

Short-Term Rental Ordinance Recommendations

Prepared by Host Compliance
LLC for Str Ord Checklist

Introduction

Background

Though people have rented out extra rooms and properties since cities began, in the last five years online listing companies such as Airbnb, Homeaway, and many others have fueled a tremendous growth in short-term renting. Proponents claim these rental units help people afford their homes, bring tourist dollars to cities, and expand lodging options. Opponents say STRs operate outside the law, lack safety standards, degrade neighborhoods, and lack accountability. Local governments, often unexpectedly, find themselves trying to bring order to a fast-moving marketplace.

Balancing Demands

With an issue as difficult and multi-faceted as short-term renting, it is important to focus on specific issues and specific outcomes as it relates to your local community. It is very easy to fall into a trap of 'yes' and 'no,' a polarized discussion that does not get into the nuance of how best to tailor an ordinance to the problems and opportunities your community faces. This document provides a broad overview of some of the strategies governments with your specific types of concerns, circumstances and priorities have adopted. If you would like a more detailed analysis of your specific situation, please contact us at info@granicus.com or send us an email on binzer@hostcompliance.com.

Glossary

In this document we use the following words and abbreviations frequently.

STR

Short-Term Rental. A short-term rental is most often defined as a rental of a residential dwelling unit or accessory building for periods of less than 31 consecutive days. In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, short-term vacation rentals or resort dwelling units.

Ordinance

A law usually found in a code of laws for a political division smaller than a state or nation, i.e., a local government such as a municipality, county, parish, prefecture, etc. In some areas these types of local rules are referred to as by-laws or statutes.

Assumptions

This document relies on a few assumptions:

1. This custom list of short-term rental ordinance recommendations was produced based on information provided by Lou Kirk on Jun 07, 2016. We assume this information is accurate and reflective of the short-term rental situational context in, and regulatory objectives of, Str Ord Checklist.
2. Short-term renting will be, in some form, legal. Communities that want a complete ban have a different type of ordinance to write, one that is focused entirely on enforcement and violations.
3. To operate legally, all short-term rental units will need some sort of permit, license, or registration with a local and/or state government.
4. Any ordinance will only be effective if it is systematically and pro-actively enforced.

Disclaimer

While meant to guide its efforts to regulate STRs in its jurisdiction, the recommendations included in this complimentary document should NOT be considered consulting services, and while Host Compliance LLC does contract with local governments to draft short-term vacation rental ordinances, this document is not in any way shape or form a full representation of the insights or deliverables that our clients get from working with us. It is also important to recognize that individual cities may approach issues differently, and one approach for a city may not be ideal for another. Accordingly, the ordinance recommendations posted here are provided only for informational purposes. They are posted here as a resource for the same informational purposes. They have not been reviewed by Host Compliance's attorneys and do not constitute legal advice from Host Compliance or any other entity or individual. Staff and elected officials should therefore consult with their attorneys to prepare a ordinance that is appropriate for their specific city. That said, Host Compliance would be happy to consult with staff, elected officials and attorneys to draft a custom short-term rental ordinance that appropriately factors in a particular local government's overall planning objectives and special local circumstances.

To set-up a meeting to discuss Host Compliance's short-term rental ordinance consulting services, please contact Granicus at info@granicus.com or visit granicus.com/str-consult.





PERMITTING

Permitting Process

The most important goal of any short-term rental ordinance is to ensure host units are permitted properly to operate. All other possible requirements – from occupancy to tax payment to parking – can be defined only if hosts choose to identify themselves and submit to the relevant local rules.

In places with limited resources, it can be difficult to find a regulatory system that will both alleviate local concerns while being realistic about the ability to enforce the law. The permitting process is where this balance begins

Obtaining a Permit

While some communities permit STRs through an existing business license system, often communities will adapt a similar review process from a comparable use, such as bed & breakfasts, home businesses, or even bars.

For STR-specific issues, it will be necessary to define various kinds of review to ensure compliance. In the planning review process, units can be evaluated in terms of the issues that the ordinance indicates are important: bedroom characteristics, zoning, neighborhood density, parking, etc. Whether STRs are a conditional use depends on local conditions and local goals. Conditional use does give more regulatory power to local governments but can add another bureaucratic hurdle for applicants.

To make the process as seamless as possible, planning staff will need to choose what parts of the application can be self-certified and what needs to be investigated through governmental resources. Safety equipment and occupancy are common issues determined through scheduled inspection. Self-certification can reduce staff time requirements but leave more room for violations.

Whatever the permit application demands, hosts should know what documentation to bring beforehand in order to avoid paperwork hurdles. As an outreach and screening effort, specific staff time can be assigned to educate hosts on the permit process and how to prepare their applications.

