follow up on the suggestions is another matter. Airbnb's list is still a good starting point for local action.

Many STR hosts do not have home owners and liability insurance to cover losses that may result from occupancy. There is a life safety issue here, and in the event of death, injury, or property damage, there may not be insurance coverage or sufficient assets available to cover the liability.

AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE

So said Benjamin Franklin, and it is apt here. You need only take a few relatively easy steps to get out ahead of the potential problems with STRs and capitalize on the good that such rentals can provide your community.

Moratorium

This is not a recommendation, but something worth considering. As you work down this list of

steps you will have the sense that you need to do six things at once. You do. One way to get a grip on it is take a “planning pause” moratorium on all STRs for, say, six months, during which time no one can rent. However, given that the number of such rentals in many places is still relatively small, it is unlikely that much harm will come from letting them continue on while you plan and prepare to regulate. It may not be worth the effort to have a moratorium. A moratorium takes time—for drafting, maybe some legal advice, and the expenditure of political capital in most cases—and may cause some pushback from those already renting, all of which may cost more than the planning pause is worth. Moratoria sometimes serve only to delay the inevitable hard work and are often extended. Back to Ben Franklin: “Don’t put off until tomorrow what you can do today.”

Education

Learn what is available out there now by going to all of the websites and services that you can find, most of which are identified here. Look online to see what STRs are being offered in your community. You may be surprised at how many of your friends and neighbors are already in the STR business. Don’t forget to check Craigslist as well, and use an online search engine, such as Google, with a few key terms, like “rentals Anytown” and “house-sharing Anytown,” to find other STR activity.

Conduct educational sessions in your community (“Everything You Need To Know About Short-Term Rentals”) even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance, fire prevention, emergency response, following rules for rent controlled units, first aid, protecting privacy (e.g., disclosing security cameras), insurance coverage, parking, noise, smoking, pets, childproofing, operation of heating and ventilating systems (including fireplaces and heating stoves), safe access, occupancy limits, deciding what to tell neighbors, home owners association approval, tax obligations, and any required zoning approvals. These sessions may also provide an opportunity to learn who is renting and to connect with them. Consider establishing a section of your municipal website as a resource portal. You will not have all the answers to all the questions as you start, but you need to start.

Planning

Yes, planning. The rational planning model in its simplest terms is what you have, what do

you want, and how do you get it. You need to know who is renting and what is being rented to whom for how long. You need to determine what you may expect in the future. What do you think the demand is for STRs, in what mix of accommodations, and for what length of tenancy? This will prove useful to deciding whether you need to limit the number of units available for STR and to regulate the length of occupancy.

Regulate

Regulation probably will come in two forms: licensing of individual hosts to insure code compliance and general regulation (either through zoning or licensing standards) as to location, number of units, and terms of tenancy. You will have to draw the line somewhere as to what is an STR and what is simply an unregulated rental.

Conduct educational sessions in your community even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance.

is an STR a rental of less than 30 days or 90 days, or some other somewhat arbitrary number of days, and everything else is just an unregulated rental? It is for you to decide. You will also want to consider whether owner-occupied STRs might be regulated less strictly, given that the owner is present during the STR.

Austin, Texas, has a robust program with licensing. They carve out three types of STRs: owner-occupied single-family, multifamily, or duplex units (Type 1); single-family or duplex units that are not owner occupied (Type 2); and multifamily units that are not owner occupied (Type 3). There is a three percent limit by census tract on the Type 2 single-family and duplex STRs, a three percent limit per property on Type 3 STRs in any noncommercial zoning district, and a 25 percent limit per property on Type 3 STRs in any commercial zoning district. However, each multifamily property is allowed at least one Type 3 STR, regardless of these limits.

Austin has separate application forms for Type 1 primary, secondary, and partial STRs. All of these forms include owner and property identification information as well as insurance information, number of sleeping rooms, occupancy limit, and average charge per structure. To qualify as a Type 1 primary STR, the unit must be owner occupied at least 51 percent of the time and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 2 secondary STR, the unit must be accessory to an owner-occupied principal residence and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 1 partial unit, namely a room rental, the unit must provide exclusive use of a sleeping room and shared bathroom access. Only one partial unit can be rented out at a time, to a single party of individuals, and for periods of 30 days or less. Owners must be present for the duration of the rental.

The annual licensing fee for STRs in Austin is \$235. Applicants must also pay a one-time notification fee of \$50.

