

QUICKNOTES

Regulating Short-Term Rentals

The concept of renting rooms or homes on a short-term basis is not new. Many cities have boarding houses that rent rooms by the week or month, just as many small towns and rural areas host bed and breakfasts. And in some tourist hotspots, dedicated vacation rentals are common. However, new online services that facilitate short-term rentals have led to a rapid proliferation of home sharing as an alternative to more traditional visitor lodging arrangements in communities across the country. In many places, this trend has sparked debates about whether or not new regulatory or enforcement mechanisms are necessary to mitigate potential effects on host communities. While different localities are likely to draw varying conclusions about the necessity of new standards or procedures, the following sections provide some context and recommendations for local policy.

Background

In many communities, home sharing is one facet of a larger trend commonly referred to as the “sharing economy.” This phrase often encompasses a wide range of transactions mediated by websites or mobile technology related to sharing property or services. Because home sharing has the potential to change the character of established residential areas, many communities are taking a closer look at how best to accommodate the demand for new types of lodging without undermining goals related to housing, land use, or transportation.

There are three basic varieties of short-term rentals: (1) hosted sharing, where the primary occupants of a residence remain on-site with guests; (2) unhosted sharing, where the primary occupants of a residence vacate the unit while it is rented to short-term guests; and (3) dedicated vacation rentals, where there are no primary occupants. Home sharing and vacation rental services can provide residents and landlords an easy way to make some extra income and, in some cases, offering residences exclusively as short-term rentals can be far more lucrative than traditional leases. Meanwhile, the properties marketed through home sharing and vacation rental sites often appeal to travelers looking for a more authentic local experience or affordable alternatives to downtown hotels and motels.

For communities with a mature short-term rental market, new regulations or enforcement mechanisms may seem unnecessary. Many of these cities and counties either already have standards and procedures addressing short-term rentals on the books or have decided, based on experience, that such provisions are unnecessary. Similarly, communities with an abundance of affordable rental housing and relatively inelastic demand for conventional short-term lodging space may not feel the need to add new standards or procedures to their codes. This is because home sharing is unlikely to create housing shortages or provide direct competition for hotels and motels. However, in places with a surge in home sharing combined with a shortage of affordable rental housing or unmet demand for rooms in hotels or motels, new standards and procedures may be appropriate.

Clarify Use Definitions

Many localities explicitly prohibit the rental of rooms or dwelling units for periods shorter than one month, unless owners comply with all applicable local regulations for boarding houses, hotels, motels, or bed and breakfasts. Meanwhile, many other cities and counties explicitly permit the short-term rental of dwelling units, subject to specific operational or location restrictions. However, few localities address short-term rentals in instances where a unit is occupied as a primary residence for the majority of the year. Often this means hosted or unhosted home sharing is either explicitly or implicitly prohibited. Given the prevalence of home sharing, it may make sense to consider adding new definitions for different types of sharing situations, such as hosted or unhosted accessory home sharing and vacation rentals as a primary use.



In some communities with especially high demand for short-term rentals, landlords may be tempted to take units out of the long-term rental market.



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Identify Appropriate Locations

Some cities and counties with mature short-term rental markets permit full-time sharing in zoning districts that include a mix of primary residences and vacation rentals. Others restrict vacation rentals to tourist-oriented districts. One potential risk of permitting home sharing in residential districts is that it may incentivize landlords to take rental properties off the market, creating a shortage of affordable rental housing. Another potential risk is that frequent unhosted sharing and vacation rentals may lead to increased complaints related to noise, traffic, or parking. In areas with high concentrations of home-sharing or vacation rentals, there is also a chance that the fundamental character may change from residential to quasi-commercial.

Consider New Zoning or Licensing Standards

While some cities and counties have elected to explicitly prohibit home sharing altogether, several others have made recent code amendments to accommodate short-term rentals in residential districts, subject to specific zoning or licensing standards intended to mitigate community impacts. These standards address topics such as registration and record keeping, advertising, fees or taxes, annual limits on the total number of short-term rental nights, spatial concentration, inspections, and insurance coverage.

For example, San Francisco prohibits dedicated vacation rentals and requires residents or landlords to register all hosted and unhosted short-term rental units. It limits unhosted rentals to 90 days per year and requires registrants to pay hotel taxes and carry liability insurance for claims up to \$500,000 (§41A.5.g).

Meanwhile, Portland, Oregon, recently added new standards for accessory short-term rentals to address hosted and unhosted home sharing. For units where no more than two bedrooms are offered as short-term rentals, residents or landlords must obtain an administrative permit and limit unhosted sharing to a maximum of 95 days per year. Accessory short-term rentals offering more than two bedrooms are subject to a conditional use approval process. In both cases, no more than 25 percent of units in multifamily buildings can be used as short-term rentals (§33.207).

In Aspen, Colorado, short-term vacation rentals are permitted by right in most residential districts, provided owners obtain a business license and a vacation rental permit, designate a local property manager, notify any affected home owners association, and pay sales and lodging taxes (§26.575.220).

Evaluate Enforcement Alternatives

Without data from home-sharing and vacation rental services, communities may be dependent on complaint-driven enforcement of regulations for short-term rentals. Instead, cities and counties may find it beneficial to establish a proactive enforcement system to ensure that registered properties are complying with applicable standards. This may involve routine monitoring of listings on home-sharing service websites. In communities with short-term rental regulations, violators are typically subject to fines or the revocation of registrations or permits.

Summary

Home-sharing and vacation rental services are growing trends that show no sign of slowing down. While some communities may ultimately decide that short-term rentals do not have a place in established residential districts, there may be no effective enforcement mechanism for a blanket prohibition. Practically speaking, the key is making regulations that are clear, easily enforced, and do not make residents or landlords out to be scofflaws unnecessarily.

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FURTHER READING

1. Published by the American Planning Association

Hutchinson, Nate. 2002. "Short-Term Vacation Rentals: Residential or Commercial Use?" *Zoning News*, March.

2. Other Resources

City Policies for Short-Term Rentals. 2015. Oakland, California: Sustainable Economies Law Center. Available at theselc.org/str_discussion.

Garvin, Elizabeth. 2015. "RMLUI Corner: Thinking About Regulating the Sharing Economy." *Western Planner*, February. Available at <http://tinyurl.com/q4x3zfq>.

National Association of Realtors. 2015. "Field Guide to Short-Term Rental Restrictions." Available at <http://tinyurl.com/pxcdwvc>.