Fees

Though often set by local and state laws, the permit fee is an opportunity to offset staff costs, promote registration, or otherwise generate revenue. Nationally, there is a tremendous variation in permit fees, from the \$25 license to the non-refundable \$3000 application; \$250 is about average.

Higher fees may bring in more money but might keep some hosts from obtaining permits while lower fees generate less income for governments but might lead to higher levels of compliance. Consider using the nightly price of a unit as a guide.





ENFORCEMENT

Context

To implement any type of effective short-term rental regulation, be it a total ban, a permitting requirement, and/or a tax, local governments must expect to invest some level of staff time and/or other resources in compliance monitoring and enforcement. That said, most local governments are neither technically equipped nor large enough to build the true expertise and sophisticated software needed to do this cost-effectively. There are several reasons why this is the case:

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

Luckily, it is possible to cost-effectively outsource most of this work to firms such as Host Compliance that specialize in this area and have developed sophisticated big data technology and deep domain expertise to bring down the compliance monitoring and code enforcement costs to a minimum. In many situations, adopting short-term rental regulation and outsourcing the administration and enforcement can therefore be net-revenue positive for the local government, while adding no or little additional work to the plates of internal staff. What's more, getting started generally requires no up-front investment, long-term commitment or complicated IT integration.

That said, while it is good to know that adopting and enforcing short-term regulation can be net revenue positive, it is important to note that the economic benefits are only a small part of the equation and that local government leaders should also factor in the many non-economic benefits associated with managing and monitoring the rapidly growing short-term rental industry in their local communities. These non-economic benefits are often much more important to the local citizens than the incremental tax revenue, so even if the incremental revenue numbers may not seem material in the context of a local government's overall budget, the problems that unregulated and/or unmonitored short-term rentals and home-sharing can cause for the neighbors and other "innocent bystanders" can be quite material and should therefore not be ignored.

Permitting Violations

While the main effort will be focused on getting hosts permitted, there are several key issues to consider in setting expectations. First, make listing or advertising an unpermitted unit a violation. By using the existence of a listing as prima facie evidence of a violation, this provision helps reduce the amount of staff time needed to go after unpermitted hosts. Second, to facilitate compliance, all listings should list their permit number in their ads. And lastly, permits need to have an expiration date, generally yearly. Consider using the same day for all available permits. While it might require a bit of a push around that date, it does make it clearer who is cooperating and who is trying to skirt the law.

Proactive enforcement, such as patrols or stings, can catch violators and, perhaps, scare off other unpermitted users.

Operating Violations

Without an inspection regime, operating violations are going to be almost entirely complaint driven. In order to put teeth in any ordinance, it is important to make sure that violations are tied to the STR permit, with some sort of mechanism for revoking permits for repeated issues. (Some cities go with a 'three strikes, you're out' policy while others include automatic revocation for serious offenses.) This often requires coordination with whatever department is going to be out responding to complaints.

The fines for violations, while often limited by local and state laws, need to act as a deterrent to bad behavior. Set too low and hosts will build the charge into their business model; set too high and the issue of fairness gets raised. Again, the nightly price is a good starting point. Additionally, fines for repeat violators can escalate, leading to permit revocation.



HOUSING ISSUES



In communities where housing supply is less of a concern, there are still ways to shape the STR market in order to further some other goal, whether it is ensuring guest and host behavior, limiting quality of life issues, or promoting safe usage.

Ownership

Management companies, LLCs, and other real estate interests need to have some sort of local presence, either as a licensee or as a contact person in case of trouble. (Some communities, even those that are not worried about housing, will not permit management companies because they fear the companies will not be responsive to local issues.) Also, it is important to draw a distinction between STRs and traditional lodging providers in order to provide regulatory consistency.

Renters must be able to prove that their subletting is not in violation of their leases or otherwise has owner approval. Often, because of the difficulty in verifying owner agreements and the worries about subletting, renters are prevented from running STRs in order to avoid a legal tangle of overlapping liabilities.

For homeowners, permitting should be fairly straightforward though certain considerations should be made in terms of unit density in a neighborhood, strong insurance and liability coverage, and safety features. Like renters, for owners that are part of condo properties, ski villages, HOAs, PUDs, co-ops, and similar developments, STR permitting needs to align with the relevant bylaws, either directly or by board approval.



Types of Units

By limiting the types of permitted units, communities can shape the STR market in many ways. Regardless of ownership or residency requirements, banning whole house rentals – and thus only allowing individual bedrooms to be let – dramatically changes the nature of hosting from a more commercialized standard to a more casual type of operation. (Proving that a listing is not for a whole unit – either directly or indirectly – does create a specific enforcement issue.)