Of course, as with all regulation there are those with schemes to beat the regulation. There are sites online that advise potential STR hosts to avoid posting on Craigslist, use Airbnb’s community and social features to screen the reservations (presumably to avoid enforcement types), “hide your home” by using Airbnb’s public view that only shows a large circle within which the unit is located, use word of mouth (or social networking sites) to rent the unit, and “get lost in the crowd” in that there are thousands of listings in large places like Austin (but not in the rural counties, suburbs, and small towns). This advice to those interested in breaking the law suggests that it will not always be easy for code enforcement to find the STRs. Perhaps some notice to all property owners, maybe a note with the tax bill, telling them of the need to register would help. Free, simple, online registration might increase compliance. The critical issue is life safety—you need to find all of these STRs to make sure they are safe.

San Francisco has an Office of Short-Term Rental, and in 2014 the city adopted major revisions to its planning codes for STRs. Those amendments include some useful definitions of hosting platform, primary residence, residential unit, short-term residential rental, and tourist or transient use. The code requires registration, occupancy of the unit by the owner not less than 275 days a year, maintenance of records for two years, certain insurance coverage, payment of transient occupancy taxes, compliance with the

housing code, posting the registration number on the hosting platform's listing, and a clearly printed sign inside of the front door with the locations of all fire extinguishers in the unit and building, gas shut-off valves, fire exits, and pull fire alarms. The application fee and renewal fee every two years is \$50. The hosting platform has numerous responsibilities, and there are fines for violations. It is a good model from which to start.

Isle of Palms, South Carolina, regulates STRs through zoning, defining an STR to be three months or less. The city's STR standards limit the number of overnight occupants to six and daytime occupants to 40 (can we assume a wedding party or the like?), set a minimum floor area per occupant, and establish off-street parking requirements.

Monterey County, California, also regulates STRs in its zoning code, defining STRs as rentals between seven and 30 consecutive calendar days. The county considers stays of less than seven days to be a motel/hotel use. The regulation provided for administrative approval of all STRs in operation at the time of its adoption in 1997 if the property owners applied within 90 days. Most of the existing, legal STRs date from that initial round of approvals. Since then, there have been some discretionary approvals, and many STRs are believed to be operating without the required permits.

San Bernardino County, California, permits STRs, defined as rentals of less than 30 days, by zoning in the "Mountain Region" by special use permit exempting multifamily condominium units in fee simple and timeshares with a previous land-use approval. The development standards include code compliance, maximum occupancy based on floor area per occupant and the number of beds, off-street parking requirements, and signage specifications. Conditions of operations address the contents of the rental agreement, posting of the property within the unit with all the conditions of use, and details of fire safety and maintenance, even including a prohibition on the use of extension cords.

Miami Beach, Florida, prohibits STRs in all single-family homes and in many multifamily buildings in certain zoning districts.

Registering all these STRs can be burdensome. Since May 1, 2015, Nashville has issued 1,000 permits, and staff estimates the city still has 800 illegal hotels and motels (Bailey 2015). Wait times for all types permits went from 30 minutes to four hours because of all the STR registrations (Bailey 2015).

THE MAKINGS OF WORKABLE PROGRAM

Overarching issues to consider include the nature of the activity you aim to regulate, the management structure of the STR, and the limits on STR use.

What Is the Nature of the Activity You Will Regulate?

Presumably, hosting a STR is a private enterprise and almost certainly not a commercial lodging business. It is a type of lodging that is largely advertised online, through social media, and on bulletin boards. How will you draw the line between that modest, private activity and a commercial operation?

How Is It Managed?

Does the host have to be the owner, and does the host need to be there during the rental? If not, will you regulate differently in terms of numbers of units allowed, number of days per year, or terms of occupancy?



➔ This building in downtown Boston includes a two-bedroom loft apartment that rents for \$245 per night, with a seven-night minimum stay.

Kath L. Charney

What Is the Limit of Use?

Will you require the host to live in the residence at least some minimum number of days per year? Will you limit rentals to some maximum number of days per year? Will you define STR as a rental of 30 consecutive days or less and not regulate longer rentals in any way? Will you regulate whole-house, exclusive-use rentals differently, for example by only regulating when the house is rented for less than a week or two weeks? And will you regulate renting of rooms on a different schedule, for example by including room rentals only if they are less than one month and otherwise not regulating longer room rentals, which may be covered by zoning anyway, possibly under the definition of a rooming house? There are so many questions to be answered and so many lines to be drawn.