Another common technique is to only permit units with a certain number of bedrooms as a way to limit neighborhood impacts. Also, depending on the local housing stock, accessory units can or cannot be counted as part of a primary residence; certain apartment types (mother-in-law suites, carriage houses, garden apartments, etc.) may need additional research as to their particular utilization.





QUALITY OF LIFE ISSUES

Guest Behavior

While long-term tenants and homeowners can certainly cause their share of trouble, the nature of short-term renting means a guest behavior can generate a greater burden on neighbors and neighborhoods. As visitors, guests should be held to a higher standard in terms of noise, trash, parking and other quality of life issues, with sufficient violation amounts that act as a deterrent to unsafe or obnoxious activities. This standard needs to be communicated to guests, either directly or through signage, and needs to be enforced.

Similarly, any violation needs to be tied to the short-term rental permit so that hosts can be made responsible for repeat violations.

Neighbor Impact

One of the most direct ways to building inherent accountability for both hosts and guests is to require hosts to be present for any use of their rental. It is not a silver bullet – surely some hosts like to party – but hosts tend to be more protective of their property and more responsive to their neighbors in operating an STR than if they were somewhere else. This requirement also has implications around housing as well as potential overlaps with existing bed & breakfast codes.

Unit Characteristics

By emphasizing certain design characteristics, an ordinance can seek to limit certain types of activity or intensity of use.

In regulating the external characteristics of a short-term rental, communities are often interested in preserving a residential look – by banning commercial signage or alterations – while addressing perennial issues like parking and trash. Parking spaces especially can be a tool to set a maximum occupancy for a unit and off-street requirements can lessen neighbor complaints. Trash receptacles should be sufficient for anticipated use and are a common point to invoke a slightly stiffer, more commercial standard.

The most direct way to limit the intensity of use is through specific occupational limits for short-term rental units. Going beyond existing building codes, some ordinances go into detail about the number of bedrooms (including maximums allowed for permitting,) the size of bedrooms, and the number of guests that a unit can host. In setting occupancy limits, these ordinances encourage safe operation, discourage disruptive gatherings of large groups, and can work to achieve broader housing goals.

Any physical requirement in permitting will require some sort of verification, usually an inspection, a review of government documents, or self-certification.

Neighbor Notification

As the people most likely to be burdened by a short-term rental's operation, neighbors need a strong voice in regulation. Beginning in the permitting process, either through notification and comment or the conditional use process, neighbors' concerns should be an important factor in determining whether a unit receives a permit. And, as a layer of accountability and enforcement, the host's contact information must be given to all adjoining property owners.





NEIGHBORHOOD ISSUES

Common Neighborhood Character Concerns

Zoning Choices – Determining how best to categorize short-term rentals within a zoning regime can be a challenge, especially in relation to existing lodging uses and standards. The degree to which any jurisdiction considers short-term renting a commercial use has profound effects on the placement, operation, and permitting of units. While other home-based businesses may operate within residential zones, short-term renting has unique challenges, and it is thus important to consider other planning goals – housing, safety, quality of life – in justifying certain zoning categories.

Buffers

By limiting the concentration of short-term rental units, many places hope to maintain a residential character to neighborhoods and prevent 'dark blocks,' where STRs crowd out other uses. While there are many metrics used to create spacing – such as only permitting short-term rentals outside a given radius of an existing unit, or only allowing a set number per block or frontage – any buffer system will require integrating spatial data into the permitting process. Even in systems that put potential hosts into a conditional use process, nearness to conflicting uses, whether other STRs or bars or schools, can be an important factor in approval.

Caps

While short-term rentals are often limited as a use to certain zones, in areas of special concern many places have created specific caps on the number of permitted rentals in a given neighborhood. Sometimes these neighborhoods correspond to existing districts and overlays – such as historic districts or entertainment zones – but often caps can act as a way to disperse units away from particular draws such as ski slopes, stadiums, or beaches or as a way to limit unit conversions in tight rental markets.

Depending on other local and state laws, jurisdictions can even use permit scarcity to generate revenue by using dynamic pricing or even auctioning permits.

SAFETY ISSUES



Fire Safety



Interior Signage

All units must have a prominently displayed sign that identifies evacuation routes and the location of fire safety equipment, lists local emergency contact information, owner and permit information, and other important rules such as noise limits or trash pickup schedules.



Smoke Detectors

Functioning smoke detectors shall be installed in every bedroom, common space, and kitchen, and be kept in operating order.