A checklist of considerations for hosts and public officials for planning, regulation, and operation might include current zoning requirements; applicable codes (sanitation, health, building, occupancy among many); business licensing; business organization (none, limited liability corporation, general or limited liability partnership, Subchapter S, etc.); home owners association covenants and restrictions; other easements, covenants, restrictions on the land; lodging to be offered (room, whole house, host-occupied, length of stay); 911 marking at the street; emergency notifications; food service (permitted? licensed?); federal, state, and local taxes; safety inspections; fire, smoke, CO₂, and other detectors; fire extinguishers; child safety; parking; insurance; emergency notifications; water and septic; safe hot water temperature; electrical and plumbing in good repair; pest/vermin-free (especially bed bugs); ventilation, heat, air conditioning adequate; no hazards; no mold or excessive moisture; working doors, windows, and screens; adequate means of egress; linen sanitation; and pool and spa maintenance.

YOU'VE MADE YOUR BED . . .

So goes the idiom from the French as early as 1590: "Comme on fait son lit, on le trouve" (As one makes one's bed, so one finds it). In planning for and regulating STRs, you will indeed be the ones making the bed, and you will have to lie in it. There are benefits and burdens in how you permit STRs and many considerations to be weighed. If you start with life-safety issues first, you can be quite certain the most important aspect of this rapidly emerging sharing economy phenomenon will be addressed. After that, it is the usual planning and politics.

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205 N. Michigan Ave.
Suite 1200
Chicago, IL 60601-5927

1030 15th Street, NW
Suite 750 West
Washington, DC 20005-1503



DOES YOUR COMMUNITY
REGULATE SHORT-TERM
RENTALS?

10

Chapter President Kerry Leichtman



The humble beginnings of vacation rental properties were innocent enough. They worked sort of like a traders' club. If I made my home on the coast of Maine available to someone while I was away on vacation I could then stay in Paris at someone's home while they were away on vacation.

Another type of vacation rental was the beach house. Families would rent a house for an extended period of time: two weeks in July, or the month of August, for example. It was a cheaper way for a middle-class family to vacation. Having a kitchen meant not every meal was eaten in a restaurant, and the lodging rates worked out to less than multiple motel rooms. These rentals were usually found through word of mouth, or local newspaper classified ads. Families often made the same rental arrangement every year.

Then there was the ski area and the golf course condo vacation rental. It was the same idea, but rentals were obtained via some sort of exclusive network. This was probably the genesis of the timeshare form of vacation property ownership.

Enter social media and all of the above went on steroids. Word-of-mouth was replaced by international announcements. Enter **Air BNB**, a marketplace for people to list and book unique accommodations around the world.

What was once a cash-under-the-table side business in resort communities became a major worldwide hospitality enterprise. I saw an interview with the CEO of **AirBNB** a few weeks ago; the company, started in 2008 is now a \$26 billion business – definitely no longer a simple side business.

This type of accommodation opportunity can be found through other entities; **HomeAway**, **Booking.com**, **VRBO** and **Roomorama**, to name a few. Like Uber taxis, these entities fly under the state and federal regulations radar. Even Maine municipalities have been reluctant to force them into being regulated like the businesses they compete against. Is this right?

As assessors the right and wrong of it isn't our concern. It doesn't matter if you think vacation rentals should be taxed or left alone, our task is to assess properties throughout our jurisdictions fairly and equitably to one another.

(Continued on page 4)

Maine News

The closure of the **Old Town** mill results in an estimated 9% property tax hike. Although there was a decrease in the fiscal year 2017 budget, it is not enough to offset the loss in mill revenue.

Check out this story on mill closures! <http://news.mpbm.net/post/former-mill-towns-face-challenge-keeping-property-tax-rates-down#stream/0>

In **Bangor**, the city settled a year and a half long dispute over the value of the gambling casino and hotel. As of April 1, 2015, the assessment was reduced from 97.4 million to 82.5 and further reduced for 2016 and 2017 at 80 million. In return, the casino dropped its challenge on the 2014 assessment.

The **Cape Elizabeth B.A.R.** decided to deny a local gun club its request as an exempt entity. The 61 year old gun club has historically been exempt from property tax, however, after closer review and the fact that the club went from a 501(c)3 to a 501(c)7, the assessor began to assess the real estate.

As mentioned in Kerry's article to your left, the vacation rentals have become a concern regarding fairness in taxation. Recently, a historic **Rockland** inn owner claimed discrimination because the city is not assessing the personal property of vacation rentals, but they are taxing inns and bed and breakfast establishments.

(Chapter President - Continued from page 1)

If someone is using their property to produce income, it is an income-producing property and, therefore, the income approach should have bearing on its value determination. The more typical cost and sales approaches might not adequately address the property's value.

VRBO is part of the homeaway family with several listings right here in Maine primarily on the lakefront!

Airbnb has 2 million listings over a span of 191 countries which includes 1,400 castles!



Income producing properties are subject to personal property taxation. And this is where things get tricky. If a room or just a portion of a house is being rented and the owner is occupying the rest of the premises, what is being used primarily for the business, what is being used primarily by the owner, and what is being used by both? The same "primary use" dilemma occurs with a house that is rented for the summer and occupied by the owner for the rest of the year. This has the potential to be as bad a headache as determining front and backroom uses in a retail sales facility.

A building that is available as a year-round rental is simple. Everything not affixed to the ground is personal property. Most of it is BETR eligible. Income and expense information must be collected and the income approach should factor in a reconciliation of a value determination for the real estate. Insofar as assessing is concerned, that's about as far as we can and should go absent local ordinance or state statute.



Homeaway has a jungle tree house in Mexico available for \$80/night!

As the assessor for Rockport and Camden, I've had conversations with upset innkeepers and have been asked to speak at planning and select board meetings on the issue of fairness of taxing, for example, bed & breakfasts but not AirBNB type properties. The innkeepers think we should tax both equally. It would be impossible for me to discover who is renting a room or a section of their home without regulations defining what is permissible and what is not, and without some sort of permit registration structure in place.

Cape Elizabeth and Rockland are two Maine communities that have put a few regulatory toes in the water. In Cape Elizabeth they defined short-term vacation rental in an ordinance and created a permit requirement. Rockland is requiring vacation rentals to register as businesses. Both municipalities' ordinances attempt to address neighborhood concerns and life safety issues.

We've posted both ordinances on the Maine Chapter website: mechapteriaao.org

Booking.com offers luxury tents while traveling the deserts of Morocco!



Please let us know how your municipality is dealing with this issue and we'll pass things along as the topic develops.

Clearing the Air(bnb)

How did the popular vacation-rental service become a hugely contentious issue in Maine?

BY WILL GRUNEWALD

With names like Blackberry Commons, Timbercliffe, and Swan House, Camden's inns seem as elemental to the harborside hamlet's charm as the placid waters, green hills, and cozy shops. Oh, and they're expensive, which fits the overall vibe too.

In peak season, rooms generally start around \$200 per night and, at tonier joints, can run north of \$500. But say you want to find a room on the relative cheap (as I did on a recent Friday night). In that case, you might find yourself scouring Airbnb for a spare bedroom in someone's home, an apartment above a garage, or even an entire house. For \$89, I booked a local couple's unused room, with its own bathroom and entrance, a short walk from downtown. The price leaves money to burn, maybe on fish-and-chips at the nearby pub or curry noodles at the Thai restaurant before beers at the bar around the corner.

As a traveler, it's tough to pass up a deal like that. But mention the growing presence of Airbnb around Camden and the townsfolk tend to clam up.

"I would hate to be enemy number one in this town," one B&B owner wrote in an email, declining an interview on the topic.

"At this time, I will not comment or give interviews on the Airbnb issue in Camden," wrote the town's code enforcement officer. "The Planning Board has been addressing this issue."

And then from the Planning Board chair: "It is very difficult for me to give interviews."

Why such tight lips? Probably because of the \$1.6 billion travelers spent on lodging in Maine last year. Or, more precisely, because of how that money gets divvied up.

Tracy Michaud-Stutzman, chair of the University of Southern Maine's tourism degree program, points out that Maine's lodging biz is unusual: "Our tourist housing is really small-scale – outside of Portland and Bangor, there aren't many Marriotts or Hiltons." Which means that innkeepers have historically shared much of the overall pot, and they're protective of their cuts.

"For the owner of a little bed-and-breakfast," Michaud-Stutzman says, "it's probably the same customer who would consider either Airbnb or their place. There's an immediate sense of competition because they're similar." Thus the hard feelings.