Carbon Monoxide Detectors

Functioning carbon monoxide detectors shall be installed in every bedroom, common space, and kitchen, and be kept in operating order.



Fire Sprinklers

In accordance with building standards, all units must maintain or install an operational fire sprinkler system.



Fire Extinguishers

Functioning fire extinguishers shall be installed and prominently located, and maintained in good working condition.



Building Safety



Building Safety

In order to ensure the safety of guests, all STRs must conform to local habitability standards for residential or commercial property. This means rentals may not be non-standard units – such as tents, trailers outside designated zones, treehouses, vacant property, industrial buildings, etc – or otherwise lack water and sanitation facilities. STRs must also meet appropriate standards of pest control, building integrity, and safety.



House Occupancy Limits

Short-term rentals are limited in the number of guests they may accommodate based on the most relevant measure to a given area, such as number of bedrooms, parking availability, or square footage. Additionally, as a deterrent to large gatherings, a limit can be placed on a unit for the number of people safely allowed in a unit at any time. Also, hosts may not advertise a listing with more than their allowed number of guests.



Home Insurance Coverage

All hosts must acquire appropriate home insurance coverage, one that specifically covers short-term renting. (Many home insurers void policies because they consider short-term renting a commercial use.) Hosts must demonstrate coverage before being issued (or-re-issued) a permit.

Food Safety



Food Preparation Restrictions

No short-term rental can engage in commercial-style food preparation or operation. Some communities may allow certain types of food services such as catered events, pop-up restaurants, or food trucks, if these activities are also permitted for operation.



Kitchen Hygiene Standards

Depending on other local rules, short-term rentals will need to maintain a specific level of kitchen hygiene and equipment standards in order to operate. (Short-term rentals in some jurisdictions are required to lack kitchens and food preparation facilities.) Any STR that wants to provide food preparation or catering services would need appropriate equipment for food safety, refrigeration, ventilation, and trash.



Catering / Event Permits

A short-term rental permit is not the same as a permit to have events, either with or without catered food. Depending on location, size, and appropriate facilities, short-term rental units can be permitted for events at the discretion of the permitting agency.

Personal Safety



Liability Insurance Coverage

All hosts must acquire appropriate liability coverage that covers injury and damage to hosts, guests, and others. (For hosts in condos, or other developments with common spaces, coverage needs to be in accordance with liability insurance for shared spaces.) Hosts must demonstrate coverage before being issued a permit.



Guest Registration Requirements

All STR hosts must have at least one guest officially sign in, providing a real name, address, contact information, car registration, or a copy of a driver's license. (Some states require certain specific details.) This information must be pro-actively communicated to local officials and law enforcement prior to check-in, or alternatively be made available upon request.



Record Keeping

All STR hosts must maintain a detailed and accurate record of their activity, from guest information to hosting dates to financial documentation available to relevant authorities upon request. Hosts must keep this record for several years and may be audited to ensure tax compliance.



Disaster Preparedness



Disaster Evacuation Plans

No short-term rental can engage in commercial-style food preparation or operation. Some communities may allow certain types of food services such as catered events, pop-up restaurants, or food trucks, if these activities are also permitted for operation.



Survival Kits

As part of disaster planning, all units must have a survival kit, including water, food, radio, batteries and other common equipment. This kit must be maintained in good order and must be clearly identified in the unit.



Medical Kits

A short-term rental permit is not the same as a permit to have events, either with or without catered food. Depending on location, size, and appropriate facilities, short-term rental units can be permitted for events at the discretion of the permitting agency.

ENVIRONMENTAL ISSUES



Water Issues

All STR units must abide by local water use and quality restrictions. Additionally, guests must be informed as to any prohibited water uses, water use restrictions, and water quality management tools.



ECONOMIC DEVELOPMENT



Promote Tourism

Economic development through short-term rentals is not a given but many communities are interested in expanding options for tourist lodging, especially considering the demand demonstrated by current operators. At the same time, full-time residents – even if they are generally supportive of tourism – may not want to see their residential neighborhoods 'taken over' by party houses or feel their neighborhoods are 'Disneyfied.' An STR ordinance must try to balance competing issues by being exacting in defining the marketplace, by elucidating hosting standards, and being vigilant for improper guest behaviors.



'Leveling the Playing Field'

Though the act of hosting might be similar in a short-term rental and a traditional bed & breakfast, many communities have drawn regulatory differences between these types of uses. The crucial distinction varies – size of unit, occupancy, length of stays, frequency of stays, etc. – but the effects on regulation can be profound on everything from safety standards to zoning to tax levels. This distinction must be based on a rational goal – getting more hosts permitted, codifying that STRs are meant to be less commercial, etc. – or else many current b&b owners will claim, perhaps rightly, that an ordinance is drawing a distinction without a real difference.