Even though the short-term housing market is nothing new to tourist towns, the quick growth of online vacation-rental services has lowered barriers to entry and ratcheted up competition. Airbnb is only the conversational shorthand for a vast industry that includes brands such as HomeAway, VRBO, and FlipKey, all of which charge fees to property owners that pale in comparison to what a traditional management service would require to handle a rental. The upshot: more options and lower prices for consumers.

Norm Henthorn runs the Captain Swift Inn in Camden and also heads the local inn owners' consortium. "Many members of the group have seen reservations decline this year and last year," he says. "Some have had

people call and specifically say they're canceling reservations because they found a cheaper place on Airbnb."

From an inn owner's perspective, Airbnb challenges fair play. "Whereas we have to pay for licensing and inspections and various certifications," Henthorn says, "the Airbnb properties don't have to – or choose not to – do that. Many of them also don't pay lodging taxes to the state. That's a benefit they enjoy that we can't."

Last year, state legislators, at the urging of the Maine Innkeepers Association, proposed an amendment that would have required anyone offering rentals for periods of less than seven days – pretty much the norm on Airbnb – to follow the same rules and licensing procedures as hotels and B&Bs. Airbnb owners would have had to either retrofit their homes to meet standards for fire safety, ventilation, and lighting or simply drop out of the market. Fortunately for them, the proposal died in committee.

Some towns already have their own rules in place. In Cape Elizabeth, a town ordinance (that took more than a year to agree on before passing in 2012) mandates that property owners go through a permitting process that guarantees standards for waste disposal, evacuation plans, and sufficient parking if they want to rent out a property for fewer than 30 days. In Camden, the rules afford more flexibility. Owner-occupied houses with spare rooms for rent can host paying guests for any amount of time. However, spaces that constitute an entirely livable unit in their own right – meaning they have a separate bathroom and kitchen in addition to living and sleeping

Holly
Hamilton

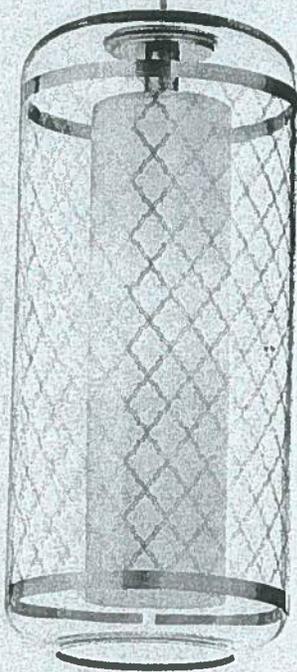


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NORTH BY EAST
TALK OF MAINE

spaces – can only rent on a minimum weekly basis.

And yet, a quick Airbnb check shows many short-stay options in Camden with separate baths and kitchens. “The bottom line for the town is that they just can’t enforce it,” say Mac Thomas, from whom I rented my \$89 room. “They have their hands full enforcing existing ordinances with construction and commercial buildings and stuff like that.” Not to mention that the Airbnb website only identifies owners by first name and doesn’t provide an address or any personal contact information, making scofflaws difficult to track down.

Thomas keeps his place in compliance with the local nightly rental standards, but that doesn’t mean he’s above the ire of the local lodging establishment. “I’ve had interesting discussions with some of the innkeepers in town,” he says. “They say, ‘This is my full-time livelihood and you Airbnb guys are affecting it.’ But I say, ‘I’m retired and this is my full-time livelihood and I don’t see the difference.’”

Thomas and his wife rent out what used to be a home office to help pay their daughter’s way through college. Many others rely on the rental income to cover mortgages and other expenses. In small towns, then, the conflict over Airbnb pits small-business owners against earnest local homeowners. For a disinterested party – like a state or municipal government – it’s hard to pick sides.

Unlike seashore communities, Portland has only recently become a popular seasonal destination, and the locals are still getting used to neighboring homes occupied sporadically and tenants rotating in and out. So the terms of debate over Airbnb aren’t the same as in towns like Camden – the argument is more about neighborhood character and livability than on fair competition.

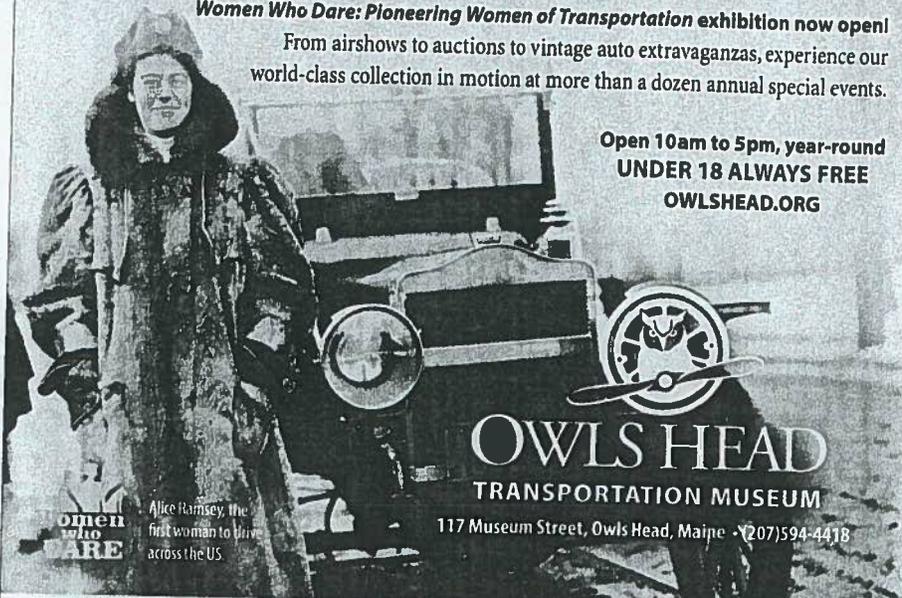
“It’s transforming places,” says Anne Pringle, the former city mayor

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and current president of the Western Promenade Neighborhood Association. "That's the concern people have here, especially with the housing shortage on the peninsula."

Residents worry about whole houses turning exclusively into vacation rentals and previously long-term apartments becoming vacation units. Especially troubling for **Portlanders is how Airbnb properties have clustered in certain residential neighborhoods – especially the West End and Munjoy Hill – with easy access to the dining and shopping that tourists want.**

"If you have a high concentration of these things, you lose stability in the neighborhood because of the constant turnover," Pringle says. "And because a lot of it's seasonal, you end up with homes that are dark at night for a good part of the year if they're only used as rental property."

Such concerns are part of the broader pushback against Airbnb in cities across the country, but in Maine, there's yet another consideration. Some corners of the state, USM's Michaud-Stutzman says, just don't have the tourism traffic to support traditional hotels and inns. In-home stays – facilitated by the Internet – can fill the void. "It gives Airbnb owners access to tourism money and travelers access to parts of Maine where they wouldn't venture otherwise," she says.

Note the high concentration of Airbnb properties around industry-deprived Millinocket, where travelers en route to Baxter State Park have limited overnight options. With visitors needing lodging and locals needing new income sources, the situation doesn't exactly beg fixing.

That Airbnb impacts different areas in different ways is more reason for the state to tread lightly with blanket regulations. **The trick, says Michaud-Stutzman, is calibrating rules to local circumstances.**

Communities need to identify pros and cons and strike a balance. "As with most things," she adds, "there's going to be a little of both."

A love letter to Maine ...

Dream a novel House

"With an architect's eye and a poet's gift for language, Armsden confronts the very idea of home: what it means to have one, lose one and ultimately, to make one of our own choosing."

-Anita Amirrezvani, author of *The Blood of Flowers* and *Equal of the Sun*



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AN AMAZON BEST BOOK OF THE MONTH

Bonhomie Press, an imprint of Yellow Pear Press

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DE NORTH BY EAST
TALK OF MAINE

While most Maine towns are only starting to talk about how to approach the Airbnb issue, Rockland recently enacted regulations with the service specifically in mind.

"We're a little ahead of the game," says John Root, the city's code enforcement officer of 21 years, who pushed for ground rules. The idea, he says, isn't to quash Airbnb rentals but to preserve neighborhood character and ensure consumer safety.

The resulting five-page, single-spaced tract of legalese is no light read. There's a confusing division of short-term rentals into three subcategories with varying levels of review and inspection. Certain other requirements are simpler: as of November, owners need annual permits, and tents, trailers, sheds, and yurts – which proliferate around Airbnb – are no-goes in Rockland.

As for enforcement, Root says, "We've had our office assistant trained by somebody who's been through [the process of tracking Airbnb properties] and knows where they are."

And who is this incognito sleuth?