TAXES



Almost universally, all STR units need to pay some sort of tax. Whether it is a sales tax, a hotel-motel tax, a TOT, TDT, or a vacation rental fee, it is imperative that hosts document and remit the correct amount to the relevant authority. To not do so is the most basic of violations.

There is a considerable amount of variation nationwide, both at the local and state level. Several state governments – under lobbying from Airbnb and others – have recently changed the way STRs are taxed, how the tax is collected, and how much influences local governments have in taxation. At a minimum, local taxing authorities usually align STR taxes with existing rates for bed & breakfasts or hotels. This assures a level playing field between various types of lodging providers.

Some cities have sought to tax STRs at a higher level than other lodging providers, either to tip the competitive balance towards traditional lodging options or to generate additional income. A few places have also added additional transaction fees to fund community improvements from affordable housing to beach restoration to parks. That said, most communities that have gone this route, have found it difficult to justify or enforce such rules.



About the Authors



Jeffrey Goodman

Jeffrey is an urban planner and considered one of the nation's leading authorities on short-term rentals and how they impact communities. He has previously contracted with both the City of New Orleans and Airbnb, and advised researchers on short-term rentals in range of cities including San Francisco, Portland, New Orleans, and New York. Jeff has spoken about short-term rentals across North America, including at the APA's National Planning Conference. He graduated from Yale College and earned his Masters of Urban Planning from Harvard University. He is the author of a recent [featured article in Planning Magazine on the topic of STR regulation](#).



Ulrik Binzer

Ulrik is the Founder and CEO of Host Compliance, the industry leader in short-term rental monitoring and compliance solutions for local governments. A pioneer in the short-term rental enforcement solution space, Ulrik developed the first short-term rental compliance monitoring tools and now uses his expertise and insights to help local governments across North America implement, monitor and enforce short-term rental regulation. Ulrik previously served in a variety of leadership roles in management consulting, private equity, startups and the military and developed his distinctive strategic and analytical skill-set at McKinsey & Company and the Harvard Business School.

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ABOUT HOST COMPLIANCE'S SHORT-TERM RENTAL ORDINANCE CONSULTING AND COMPLIANCE MONITORING SERVICES

Host Compliance LLC is the leading provider of short-term rental compliance monitoring and enforcement solutions to local governments. The company is exclusively focused on helping local governments address short-term rental related challenges and its services include:

- Implementing effective short-term rental regulation
- Identifying privately-owned short-term residential properties on behalf of local governments
- Monitoring and enforcing registration, permitting and lodging tax compliance
- Registering, processing and verifying permit applications (online and offline)
- Providing 24/7 telephone hotline services that makes it easy for neighbors and other stakeholders to anonymously report and resolve issues with short-term renters without involving law enforcement officials
- Identifying tax under-reporting and other fraudulent practices

Serving numerous local governments with short-term rental compliance monitoring and enforcement solutions, Host Compliance has developed a deep understanding of what works and what doesn't when it comes to regulating short-term rentals. This deep expertise, experience and data-driven approach allows Host Compliance to help communities more quickly draft enforceable STR regulation based on their specific needs and circumstances as well as best-practices derived through the detailed study of more than 150 short-term rental ordinances/by-laws from across North America.

The typical custom project deliverables include:

- Customized project timeline and work plan to meet timing requirements and deadlines
- Quantitative report on the scale and scope of local short-term rental activity
- Custom public outreach strategy and messaging framing
- Participation in (or facilitation of) one public hearing to identify key issues and regulatory objectives as it relates to short-term rentals (hearing to be scheduled at a mutually convenient date/time)
- Post public hearing survey of key decision-makers to prioritize regulatory objectives
- Complete draft of a custom short-term rental ordinance developed based on national best-practices and key issues and regulatory objectives
- Participation in (or facilitation of) one post-draft public hearing (hearing to be scheduled at a mutually convenient date/time)
- Enforcement focused planning work-session with key stakeholders
- Draft compliance monitoring and enforcement plan for staff and legal counsel to refine and adopt

To set-up a meeting to discuss Host Compliance's short-term rental ordinance consulting services, please contact Granicus at info@granicus.com or visit granicus.com/str-consult.



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Get a Free Assessment Today!

If you're a government agency and are interested in learning more about what is currently happening in the short-term rental market in your community, including the number of STRs, the type of STRs operating, and other key indicators, contact us today. Whether you're just starting out in your regulations or are looking to make your STR program more efficient, Host Compliance has a solution for you.

granicus.com/free-consultation-short-term-rental-compliance/