"Doesn't really matter," he says coyly. Just someone who knows "the ins and outs of how to find out where a house is that's on Airbnb."

Did he bring in outside expertise?

"No," he concedes, "it's somebody who runs a B&B and has been tracking Airbnb for years."

Somebody local?

"Yes."

So even Rockland's attempt at equitable regulation and enforcement has roots in some deeper shades of contention. But the new rules could nonetheless prove a useful test case to see if owners will follow them, if the town can track down violators, and if any owners will find the regulation and licensing too onerous to keep doing business.

If Rockland strikes the right balance, it might become a model worth emulating – and help other small towns get back to their cheery, tourism-happy ways. ☺

York AirB&B Statistics Summary

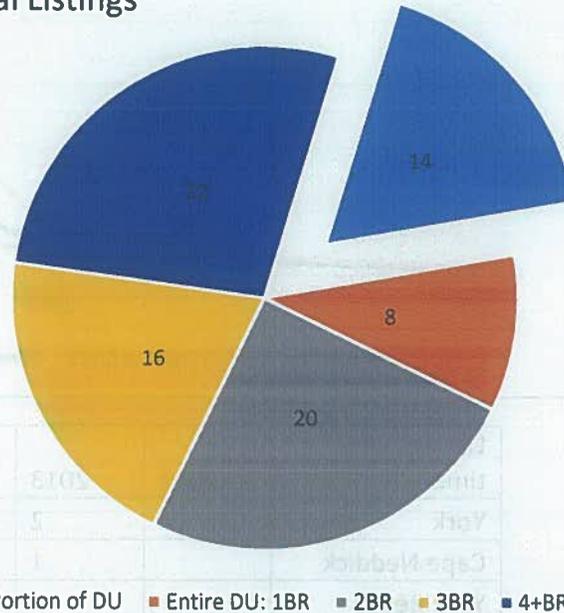
Prepared 7/22/16

All data sourced from AirDNA.co

80 listings were active in York in the 30 days leading up to 7/22/16.

Of these, 50 listed their location as "York", 17 as "Cape Neddick", and 13 as "York Beach".

York AirB&B Listings 80 Total Listings

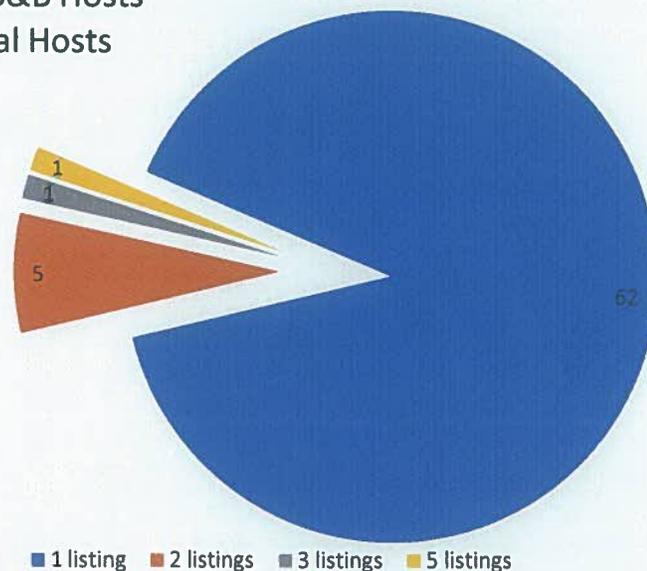


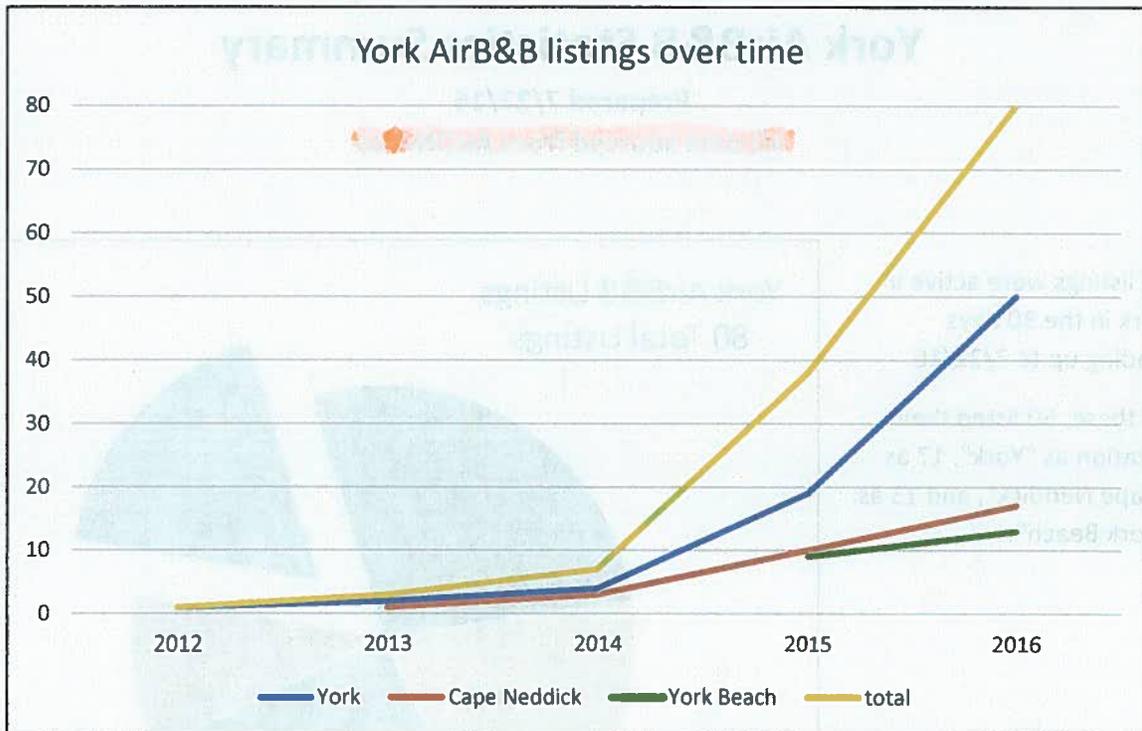
The 80 active listings were posted by 69 separate hosts.

Of these, 43 listed their location as "York", 15 as "Cape Neddick", and 11 as "York Beach".

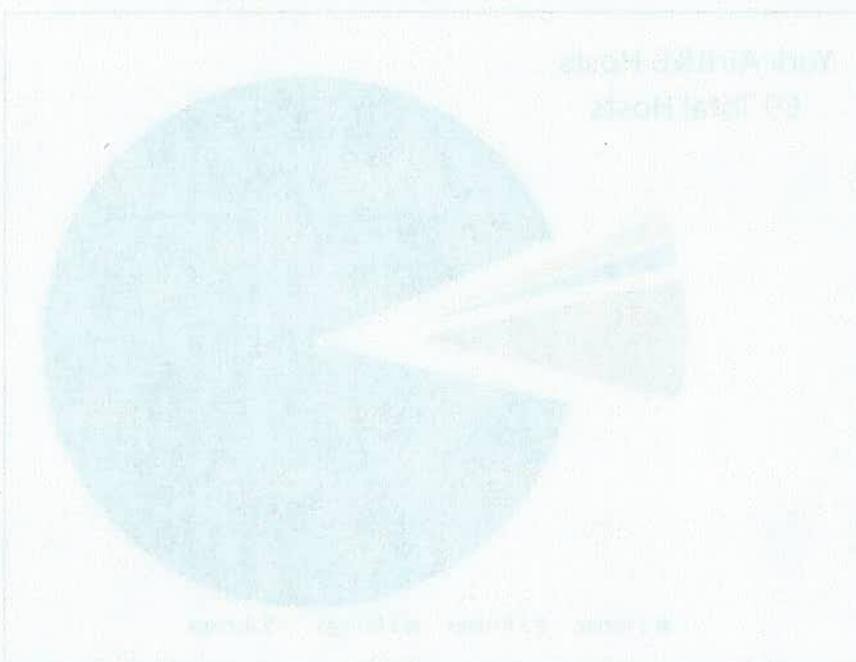
(It is possible there is some overlap if a host listed multiple properties with separate locations)

York AirB&B Hosts 69 Total Hosts





Listings over time	2012	2013	2014	2015	2016
York	1	2	4	19	50
Cape Neddick		1	3	10	17
York Beach				9	13
total	1	3	7	38	80



The 80 active listings were divided by 60 regular stays, 43 total stays, 13 as York, 17 as Cape Neddick, and 13 as York Beach.

It is possible there is more capacity in a host's home overall. A host lists multiple properties with separate location of